

Lori Epler,
Chair
Cumberland County

Roy Turner,
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

Walter Clark,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

MINUTES November 17, 2009

Members Present

Mrs. Lori Epler, Chair
Mr. Roy Turner, Vice-Chair
Mr. Benny Pearce
Mr. Walter Clark
Ms. Patricia Hall
Mr. Harvey Cain, Jr.
Mr. Donovan McLaurin
Mrs. Sara Piland
Mr. Charles Morris

Members Absent

Mr. Garland Hostetter

Others Present

Mr. Tom Lloyd, Director
Ms. Patricia Speicher
Mrs. Laverne Howard
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. McLaurin requested that Case P09-50 be moved to Contested Items.

Mr. Morris made a motion to approve the adjustment to the agenda, seconded by Mrs. Piland. Unanimous approval.

III. PUBLIC HEARING DEFERENTIAL/WITHDRAWAL

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF OCTOBER 20, 2009

Ms. Hall made a motion to accept the minutes as submitted, seconded by Mr. Turner. Unanimous approval.

VII. PLANNING BOARD REZONING DEADLINE/MEETING SCHEDULE

Mr. Turner made a motion to approve the Planning Board Rezoning Deadline/Meeting schedule as submitted, seconded by Mrs. Piland. Unanimous approval.

VIII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P88-191:** WITHDRAWAL OF THE CONSIDERATION OF AMENDMENTS AND REVISIONS TO THE TOWN OF SPRING LAKE ZONING MAP TO ESTABLISH A MH(O) MANUFACTURED HOUSING OVERLAY (ZONING) DISTRICT IN PORTIONS OF THE R6 RESIDENTIAL DISTRICT.

On January 9, 1989 the Spring Lake Town Board of Aldermen tabled the above referenced case indefinitely, not taking any action on the application. Since the original application for the amendment was filed and subsequently tabled by the Spring Lake Town Board of Aldermen the Manufactured Housing Overlay District has been repealed and removed. The County Planning Staff recommends approval of the withdrawal based on the following:

1. That Case no. P06-20 approved by the Spring Lake Board of Aldermen on May 5, 2006 repealed the R6/MHO district from the Spring Lake Code of Ordinances; and
2. All properties that were zoned R6/MHO in Spring Lake were rezoned by Case nos. P07-02, P07-03 and P07-05 on February 26, 2007.

A motion was made by Mr. McLaurin, seconded by Mr. Clark, to follow the staff recommendation and recommend to approve the withdrawal of case P88-191. Unanimous approval.

- B. **P09-45:** REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE CODE OF ORDINANCES, CHAPTER 156, ZONING CODE, AMENDING § 156.035, DISTRICT USE REGULATIONS, BY INSERTING A "P" (PERMITTED USE) IN THE USE MATRIX IN EACH NON-RESIDENTIAL DISTRICT [O&I, C-1, CB, HS(P), C(P), C-3, M1(P), M(P) AND M-2] COLUMN FOR "DWELLING, SINGLE-FAMILY" USES.

The above referenced case was submitted by a developer as a text amendment to the Spring Lake Zoning Code, with the application requesting the following sentence to be added to the code: *In zoning districts not otherwise permitting residential buildings, a watchman or caretaker may occupy a house or other quarters on the same premises where he or she is employed.* The Planning & Inspections Staff does not support the request as it was submitted; however, the staff is proposing an alternative amendment based on the following:

1. The request as submitted is not consistent with the Transitional Use and Zoning Policy, the concept contained within the recently adopted Land Use Policies Plan; the recommendation supports and is more consistent with the Policies Plan;
2. The recommendation allows for consistency with the location criteria included in the Policies Plan by establishing standards for mixed use buildings in some non-residential districts;

3. The request is not consistent with the policies of the 2030 Joint Growth Vision Plan, which establishes the theory that consistent development standards result in more predictable and higher quality growth for the Town;
4. The amendment as requested will not allow for the most efficient use of commercially-zoned properties within the Town; however, the recommendation, by requiring any desired residential use to not exceed the floor area of the non-residential use, maintain a commercial appearance and restricting outside accessory residential uses can accommodate the intent of the request and support the current trend of living in close proximity to the work site.
5. The request does not ensure that commercially-zoned properties will be utilized to the highest and best use, which is any use physically possible, legal, and economically feasible and that returns the highest value to the property, the Town and its citizens.

A motion was made by Mr. McLaurin, seconded by Mr. Clark, to follow the staff recommendation and recommend denial of the request for case P09-45 and approval of the staff alternatives. Unanimous approval.

IX. PUBLIC HEARING CONTESTED ITEMS

- A. **P09-50:** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY CODE OF ORDINANCES, APPENDIX C, WATER SUPPLY WATERSHED MANAGEMENT AND PROTECTION ORDINANCE, AMENDING THE *WATERSHED PROTECTION MAP OF CUMBERLAND COUNTY, NORTH CAROLINA* BY REFLECTING THE RECENT RECLASSIFICATION OF THE EXTREME SOUTHERN CUMBERLAND COUNTY PORTION OF THE CAPE FEAR RIVER (INCLUDING TRIBUTARIES) FROM CLASS C TO CLASS WS-IV WATERS, AFFECTING PROPERTIES IN THE LOWER GRAYS CREEK AND SOUTHWESTERN TURNBULL AREAS OF THE COUNTY.

Mr. Lloyd gave some background on this case. It was decided by the Lower Cape Fear River Authority to provide an intake at Bladen Bluffs for the Smithfield Packing Plant. Because of that water intake, the State felt that one public hearing in Duplin at Bladen Community College was sufficient. No one from Grays Creek showed up at that meeting, which this area affects; that area is shown on the map. Mr. Lloyd stated that he wanted to make sure no one confused this with the County-wide water that is going on right now. This is the Watershed regulations and the reason for these regulations is to protect the Cape Fear River above the intake, which is at Bladen Bluffs, and how the State says that's done is to provide these regulations which govern the amount of development you can put on your property. The State held one public hearing and no one from Grays Creek showed up because they didn't know about it. The County decided to hold citizen meetings in December 2008 and February 2009, where we tried to explain as best we could the Watershed regulations and the difference between them and the County-wide water. These regulations that are being imposed on Grays Creek will have no more of affect on individual property owners than what already exists with Phase II Stormwater regulations, meaning if you develop over 24% of your property with impervious surface, which is hard to do for individual property owners, you would essentially have to build a detention pond or some other form of adequate drainage. It will mostly apply to large scale development. The State has mandated that we will adopt these regulations.

The Planning & Inspections Staff recommends approval of the amendment to the County's Watershed Protection Map, based on the following:

1. On December 4, 2006 the County Board of Commissioners by resolution endorsed, without objection, to the reclassification of this portion of the Cape Fear River basin to facilitate the construction of the Bladen Bluffs Regional Surface Water System;
2. The N.C. General Assembly approved the reclassification of this portion of the Cape Fear River for the purpose of protecting water supply intakes for consumption by significant human populations in the region on July 16, 2008; and
3. Because the addition of this area to the existing County Watershed Protection Map will help ensure adequate filtering of pollutants in stormwater runoff before the runoff reaches the streams and creeks feeding directly into the Cape Fear River in this area.

Note: There are no changes proposed to the current Water Supply Watershed Management and Protection Ordinance.

Mr. McLaurin asked if the Lower Cape Fear River Authority will manage the intake. Mr. McLaurin stated that the Board had representatives from Bladen, Pender, New Hanover, and Brunswick counties, because they are slated to use water from this intake as well as Smithfield. But, Cumberland County who is providing much of the watershed for the intake had no representative, that was Mr. McLaurin's understanding from the public meetings that were held. The only way for Cumberland County to get water from this intake would be to buy water from Bladen County. Mr. McLaurin asked Mr. Lloyd if that was correct. Mr. Lloyd stated that it was. Mr. McLaurin stated that he was disappointed that Cumberland County was providing so much of the watershed but didn't have a representative. Another concern was that the water that was to be taken out was slated for Smithfield Packing. Later it was said that the counties that have representation will start drawing water from the intake and would maybe increase the amount of water, and that would probably cause further restrictions on the watershed in that area. Mr. McLaurin stated that this was a concern to him mainly because the County doesn't have a representative, but we stand for a lot of the liability as far as providing good water for the watershed and the loss of use for a lot of land, possibly. Mr. McLaurin stated that he is not objecting to good water, he's all for it and has been saying for years that we should have something similar to this on Rockfish Creek.

Chair Epler asked if the Lower Cape Fear Water Authority (LCFWA) would have a say so in watershed regulations, should the regulations change down the road.

Mr. Lloyd stated that we had an option to do stricter than this, and that this is sufficient to protect the water.

Chair Epler stated that should the watershed regulations change, will that board have a say so in whether those new regulations are adopted.

Mr. Lloyd stated no, the State would mandate to us if we had to do it.

Chair Epler asked if Cumberland County ever decided to buy water from Bladen County, does that Board regulate rates.

Mr. Lloyd stated that his understanding was that the County would negotiate.

Chair Epler stated that she agreed with Mr. McLaurin, if Cumberland County is going to set aside that much land to a watershed for the benefit of someone else, we should at least have a representative on that board.

Mr. Morris made a motion to approve P09-50 with the recommendation that someone from the County be appointed to the Lower Cape Fear Water Authority due to the sixteen thousand plus acres of which this encompasses of the County, seconded by Mrs. Piland. Unanimous approval.

- B. **CASE P09-51:** REZONING OF 1.28+/- ACRES FROM CD CONSERVANCY AND R6 RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED BETWEEN SR 1118 (PARKTON ROAD) AND NC HWY 59 (SOUTH MAIN STREET), ACROSS FROM SR 1125 (PORTER ROAD) INTERSECTION; SUBMITTED BY NEAL WYCE; OWNED BY DAVID AND CLAIRE MCMILLAN.

Mr. Lloyd reviewed the site information and stated that the Planning & Inspections Staff recommends denial of the request for C2(P) Planned Service and Retail district based on the following:

1. The district requested is inconsistent with the location criteria for light commercial as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan because public water and sewer is not available and this area is predominantly surrounded by residential, office & institutional and light commercial;
2. Although South Main Street is an existing major thoroughfare, the subject property is located on a hill which could prove to create an unsafe situation for vehicular traffic especially when considering the congestion currently existing at this location coupled with any possible driveway locations in relation to the SR 1125 (Porter Road); and
3. The district requested is unreasonable since it is not consistent with the 2030 Comprehensive Plan as it does not serve as a transition between heavy commercial, office & institutional or residential development.

There are no other districts to be considered suitable regarding this request, at this time.

Mr. Lloyd stated that the applicant was not present and had been notified and there was one person present to speak in opposition.

Mr. Morris asked where the hundred year flood plain was located.

Mr. Lloyd stated that it was way off to the north. Back when this was initially zoned they went by contour maps and back then they were not very accurate.

Chair Epler stated that there was very little of the subject property that is high. Most of the highland is near Hope Mills Road or South Main Street; it drops off pretty quick and pretty deep in the back. Back then whenever they zoned a piece of property, if that much of it was downhill and down the slope they just took the whole tract and zoned it CD and said if anyone wanted to develop any of it they could have it rezoned. This is a small tract of land that is still part of a very large tract of land, it hasn't been cut out.

Mr. Morris asked if this was a straight rezoning.

Mr. Lloyd stated that it was. The applicant knows that we are recommending denial, when he came in we advised him of the Land Use Policies Plan and what the staff recommendation would probably be based on the Plan. He didn't show any interest in rezoning to any residential.

Mr. Morris asked what the traffic count was on that road.

Chair Epler said it was sixteen thousand.

Mr. Lloyd stated that the traffic count was two years behind.

Mr. Morris asked with sixteen thousand cars a day, what use do you put on it?

Mr. Lloyd stated that they didn't want a lot of curb cuts for commercial. Technically the Board can rezone this to anything you want.

Chair Epler stated that there was another suitable zoning, it's just not what the applicant asked for. The applicant can't use it for the use they determined. Any transitional zoning is suitable.

Mr. Lloyd stated that staff doesn't see it as a transition. You have the Short Stop on Parkton Road, Rita's commercial and the pediatric office to the south of that. There's really not much commercial development in that area that we would consider it a transition. There's denser residential, any residential zoning, but again he's not here and traditionally we don't rezone without the applicant being present, although, legally you could.

William H. Fairley spoke in opposition. Mr. Fairley stated that his property comes right up to the subject property. The topography of the area right now is mostly swamp and lowland; there is a hill right behind his property that drops off about forty-five degrees right on to an abandoned railroad path.

Chair Epler asked Mr. Fairley if his property fronted Parkton Road.

Mr. Fairley stated that his property fronts on Virsalli Loop. Mr. Fairley stated that from the abandoned railroad bed it drops down again to a creek that runs through there all the way to behind the Virsalli Loop area. Right now we have beavers back there that are building a dam and it will soon flood that area out. The subject property is a drop off and any kind of building there will end up changing the topography all together and we will run into a situation where there will be erosion and stand a chance of someday having that area flooded out. We're looking at a big impact on the environment if someone should ever decide to rezone it to become commercial or residential. The area in question, in Mr. Fairley's opinion, would be a very dangerous area for traffic, that's another problem on Hope Mills Road. Mr. Fairley stated that he lived off of Parkton Road and each day is a trying task to get out to Hope Mills Road, because of all of the development on the south side going back towards Parkton there is a tremendous amount of cars coming through. In the last few years there have been a lot of emergency equipment that runs through there, there is the fire department, sheriff's department and up to a point there is the Hope Mills Police department that comes into the area at times. Mr. Fairley stated that he thought that in the planning and growth in the Hope Mills area the infrastructure was not considered to ensure uniform and smooth growth. The traffic is going to be the main problem, and right now in the Hope Mills area, they are building up like crazy and every road that leads into and coming out of Hope Mills is a bottle neck. It may come in as four lanes, but goes through as two lanes and you can barely get through there at any time of the day. We need to take a little more physical responsibility in the growth of this area and a little more scrutinizing of planning and rezoning.

Public Hearing closed.

Mr. Lloyd stated that the County along with the State is looking into alleviating the problems on Main Street in Hope Mills.

Chair Epler stated that she talked to someone who lives in that neighborhood and they say from Virsalli Loop out old Parkton Road onto South Main Street going south towards I-95 it can take as long as 25-30 minutes.

Mr. Lloyd stated that he understood what Mr. Morris was saying about building more houses and unload it. Eventually if there is some development, let's exclude the drop-off to the rear of this property, if nothing else we'd need to really work with the State at limiting curb cuts and doing lateral access.

Chair Epler stated that this situation is the perfect place to do that because this one owner owns so much land. The problem comes in with lateral access when there are different owners that own two hundred foot of road frontage and for whatever reason you can't force that other owner to give someone lateral access after their business is already established. But in larger tracts of land like this, like Millstone for instance, that was the perfect opportunity to make sure that we controlled those curb cuts.

Mr. Turner made a motion to follow the staff recommendation for denial of Case P09-51, seconded by Ms. Hall. Unanimous approval.

X. DISCUSSION

XI. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

Mr. Lloyd advised the Board that he met with the staff over at the City and met with the Assistant City Manager who said that they were going to stop requiring the annexation agreement for people in the sewer service area.

Mr. Lloyd also stated that he will look into representation for the County on the Lower Cape Fear Water Authority Board and keep the Board members updated.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 7:56 p.m.