

**Roy Turner,
Chair
Cumberland County**

**Walter Clark,
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**

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

July 19, 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
Mr. Walter Clark
Mr. Charles Morris
Ms. Patricia Hall

Members Absent

Others Present

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

Mr. Lloyd presented Mrs. Epler with a plaque for her time as Chairman of the Board.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that Item VIII would be moved to consent items, included in the motion would be the addendum that was provided with minor changes.

Case P11-34 will be moved to contested items.

Mr. Morris made a motion, seconded by Mrs. Epler to approve the agenda as amended. Unanimous approval.

III. PUBLIC HEARING DEFERRAL / 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 June 21, 2011

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

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P11-30:** REZONING OF 14.40+/- ACRES FROM CD CONSERVANCY AND RR RURAL RESIDENTIAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED NORTHWEST OF SR 1003 (CAMDEN ROAD), SOUTHWEST OF ARISTOCRAT LANE; SUBMITTED BY K. DOUGLAS BARFIELD ON BEHALF OF CAMDEN GLEN DEVELOPMENT, LLC; NC DEPARTMENT OF TRANSPORTATION AND CAMDEN GLEN DEVELOPMENT (OWNERS).

The Planning & Inspections Staff recommends approval of the R7.5 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban fringe” at this location, as well as meeting the location criteria for Low Density Residential development as listed in the Land Use Policies Plan;
2. The request is consistent with surrounding zoning and land uses; and
3. Public utilities are available to the subject property.

The R15 Residential district could also be considered suitable for this request.

Mrs. Piland made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve case P11-30 for R7.5. Unanimous approval.

- B. **P11-35:** REZONING OF 3.98 ACRES FROM A1 AGRICULTURAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1575 AND 1615 UNDERWOOD ROAD, SUBMITTED BY DONALD B. CAMDEN ON BEHALF OF CARGILL INC. (OWNERS).

The Planning & Inspections Staff recommends approval of the M(P) Planned Industrial district based on the following:

1. Although the request is not entirely consistent with the Eastover Land Use Plan which calls for one acre residential lots at this location, the request does meet the location criteria for “heavy industrial/manufacturing” as listed in the 2030 Growth Vision Plan;
2. The Planned Industrial is consistent with the zoning for adjacent property under the same ownership; and
3. Public utilities (Eastover Sanitary District) are available to the subject property.

There are no other districts considered suitable for this request.

Mrs. Piland made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve case P11-30 for M(P) zoning. Unanimous approval.

C. PUBLIC HEARING ON THE CUMBERLAND COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION UPDATE.

A copy of the document can be viewed at the Planning & Inspections Dept. and online at http://www.co.cumberland.nc.us/planning/downloads/CUMBERLAND_COUNTY_MULTI_HAZARD_MITIGATION_PLAN_final.pdf

Mrs. Piland made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve Cumberland County Multi-Jurisdictional Hazard Mitigation Update with the minor changes. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

A. **P11-34:** REZONING OF 40.19+/- ACRES FROM A1 AGRICULTURAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE EAST SIDE OF SR 1714 (RIVER ROAD), NORTH OF SR 1730 (UNDERWOOD ROAD); SUBMITTED BY MARK GILBERT AND JANIE S. SMITH ON BEHALF OF GILBERT SMITH FAMILY, LLC (OWNERS).

Mr. Lloyd presented the case information and stated that the Planning & Inspections Staff recommends approval of the requested rezoning to M(P) Planned Industrial district except where the Special Flood Hazard (SFHA) is present, and CD Conservancy for the portion of the subject property located within the SFHA, based on the following:

1. Although the request is not entirely consistent with the Eastover Land Use Plan, adopted in 2000, which calls for one acre residential lots and open space at this location, the request does meet the location criteria for "heavy industrial/manufacturing" as listed in the Land Use Policies of the 2030 Growth Vision Plan;
2. The recommendation of CD Conservancy District for that portion of the subject property located within SFHA is intended to preserve and protect the perennial stream running along the eastern portion of the subject property and would be consistent with the Land Use Policies location criteria for this area; and
3. Public utilities (Eastover Sanitary District) are available to the subject property.

There are no other districts considered suitable for this request.

Mr. Lloyd stated that this is an economic development project, and the representative from the Chamber was present at the meeting.

There were people signed up speak.

Janice Elliott spoke in favor and stated that she didn't live on the property; she was present at the meeting representing her father who is in a nursing home. Ms. Elliott asked if there was an asking price given for the property because it was her understanding that Cargill wanted to purchase the property.

Chair Turner advised Ms. Elliott that the Board was not privy to that information.

Kenneth Gregory spoke in favor. Mr. Gregory is the Director for Economic Development who has been working with Cargill since about 1991 so that they can expand on this piece of property to increase their capacity, add a large number of jobs over several different portions of expansion, as well as a rather considerable increase in capital investment adding tax base to the community. They have been here since 1970 and have been a good business partner with the County. They are amicable; they have worked with the landowner on the price that has come to a reasonable and fair agreement, and thinks that the expansion will do a great deal, especially during these tough economic times, bringing jobs here.

Mr. Morris asked Mr. Gregory how many jobs this expansion would create.

Mr. Gregory stated first 15, and it could be over 100 over time.

Mrs. Epler asked if the property that was applying for rezoning, if all of the owners had consented to rezoning.

Mr. Gregory said that the one owner did consent. He decided that it was all family land and agreed to move it to Cargill.

Joshua Small spoke in favor. Mr. Small is the Cargill Facility Manager. Mr. Small stated that whenever Cargill gets the chance they always try to make sure they can enclose and provide boundaries for their operations to try and insulate themselves from the community around them. One of the challenges they are facing right now is that Cargill is landlocked right now where they are at and they have another piece of land on the other side of the road where inventory is stored. There are people that drive down the road, basically through the middle of the facility at high rates of speed; it becomes a safety risk as well for them. Mr. Small said they try to provide boundaries intentionally to try and be good corporate citizens.

Chair Turner asked what boundaries are encompassed.

Mr. Small stated that they wanted to locate roads so that operations are more toward the middle of the property so that people aren't coming in at the middle of the facility.

Mr. Pearce asked if they anticipated the number of trucks increasing as the facility expands over what is coming in right now.

Mr. Small said it was hard to speak on exactly what will happen, it is a possibility, but any change that would take place would also have an increased unloading rate and the intention would be to bring those trucks inside of the facility as opposed to on the road.

Mrs. Piland asked which routes their trucks used now.

Mr. Small said it was hard to say, they come from all over.

Mr. McLaurin asked what Mr. Small meant by long range, on a year basis, in reference to Mr. Small's statement about changing the traffic pattern.

Mr. Small stated that it was hard to say, he was speaking in maybe the 5 year range. When they build that road it will be wider than Underwood currently is.

Mr. McLaurin stated that it seems like a rapid move to use that as a main entry, that would be good for everyone concerned, rather than be put off. Mr. McLaurin asked how they planned to buffer the front of the addition from the community.

Mr. Small said they would try and keep things close, but they will use setbacks and current things like that.

Mr. Lloyd reminded the Board that this case is a straight rezoning and anything that is said tonight may or may not happen.

Ms. Hall asked what the distance in miles was from the current and proposed Underwood Road.

Mrs. Epler stated based on the scale about 1800 feet.

Chair Turner asked if there were going to be any changes in the rail system.

Mr. Small stated there are no current plans for changes in the rail system.

Mr. McLaurin asked Mr. Lloyd if under A1 the milling and grinding of grain and seed is permitted, is that what Cargill is doing out there?

Mr. Lloyd said that what they will be doing, to be safe and cover the County, we would be best to rezone it M(P).

Mr. Morris asked what the initial investment was.

Mr. Small stated that since he has been with the facility Cargill at this location has missed a couple of major investments due to not having land space; we have the staff and the infrastructure, but not the land. This is also a long term thing.

Mrs. Epler asked if the rezoning goes through and Cargill expands, is it possible that through the expansion, during harvest time when the trucks back up on Underwood and River Roads, is it possible that that could be relieved a little.

Mr. Small stated that was one of the goals in design.

Mr. Richard Powell spoke in opposition. Mr. Powell stated that he bought his lots in 1996 and 1997 and indicated where he lives. Mr. Powell stated that looking out on his porch he will see Cargill, which right now exists on his right hand side. Mr. Powell stated that he hears Cargill's operations 24 hours a day 7 days a week. The traffic does back up sometime and they have covered up both his driveways. Mr. Powell feels that Cargill is trying to expand more than what they've got now. Mr. Powell feels with good management and scheduling there wouldn't be a problem with the trucks. Mr. Powell said it's too close and there's no buffering. Mr. Powell stated that Cargill never went to the residents with these changes.

Mrs. Piland asked if lighting from Cargill bothers him.

Mr. Powell said that there are a lot of lights but he keeps his blinds closed.

Jeff Casper spoke in opposition. Mr. Casper stated that he was concerned by the notice letter and the definition of the zoning. The zoning itself says that it is not compatible with the subdivision directly across from them. The homeowners support economic development and growth but not at the cost of the privacy, property values, and potential safety of the residents that live in the County. Mr. Casper was concerned about the road closure, if Underwood is rerouted that will significantly reduce the response time for emergency vehicles. There are noise and air quality concerns from all the vehicles.

Omar Walker, Jr. spoke in opposition. Mr. Walker stated that he agreed with the previous speakers, and was concerned about safety for bicyclists. Mr. Walker asked if nothing is going to change, why not leave it zoned as A1. Mr. Walker stated that his concerns were about trucks speeding, damage to vehicles by trains and the constant noise.

Mary Stivers spoke in opposition. Ms. Stivers stated that her concerns were with air quality, water quality, noise control, safety, and traffic. Ms. Stiver's stated she was also concerned about property values and green space, what will it look like after the expansion?

Leon Walke spoke in opposition. Mr. Walke is the president of the Riverside Estates HOA. Mr. Walke stated that 29 of the 32 homeowners are opposed to the rezoning for various reasons. The main thing he feels is home values, that is number one on the list of the largest concerns and how this will affect home values.

Mr. Small came forward to rebut the opposition. Mr. Small stated that there were a lot of fair concerns and glad that people came out to express that. Mr. Small stated that as far as aesthetics of the plant, they always look out to do what's good for neighbors. They can do different things to make the aesthetics work out as well as they need to, again can't answer specifics as to what exactly they will be doing, it really depends on what kind of processes are put there. They do know if the neighbors are not happy, it's not good for business. Cargill has spent a lot of money in the communities and in schools. There is actually a new firestation being built, so there will be fire protection, which is in the plans. The concern about the trucks, our high peak has been 400 trucks; right now we get 20 trucks a day. But we are trying to eliminate the trucks blocking the road.

Mrs. Piland asked if there were any discussions regarding changes to River Road.

Mr. Small said he had not been asked about that, the railroad crossing is a concern for employees, as much as it is a concern for residents. That is something that CSX owns. There are different things that they can do.

Mrs. Piland asked Mr. Lloyd if there were any plans to widen River Road.

Mr. Lloyd stated that it was not in the 2009-2015 plans. It is ultimately a 110 foot right-of-way to be widened, but it's not a priority at this point.

Mrs. Piland stated that she had a concern about that and a concern about the residents and the effect it will have on them, but there are a lot of people in the Eastover area that use River Road as a primary connection to 295 going over to Ramsey Street. There are some public safety concerns for that. How that area gets developed will make a huge determination in what happens to that road and it certainly would not be conducive to residential development as it stands right now. Mrs. Piland said that she would have like to have seen more planning with residents so that they would know a little better what was going to happen to them.

Mr. Small stated that as far as the road goes, that's up to DOT and what they do with the tax dollars that are paid.

Chair Turner asked if Cargill made any attempt to talk to neighbors.

Mr. Small stated that he personally did not, but what they would do with the land is speculation right now. He stated that he wished he could give peace of mind by being specific about the plans, but they are very well aware that if the neighbors aren't happy it could be bad for business, and bad for the community, and looks bad on the corporate brand.

Mr. Lloyd stated that any use that is allowed in the M(P) can go in this once it's rezoned, regardless of what the applicants say.

Mrs. Piland asked if there was any discussion for a conditional use.

Mr. Lloyd said that he did discuss it with them a little, but thinks they are at a point where long term they are unsure.

Public Hearing closed.

Mrs. Epler stated that Cargill has been a good neighbor, while they can't control the truck drivers that come to that facility, if their expansion proceeds like they anticipate it will and if they do make a new road between River Road and Custer Avenue their main entrance would alleviate a lot of that truck traffic on those neighborhoods. Mrs. Epler said she liked the idea of the requested zoning, if they are going to continue this operation in A1, which is debatable, she'd rather it be M(P) because the front yard setbacks are 100 feet, the setback in A1 is only 50 feet. The setbacks all the way around are more restrictive except for the rear yard. She also understands that conditional zoning would have been better because stipulations could be placed on them.

Mrs. Piland stated that for that reason she is having problems supporting the staff's recommendation. The safety issues have been mentioned, but feels there needs to be more planning for that River Road area.

Mrs. Epler said that her last point was going to be that Cargill only owns so much land there, so any widening that takes place on River Road either has to be a DOT project, which they are not ready to fund right now, or Cargill will have to own more land and apply for a driveway permit on River Road at which time DOT could come in and make them do whatever improvements need to be done to accommodate their expansion and rest assured if they do apply for a driveway permit as long as it's under DOT's control they will.....

Mrs. Piland stated that she thought Cargill had addressed that well.

After further discussion Mrs. Epler made a motion to follow the staff recommendation, seconded by Mr. Morris to approve rezoning to M(P). The motion passed with Mr. Pearce and Mrs. Piland voting in opposition.

CONDITIONAL ZONING DISTRICT

- B. **P11-31:** REZONING OF 1.72+/- ACRES FROM A1 AGRICULTURAL TO C2(P) PLANNED SERVICE AND RETAIL/CZ CONDITIONAL ZONING DISTRICT FOR A SWEEPSTAKES/INTERNET CAFÉ OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3451 CHICKEN FOOT ROAD, SUBMITTED BY MANLY ALAN AND JUDY S BOYKIN (OWNERS) AND CATHY PARKER.

Mr. Lloyd presented the case information and stated that the Planning & Inspections Staff recommends denial of the requested rezoning to C2(P) Planned Service and Retail/Conditional Zoning district [C2(P)/CZ] for a sweepstakes/internet café (for profit, indoor recreation) at this location based on the following:

1. The request is not consistent with the location criteria for light commercial as listed in the Land Use Policies of the 2030 Growth Vision Plan, specifically, public water and sewer is not available in this area; the zoning would not serve as a transition between heavy commercial, office & institutional or residential; and the use could not be considered as a "convenience good or service" for the surrounding neighborhood;

2. Although there is one existing light commercial [C1(P)] to the south of the subject property, that property was initially zoned as such and is a convenience store, which does provide “convenience goods and services” for the area and convenience stores are also an allowed use in the A1 zoning districts that is predominate in this area;
3. Consideration of the C2(P) district for the requested use at this location is arbitrary and would not serve a viable public purpose – the non-residential structure on the subject property was previously a feed store and the requested district and use are more appropriate in an urban area; and
4. The degree of difference in uses allowed on the immediate existing surrounding properties and the specific use requested qualify this request as being unreasonable and will not be in conformity with the 2030 Growth Vision Plan and adopted planning policies as addressed above.

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

Mrs. Epler asked if this could be considered spot zoning.

Mr. Moorefield said it could be argued that it is.

There are people signed up to speak in favor and in opposition.

Manly Alan Boykin spoke in favor. Mr. Boykin is the owner of the subject property. He bought the property in 2002 and had aspirations of putting in a feed store. At one time he was going to put a convenience store, but that didn't work out because of the zoning. We rented it out to the current tenants who take very good care of the property. Half of Grays Creek is unemployed; this place is providing jobs for at least 7 or 8 people. If this request is denied, it will put these people out of work. Over a 2 year period that is \$225,000. Mr. Boykin asked the Board if they denied this request to please zone it for something where he can make a profit.

Doug Guy spoke in favor. Mr. Guy is a partner in the business, and feels that the fact that they employ people is a big plus in the current economy. He's heard that this is not the type of place for this type of business, but disagrees with that. The people that play are 75% of the people that live in the community. It's a simple game; if you want to play you come in. It's just like buying a lottery ticket. Right across the street is a convenience store; they have the exact same games that we have, so it's not like we're asking for something different. There is a bar and grill a quarter of a mile from us, our hours say from 10pm to 2am, usually by 11pm we're closed. What we're asking for is a non-residential usage; it's a building that was empty. By us coming in we add to the tax base in the community and no one with adjoining property is opposing this, they come in and play the games. No alcohol is served it's just a place to play games.

Chair Turner asked Mr. Guy how long his business was in operation.

Mr. Guy said 2 months and that there are places like this in surrounding areas, he owns three of the other places.

Mrs. Epler asked if the hours of operation were the same at all of his facilities.

Mr. Guy said that three of them are the same, but the one in Fayetteville is 24 hours a day 7 days a week.

Ms. Hall asked if these stores generate a lot of traffic.

Mr. Guy said that generally they may have at any point in time 2 or 3 players to at the most at one time 15 players. There are 30 machines.

Mr. Clark asked if gambling was the main activity.

Mr. Guy said it was a phone time sweepstakes and yes that was the main activity.

Phil Edge spoke in opposition. Mr. Edge stated that he has been a resident of Grays Creek for 57 years. Mr. Edge said that he feels this business does not belong in the Grays Creek Township; the people of Grays Creek are not internet gambling people. There are poker machines in the other store, but something about those machines, they ruin the people in the community. Mr. Edge feels that internet cafés need to be in a controlled environment.

Crystal Pate spoke in rebuttal for her parents who own the store. Ms. Pate stated that she is a college graduate, is a real estate broker and has a general contractor's license, and she loves to gamble. She has perfect credit and pays bills on time, gambling is a recreational activity. This business is providing jobs and generating income.

Chair Turner asked Mr. Boykin to come to the podium and asked him if he would be okay with rezoning to RR with a conditional use.

Mr. Lloyd stated that they could also add conditions such as limiting hours of operation.

Al Parker came forward and stated that there is a lot of shift work involved and there are three different processing plants in the area and they work different shifts and that's why they would ask for the hours.

Mrs. Epler asked Mr. Boykin if the hours could be change to midnight.

Mr. Boykin responded that they could do that.

Public Hearing closed.

Mr. Clark stated that he worked with a company and there was gambling in South Carolina they put in the poker machines, most people went down and played poker, no problem. There was a certain element that were good hardworking people who had become addicted to it and lost their homes, jobs, everything. Mr. Clark feels these are good, honest hard working people but there is another side to that coin and it does have an impact on the community.

Mrs. Epler made a motion, seconded by Ms. Hall to approve RR conditional zoning with a condition change for hours of operation to end at midnight. The motion failed with Mr. Morris, Mr. McLaurin, Mr. Clark, Mr. Hostetter, Mrs. Piland, and Mr. Pearce voting in opposition.

IX. DISCUSSION

There was none.

X. FOR YOUR INFORMATION

DIRECTORS UPDATE

- Mr. Lloyd advised the Board that the Comprehensive Planning Committee needs to meet to discuss MIA's and Municipal Protection Zones and the Land Use Codes Committee needs to meet to discuss the Subdivision Ordinance, because there are some concerns that legal as well as staff have.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 9:25 p.m.