

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

February 15, 2011

##### Members Present

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

##### Members Absent

Ms. Patricia Hall  
Mr. Walter Clark  
Mr. Charles Morris

##### Others Present

Mr. Tom Lloyd  
Mrs. Laverne Howard  
Ms. Donna McFayden  
Ms. Patricia Speicher  
Mr. Rick Moorefield, County  
Attorney

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

#### II. APPROVAL OF / ADJUSTMENTS TO AGENDA

There were none.

#### III. PUBLIC HEARING DEFERRAL / WITHDRAWAL

**P11-05:** REZONING OF 4.99+/- ACRES FROM R10 RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 7138 ROCKFISH ROAD AND NORTH OF SR 1112 (ROCKFISH ROAD), SOUTHEAST OF SR 1108 (LAKEWOOD DRIVE); SUBMITTED BY JOSEPH P. RIDDLE, III ON BEHALF OF SHARLENE R. WILLIAMS AND WADUS A. AND LEIGH A. CLARK (OWNERS).

**Vice-Chair Turner made a motion to accept the deferral until April 19, 2011, seconded by Mrs. Piland. Unanimous approval.**

#### IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

#### V. APPROVAL OF THE MINUTES OF DECEMBER 21, 2010

**Vice-Chair Turner made a motion to accept the minutes as submitted, seconded by Mrs. Piland. Unanimous approval.**

#### VI. PUBLIC HEARING CONSENT ITEMS

**P11-04:** REZONING OF .52+/- ACRES FROM R10 RESIDENTIAL TO R6A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4104 CAMDEN ROAD, SUBMITTED BY CHRISTINA R. SWEAT (OWNER).

The Planning & Inspections Staff recommends denial of the request for the R6A Residential district but approval of the RR Rural Residential district for this request based on the following:

1. The request for R6A Residential for the subject property is not consistent with the location criteria for "medium density residential" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as public water and sewer are required; the recommendation of RR Rural Residential does meet the location criteria for the Policies Plan;
2. The RR Rural Residential district is in character and consistent with the surrounding land use.

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

The applicant has verbally agreed to the Staff recommendation of the RR Rural Residential district.

**Mrs. Piland made a motion, seconded by Mr. McLaurin to follow the staff recommendation and approve case P11-04 for RR Rural Residential district. Unanimous approval.**

## VII. PUBLIC HEARING WAIVER REQUEST

**CASE NO. 09-110.** CONSIDERATION OF THE VANDER CIVIC ASSOCIATION, INC.; REQUEST FOR A WAIVER FROM CONSTRUCTION OF SIDEWALKS; COUNTY SUBDIVISION ORDINANCE, SECTION 2302.A MUNICIPAL INFLUENCE AREA AND SECTION 2305. A(4) SIDEWALKS; ZONED: M2; TOTAL ACREAGE: 5.36+/-; LOCATED AT 128 ROCK HILL ROAD; SUBMITTED BY JOHN MATTHEWS FOR VANDER CIVIC ASSOCIATION, INC. (OWNER).

Mr. Lloyd briefly explained that the Planning Board hears this case because when the City Council hears it they don't hear it as quasi-judicial.

Mr. Lloyd presented land use and photos of the site and stated that when this case went before the City Council they were requesting a waiver along Rock Hill Road and Sunnyside School Road and the City Council recommended that the sidewalk be constructed along Rock Hill Road and on Sunnyside School Road only where indicated on the site map. They are not recommending that the developer be required to have a sidewalk all the way down Sunnyside School Road, just connect to it where the sidewalks connect to the walking trail.

There were speakers present. Chair Epler swore in all speakers.

Mr. Norman Rozier spoke in favor of having the waiver granted. Mr. Rozier stated that he was a volunteer at the Vander Civic Association and had volunteered on numerous occasions to help clean up the site and prepare the site for what it is now. There is already a trail that leads out to the road, on the Rock Hill Road side they would need a waiver from the State to put a sidewalk in because they are encroaching on State property. They also need to maintain 60 – 90 feet off the railroad tracks from CSX.

Chair Epler asked if the Department of Transportation (DOT) told them they would need a waiver.

Mr. Rozier stated that Mr. James Averitt looked into it. There is a chain link fence that runs along the property line.....

Chair Epler stated that Mr. Averitt was not present and there was no affidavit from DOT stating that they would need a waiver, it is Chair Epler's experience with DOT that a sidewalk can be placed there, but, if it is put along that right-of-way it would have to be done on their property, not inside DOT's right-of-way.

Mr. Rozier stated that was correct, and what they would have to do is place the sidewalk inside of the chain link fence. Then they would have to put gates accessing their property. Mr. Rozier stated that there were no sidewalks within a quarter of a mile and the sidewalks that do come out to Old Clinton Road, is only about 25 feet on both sides, they go into the residence and they end. They have spent a lot of time, money, and effort cleaning up this site with no help and no funds, strictly donations and feels that they shouldn't have to deal with this especially since they have not even been annexed.

Ms. Nancy Smith spoke in favor of the waiver. Ms. Smith is the secretary for the Vander Civic Association. There has been quite a bit of work done to this site with no help from the County or the City. We put the park in that is there right now, we the people in Vander spent their own money and Mr. Averitt was one of them, he probably spent two or three hundred thousand dollars doing this clean up. It was odd that nobody helped us before, but the minute we purchased that property we were notified by the County that we had thirty days to clean it up, but yet it stayed like that for years and nobody did anything until we as volunteers got in there and cleaned it up then everybody starts jumping down our throats. How long has Vander been there and how long is it going to be before Vander becomes a suburban area? It is farmland and will a sidewalk be put in there? It just makes no sense.

Public Hearing closed.

Vice-Chair Turner asked if anyone had an idea when the City of Fayetteville will annex Vander.

Chair Epler swore in David Steinmetz, Senior Zoning Administrator for the City of Fayetteville.

Mr. Steinmetz said that he had not seen any plans that show annexation in that direction.

Vice-Chair Turner asked Mr. Steinmetz if there were any City services available in that area.

Mr. Steinmetz said further out in a subdivision that had been annexed had some services.

Vice-Chair Turner stated that he was annexed in the western part of the County about four or five years ago and still hasn't seen anything being done, and is paying City taxes.

Mr. Lloyd stated that he was reading the MIA Agreement and spoke with the County Attorney, but in those negotiations, what this agreement applies to sidewalks, water service, sewer service, and streets, were intended to apply to new construction. What we have here is a building that merely had a change of use that kicked that into the site plan review process, it's nothing new. The key to all this is in the definition of "development". That is what brings plan review in both the Subdivision Ordinance and the MIA Agreement. Mr. Lloyd stated that he felt that the County Attorney was in agreement that the applicant's are not subject to this agreement.

Chair Epler stated that the applicant's have provided for this piece of property, they have provided walkways for all due purposes. If any of the properties adjacent to them would benefit from a sidewalk in the right-of-way are developed they will have to provide their own sidewalk by the same standards.

Mr. Lloyd stated that when this agreement was discussed, the Board wasn't present during those discussions, the argument that dealt with sidewalks, clearly dealt with subdivisions, because that's why it specifies collector streets in here versus any internal street of a subdivision. After reading this, because it was a change of use, not even an addition, it isn't a new subdivision, there's no new development on this lot, and it is our opinion that they shouldn't be subject to this

agreement. At this point, seeing that it is not subject to the MIA Agreement, the Board can vote on a waiver from the County Subdivision requirements.

**Vice-Chair Turner made a motion to approve the request, seconded by Mr. Pearce, that the Joint Planning Board for the County of Cumberland having held a public hearing to consider the waiver request for Case No. 09-110 requesting a waiver from construction of sidewalks; County Subdivision Ordinance, and having heard all evidence and arguments presented, the Board makes the following findings of fact and draws the following conclusion, 1) because of the size of the tract to be subdivided, because of the topography of the tract and because of other unusual conditions no privilege is denied to others, the walk already constructed will serve public purpose and compliance with the ordinance is unreasonable, 2) Strict compliance with the provisions of the County Subdivision Ordinance would cause a special hardship to the property owner and it would be inequitable. This finding is based on those conditions that were stated. Unanimous approval.**

#### VIII. DISCUSSION

Mr. Lloyd stated that the MIA Agreement was due to be evaluated next year, and will ask the County Attorney Rick Moorefield to draft a memo to the Commissioners specifying the interpretation, that any change of use which kicks in the site plan process or an addition, is not subject to the requirements of the MIA Agreement. The Board was in agreement with that.

#### IX. FOR YOUR INFORMATION

##### DIRECTORS UPDATE

There was none.

#### X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:45 p.m.