

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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

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

Benny Pearce
Town of Eastover

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

May 20, 2008

Members Present

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

Others Present

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. 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 P08-19 would be pulled from Consent Items and moved to Contested Items.

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

III. PUBLIC HEARING DEFERRAL – STAFF INITIATED

Mr. Lloyd stated that Case P08-21 would be deferred.

Mr. Hostetter made a motion to approve deferral, seconded by Vice-Chair Epler. Unanimous approval.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF MAY 6, 2008

Mr. Hostetter made a motion to approve the minutes as submitted, seconded by Mr. Cain. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P08-16:** REZONING OF 14.92+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTH SIDE OF COUNTY LINE ROAD, EAST OF HENRY SMITH ROAD; SUBMITTED BY JAMES TREY MCLEAN, ATTORNEY; OWNED BY EDWARD & JACQUELINE RIDDLE.

The Planning & Inspections Staff recommends approval of the request for R40 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 R40 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.

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

A motion was made by Mr. McNeill, seconded by Vice-Chair Epler to follow the staff recommendation and approve case P08-16 as submitted. Unanimous approval.

- B. **P08-20:** REZONING OF 2.72+/- ACRES FROM A1 AGRICULTURAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3171 TWO RUT ROAD, SUBMITTED BY CHRIS ROBERTS, OWNED BY BRODSTON INC.

The Planning & Inspections Staff recommends denial of the request for RR Rural Residential and recommends approval for R40A Residential district based on the following:

1. The recommendation is more 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 recommendation is consistent with the uses and lot sizes of properties within the general area.

The R40 Residential District could also be found suitable at this location.

The applicant has verbally agreed to the staff recommendation of rezoning the subject property to R40A Residential.

A motion was made by Mr. McNeill, seconded by Vice-Chair Epler to follow the staff recommendation and approve case P08-20 as submitted. Unanimous approval.

- C. **P08-23:** REZONING OF 2.19+/- ACRES FROM R6A/CU RESIDENTIAL/ CONDITIONAL USE (ANTIQUE SHOP) TO O&I(P) PLANNED OFFICE AND INSTITUTIONAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3135 & 3139 DUNN ROAD, SUBMITTED BY CRAIG WHEELER, OWNED BY GREGORY & LAURIE BARNES. (EASTOVER)

The Planning & Inspections Staff recommends approval of the request for O&I(P) Planned Office and Institutional district based on the following:

1. The request is consistent with the Eastover Area Detailed Land Use Plan, which calls for medium density residential and an activity node within the general vicinity;
2. The request is reasonable due to the immediate area transitioning to primarily non-residential uses and is consistent with the uses within the surrounding area; and
3. Upon development, connection to public utilities will be required.

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

A motion was made by Mr. McNeill, seconded by Vice-Chair Epler to follow the staff recommendation and approve case P08-23 as submitted. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P08-19:** REZONING OF 87.40+/- ACRES FROM R10 RESIDENTIAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 204 TOM STARLING ROAD, EAST OF US HIGHWAY 301 SOUTH, NORTH OF INTERSTATE 95, SUBMITTED AND OWNED BY ANTHONY & VIVIAN JACOBS.

Mr. Lloyd reviewed the site information and stated the staff recommends approval of the request for RR Rural Residential district based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for medium density residential uses at this location; and
2. The requested district is in character with the current zoning of adjacent properties.

The subject property could also be found suitable for the R15 Residential District.

Mr. Lloyd stated there was one person to speak in favor and three people to speak in opposition.

Anthony R. Jacobs spoke in favor. Mr. Jacobs stated that the only thing he wanted to do was put a modular home on the property for his son; the property would not be subdivided. Mr. Jacobs stated he only wanted RR zoning so he could place the modular home on the property.

Chair McLaurin asked, for clarification, if there was already a house on the property.

Mr. Jacobs stated that yes there is a house and barns, and he only wants to add one more dwelling.

Chair McLaurin asked Mr. Lloyd didn't the applicant have to have a class "C" street for the land be subdivided?

Mr. Lloyd responded that that was correct.

Vice Chair Epler asked Mr. Jacobs if he was aware that he could rezone a portion of the property instead of the whole tract.

Mr. Jacobs stated that he wasn't aware of what he could do. All he wanted was to put a modular home there. Mr. Jacobs stated that there is just road frontage going down through there with a twenty foot right of way and it crosses the Starling's land and runs beside Mr. Averette's land.

Mr. McNeill asked Mr. Jacobs if he was going to place a modular home or mobile home on the property because he used the two different terms.

Mr. Jacobs stated that he wanted to place a modular home, because they are better built. Mr. Jacobs stated that he believed under the rules he could place a double wide mobile home or a modular home, but preferred a modular home.

Mr. Lloyd stated that rezoning wasn't needed for a modular home.

Mr. Jacobs asked if he could place a modular home with the current zoning of R10.

Mr. Lloyd stated that he could, but he would still have to come through the staff for a group development review. Mr. Lloyd clarified that with the current zoning he could only have a modular home or stick built home, there will be no option for a manufactured home.

Mr. Jacobs requested withdrawal of his case P08-19 so he could keep the current zoning of R10 and receive a refund of \$500.

James E. Starling spoke in opposition. Mr. Starling presented a recorded plat of his property. Mr. Starling stated that he allowed previous owners the privilege of driving across his land to get to their property. Mr. Starling stated that he's been getting too much traffic on his property and he plans on blocking it off.

Chair McLaurin asked Mr. Starling if the drive into the subject property was his property.

Mr. Starling stated that it was.

Mr. Barrett stated for clarification that Mr. Starling was saying that there is no legal grant of an easement over his property, that he has given permissive use over the years, therefore there is no adverse possession creating a legal right and that it is his intent to block that access in order to protect his property.

Mr. Starling stated that that was correct.

Ann Bowers spoke in opposition. Ms. Bowers wanted to address the issue about the type of soil in the area. Ms. Bowers presented copies of the land terrain along with the percentages of soil in the area that is considered to be wetland soil, from the local Soil and Water Conservation Service in Cumberland County. Ms. Bowers stated that eighty-six percent of the land is classified as a type of wetland and is listed in the Cumberland County Directory. Ms. Bowers had an issue with the placement of a manufactured home, since Mr. Jacobs identified that he is going to place a modular home on the property she has no issue with that. Ms. Bowers stated that the biggest concern was that we didn't want to start out with one trailer that would turn into numerous trailers. Ms. Bowers raised the issue of wells and water contamination on Brooklyn Circle. The wetlands drain right under Highway 301 and dump into a ditch that goes around Brooklyn Circle. Ms. Bowers stated that the residents in the area are very serious about preserving the water in that area and don't want to see anymore contamination in the area.

Public Hearing closed.

Mr. McNeill made a motion to allow Mr. Jacobs to withdraw his petition and refund his money, seconded by Mrs. Piland. Unanimous approval.

- B. **P08-22:** REZONING OF 1.80+/- ACRES FROM R10 RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 6047 CAMDEN ROAD, SUBMITTED BY ALBEMARBLE OIL COMPANY, OWNED BY MARY & BAKER THOMPKINS.

Mr. Lloyd reviewed the site information and stated the staff recommends denial of the request for C1(P) Planned Local Business district based on the following:

1. Rezoning to the C1(P) district at this location would be arbitrary and will not serve a viable public purpose and would promote strip commercial development in a predominately residential area;
2. The request is neither reasonable nor compatible with the current zoning and character of the area; and
3. The request is not consistent with the 2010 Land Use Plan which calls for low density residential at this location.

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

Mr. Lloyd stated that this case brings up something that the staff will now have to analyze. What effect the commercial percentage of Mixed Use CUD's will have on allowing commercial in an area. In other words, without the Mixed Use CUD, there would be no commercial anywhere, upon the development of the Mixed Use CUD there would be. Nevertheless, a CUD is there to support the commercial and in theory is there for support to the residences that are within that development. Without this CUD, that would be putting arbitrary commercial right there, with no other commercial around, and the staff is concerned that it would promote strip commercial along Camden Rd. That is why the staff recommends denial.

There was one person to speak in favor.

Mr. McNeill stated that there was a sign that stated there would be outparcels, on the mixed use. It appears from the sign, there will be outparcels down Camden Rd., at least on two of the corners. But Mr. McNeill was wondering if they were proposing, on the outparcels, access from Camden Rd., or is it interior access to these outparcels?

Mr. Lloyd stated that the plan that he has shows that they would have whatever the Department of Transportation would grant to Camden Rd. Mr. Lloyd stated that we also have to look at the possibility in future Mixed Use CUD's, if adjacent property could meet the criteria for commercial, then staff is going to recommend and hold to lateral access among these parcels, to cut down on the curb cuts. Mr. Lloyd also stated that the philosophy behind the Mixed Use CUD is for the non-residential to serve the development. The theory behind it is to have access internally and in the future we're going to try and stick to that instead of just outparcels, because the essence of the CUD is to do a community within.

Vice-Chair Epler stated that one of the conditions for Mixed Use Development approval was that there are only two curb cuts as shown on that property onto Camden Rd., there is a no access easement along all the rest of the frontage along Camden Rd. for this whole parcel.

Tim Evans spoke in favor. Mr. Evans stated that he was representing Mr. and Mrs. Thompkins, the owners, and Albemarle Oil Company. Mr. Evans stated that this eighty acre Mixed/CUD changed the whole complexity of the area, if we want to say it was residential, why didn't it stay residential? The developer has approximately twenty one and a half acres of land that is commercial that is all on Camden Rd., all on the front, regardless of two curb cuts, the traffic count is sixteen thousand cars a day. The traffic backs up from McDonald's all the way up to Rockfish Rd. in the evening.

Public Hearing closed.

Ms. Hall stated that the majority of the property was already open field. The original plan for this had limited access and the commercial was interior, of course things can change, Ms. Hall stated that she believes that was a condition of Mixed Use CUD when it came before the Board in the beginning. Ms. Hall stated that the Hope Mills staff recommends denial of this, mainly because it's considered spot zoning and there are two other convenience stores in near proximity.

Chair McLaurin stated that there was a similar case in the consent agenda in Eastover on Highway 301 where the traffic count was twenty thousand cars a day. The majority of everything out there was zoned R6A, which is mostly stick built residential. The comment in the consent agenda was to change the zoning to O&I(P) and that would be fine because that area was in transition, even though everything around it is R6A. The Department of Transportation (NCDOT) report said that there were no plans to upgrade the road. We hardly ever talk about the present here and right now with this case, we're talking about today. Last night the County Commissioners talked about the future. Just about everything that I have done on this Board has talked about the future, the future for this area; according to the DOT and a group of people who work here in this building this road is going to be upgraded because this area is in transition and they are going to go to a one hundred foot right-of-way in this area. This area is seen as becoming a busy

area that is evidently going to transition from residential to commercial. The Land Use Plan in this area is low density, but this area is already at least medium density that is in transition and the road is going to increase. Just looking at all the evidence, looking at what the Commissioner's talked about last night and looking at everything the 2030 Plan talks about, it's always about looking to the future. Chair McLaurin stated that he didn't see why this was not a valid request.

Mr. Lloyd stated that the difference between the Eastover case was that the Eastover site was a designated activity node. The staff is split on the strip commercial, because that's what's happening everywhere. But this Board will have the opportunity to address these strip malls, this Board will help determine the criteria for policies that we will have to have.

Vice-Chair Epler stated that she was on the fence a little about this. Vice-Chair Epler understands that there is commercial in a Mixed Use development, however, the developer talked with Planning about the probability of getting commercial zoning on Camden Rd. and staff told him at that time there was no other commercial out there and it would be considered spot zoning. "One of the conditions states that all of the lots in that Conditional Use District will be served internally. They will have to install at their expense a full signal light. It will be a signalized intersection, that's how they are handling their traffic just to build this development and to be able to have commercial there. Commercial within that Mixed Use Development is part of that Mixed Use Development, it is not stand alone commercial, it is not even zoned commercial and under those circumstances, if we zone this parcel commercial, it is spot zoning by definition. With the Hope Mills staff recommending disapproval of this, I don't think that I can support a motion of rezoning."

Mr. McNeill stated that commercial is near the Hope Mills Rd. intersection of Camden Rd. and is growing out all the time. There is also commercial at the Camden and Rockfish Rd. intersection, but both of those commercial zoning areas are at intersections of arterial roads. This on the other hand is in the middle, between those two areas. Mr. McNeill stated that he believed that sometime in the future commercial would end up in this area between Rockfish, Camden, and Hope Mills Roads, but this appears to be a rezoning that is a little ahead of its time, probably some more development should occur from these commercial nodes for this area before we go commercial in the middle of it. As far as distance from existing commercial, it would be better if it was on the other side of this big tract, because that would put it even closer. Mr. McNeill feels that there are other things that need to be worked out, but is glad to know that with this Mixed Use project, the site plan only calls for two curb cuts and they would have to get permission to alter that, so the outparcels will be serviced from the inside. Mr. McNeill thinks that there is still work for the staff and Board to do as far as perfecting these newer concepts to address these issues. Mr. McNeill stated that he thought this request is a little ahead of its time and not quite the time to do it yet.

Ms. Hall made a motion to follow the staff recommendation to deny the request for rezoning, seconded by Vice-Chair Epler. The motion passed with 7 voting in favor and Chair McLaurin and Mr. Turner opposed.

IX. DISCUSSION

Mr. Lloyd stated that a lot of what gets developed is strip zoning and staff isn't necessarily for it, whether a road gets stripped or not, is ultimately up to the Board and the Commissioners. But, there is criteria, and this emphasizes the importance of this Land Use Policy Plan that we have been pushing; that the Board has input on as far as what kind of criteria should be met. That's what we will be working on next.

X. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

There was no director's update.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:15 p.m.