

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 May 17, 2011

Members Present

Ms. Lori Epler, Chair
Mr. Charles Morris
Mr. Garland Hostetter
Mr. Benny Pearce
Mr. Donovan McLaurin
Mr. Harvey Cain, Jr.
Mrs. Sara Piland
Mr. Walter Clark

Members Absent

Mr. Roy Turner
Ms. Patricia Hall

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mrs. Piland made a motion to accept the agenda as submitted, seconded by Mr. Clark. 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 APRIL 19, 2011

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

VII. PUBLIC HEARING CONSENT ITEMS

CONDITIONAL ZONING DISTRICT

- A. **P11-18:** REZONING OF 3.06+/- ACRES FROM A1A AGRICULTURAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING DISTRICT FOR A "FOR PROFIT" RECREATION/AMUSEMENT FACILITY, INDOOR AND OUTDOOR OR TO A MORE

RESTRICTIVE ZONING DISTRICT; LOCATED AT 8640 BURNETT ROAD; SUBMITTED BY RONALD W. AND JENNIFER WOOD LEWIS (OWNERS).

The Planning & Inspections Staff recommends conditional approval of the requested rezoning to a C(P) Planned Commercial/Conditional Zoning District [C(P)/CZ] for the “for profit” indoor and outdoor recreation/amusement facility, specifically used as a museum and for weddings, reunions and school tours, based on the following:

1. Although the request is not consistent with the Northeast Cumberland Area Plan, which calls for “farmland” in this area, with the voluntary restriction of uses typically allowed within the C(P) district to the stated uses in the application, the site plan as proposed and the conditions placed on the permit, the request affords protection to the character of the community;
2. The request for the subject property is also not consistent with the location criteria of the Land Use Policies of the 2030 Growth Vision Plan in that public water and sewer is not available and the property is not located within an activity node; however, the request is reasonable since the uses proposed could be a valuable asset as a historical and educational resource for the County; and
3. The property owners’ request to reserve area for a future sidewalk rather than construct a sidewalk is also reasonable and will ensure that this development retains the character of the surrounding area, satisfies the public purposes of the ordinance and will aid in ensuring that this development conforms to and is compatible with the development of the surrounding land uses.

There are no other suitable zoning districts to be considered for this request and the property owner has voluntarily agreed to this staff recommendation and all attached “Ordinance Related Conditions.”

Mrs. Piland made a motion, seconded by Mr. Cain to follow the staff recommendation and approve case P11-18 for C(P) Planned Commercial/CZ Conditional Zoning for a “for profit” indoor and outdoor recreation/amusement facility. Unanimous approval.

REZONING CASES

- B. **P11-24:** REZONING OF 11.57+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE SOUTHWEST QUADRANT OF H BULLARD ROAD AND CYPRESS LAKES ROAD, SUBMITTED BY CHARLES H. AND CHARLES T. GARDNER (OWNERS).

The Planning & Inspections Staff recommends approval of the R20 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban area” at this location, as well as meeting the location criteria for suburban density residential development as listed in the Land Use Policies Plan; and
2. The request is consistent with surrounding zoning and land uses.

The R30 and R40 Residential districts could also be considered suitable for this request.

Mrs. Piland made a motion, seconded by Mr. Cain to follow the staff recommendation and approve case P11-24 for R20 Residential district. Unanimous approval.

VII. PUBLIC HEARING CONTESTED ITEMS

- A. **P11-22:** REZONING OF 23.78+/- ACRES FROM A1 AGRICULTURAL TO R15 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHWEST SIDE OF RAMSEY STREET NORTHEAST W REEVES BRIDGE ROAD; SUBMITTED BY W. STAN TAYLOR (TRUSTEE) ON BEHALF OF KM TAYLOR FAMILY TRUST (OWNER).

Mr. Lloyd presented the case information and stated the Planning & Inspections Staff recommends denial of the request for the R15 Residential district but approval of the R20 Residential district for this request based on the following:

1. The request for R15 Residential for the subject property is not consistent with the location criteria for "rural density residential" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as public water and sewer are required but not available; the recommendation of R20 Residential does meet the location criteria for the Policies Plan;
2. The R20 Residential district is in character and consistent with the surrounding land use.

The R30 and R40 Residential districts could also be considered suitable for this request.

The applicant has verbally agreed to the Staff recommendation of the R20 Residential district.

There were people present to speak in favor and in opposition.

Mr. William Taylor, spoke in favor. Mr. Taylor stated the property was passed on to him and his siblings when their father passed in 2007 and all live out of town, and are in agreement with R20 zoning. Mr. Taylor feels that this is a chance to follow the 2030 Land Use Plan; they would also like to put the land in the hands of people who are local rather than absentee landlords, because it is difficult for them to manage the property. They do have a contract to sell the property, and believes the property next door to the subject property is zoned R20.

Mr. Morris asked Mr. Taylor if he formally amended his application to R20.

Mr. Taylor stated yes.

Mr. Nick Angelone spoke in opposition. Mr. Angelone stated that his concern was with the density of the area, twenty three acres. Mr. Angelone stated that he sat in on one of the last community meetings, and it was agreed upon that the community wanted to keep a country setting, that they wanted to have one acre, two houses. They did not want commercial or anything else. Mr. Angelone said he had concerns with septic tanks and 120 cars, because if you put that many houses on those twenty three acres there are going to be a lot of cars. He doesn't want 401 N to be like 401 S, eventually the City of Fayetteville will try to annex.

Arnelle Bobbit spoke in opposition. Mrs. Bobbit stated that she previously made two rezoning requests for R20 and was denied, and there were quite a few people present to oppose that request, but six months prior to her request R20 had been approved, now the very people that spoke against her request, are now requesting the same thing. Mrs. Bobbit doesn't understand why it was okay for people to get it before her and if the board grants this request, why would it be okay after trying for 2 years, what is the difference between her request and other requests. Mrs. Bobbit stated that she would like to find out the Board's position on this, although she's not opposed to R20 because it's exactly what she wanted, but she wants to be treated fairly.

Mrs. Piland asked when Mrs. Bobbit's requests came before the board.

Mrs. Bobbit said March 2007 and December 2005 and the person granted R20 prior to her was May 5, 2005.

Chair Epler advised Mrs. Bobbit that every case was different, people who come to speak in favor and in opposition are different, neighborhoods change on a yearly basis, planning changes every time we get a new land use plan, but can't explain why boards vote one way one year and another way three years later.

Mrs. Bobbit said that 30 years is a pretty big gap, however, six months isn't, and she did have the recommendation of the planning staff.

Chair Epler stated that she remembered.

Mrs. Bobbit restated that 30 years was a big gap but six months prior not so much, two years in a row, not so much, couple of years later not so much.

Mrs. Diane Wheatley spoke in opposition. Mrs. Wheatley stated that she lived directly across from the subject property. The areas being referred to as R20 were discussed several years ago at this board, those are acre lots, that are still zoned at R20 but were built on one acre lots, some more. That area, now referred to as stick built, is somewhat of blight, and doesn't understand why people want to keep this R40 and keep it more rural, people have left, there are multiple families living together, things are falling apart, it's a very interesting neighborhood. Mrs. Wheatley wanted to remind the board that is really on one acre lots, they did not build to R20. The R20 lots down on Sandcastle, those lots are much larger than half acre R20 lots, some of them an acre. The biggest problem, even though there's water out our way, Linden, even though they show soil on one side of the road as not being wet and one side of the road is, there's not a lot of difference. You can walk the areas, septic tanks and many of those being in one area would not be a good idea, it could present a lot of health problems and issues. We have a runway on our property, and doesn't know how people would feel about an airplane being on top of their house, but has no plans to change anything about moving that runway or not flying out of it. That's another reason we would like to see it stay rural, there's a lot of things that go on out there. This is a wonderful country community with good neighbors. If a whole lot of cars start coming in and out, the lifestyle that most of us moved out there to enjoy will change. We do understand the need for growth, but if you look back towards Cumberland County and Fayetteville there is still a whole lot of empty land. There are a whole lot of places people could build and do infill.

Public Hearing closed.

Mrs. Piland stated that she had concerns about this, and remembers Mrs. Bobbit's case and all of the opposition. When going through the 2030 process she was not in support of a definition of rural density at an R20 and didn't feel that was rural density, thought it was too dense for a rural area. It is surrounded by A1, and typically we move from A1 to R40 rather than directly to R20.

Mr. Morris stated that this is a sandy ridge on top of having Linden water, and we did this in Castlebrook at R15, which he thought was too dense and felt that R20 was more appropriate, but the Commissioner's made it R15. He always thought that RR density should occur where the soil is best for septic tanks, this is on the Linden Water District, the infrastructure is there, the soils are there, and the roadway is there. If we are going to have density in the Linden Watershed Districts, they should occur where the soil is good or if the soil is bad, we need to have one acre lots or more because the soil can't support it. On this particular piece, this is perfect for R15 and he's asking for R20.

Mr. McLaurin stated that he had some concerns about R20 also even though there is water available, because of the septic systems and with our zero lot line rule in this County. You can say you have R20 but depending on how the lots are laid out. Many of these lots could be barely large enough for a septic system and a repair area which you have to have. We've got places that have been put in with pretty high density in other parts of the County and after a while things get saturated for some reason, people are prone to put sprinklers in and other factors happen, then the next thing you know they want sewer because they went and put septic systems in and time proves that that was not the thing to do on those size lots. Mr. McLaurin thinks that we need to be careful with the zero lot line rule going down to an R20 with septic systems.

Mr. McLaurin made a motion to deny the request for R20 and approve rezoning to R40, seconded by Mrs. Piland.

Chair Epler agreed with Mr. Morris, there are areas on the north side of Fayetteville that will not lend themselves to septic tanks and are going to make acre and two acre lots mandatory. This is not one of those areas. They have water and they have I-295 coming, while it is today a rural area there is a neighborhood right beside this area that is not rural and that's been there for many years. There are several areas in that neighborhood that are not rural that are not even on this map. Chair Epler feels the board needs to look at this hard.....

Mrs. Piland stated that she lives in one of those small sandy areas in her community and has had a septic tank since she has lived there, many years. When that septic line fails, and you have to put a new one in, we are on an acre and a half that is cleared around the house, and we've used up more than a half an acre with septic lines.

Chair Epler stated that she would venture to say that the Health Department didn't make Mrs. Piland have a repair area at that time. Now before they issue a permit you not only have a drain line you have to have your repair area.

Mrs. Piland said that you can put it in the first time, but when you have to repair it and lay another line, she doesn't know how it can be done on small acreage.

Chair Epler stated that a septic tank permit will require a repair area.

Mr. Morris said when they did Castlebrook which is the same soil at R15, the Health Department issued permits with repair areas.

Chair Epler said that these owners are not local anymore, and doesn't want to see the property sit there and get run down and become a place where people dump their garbage. The numbers have to be there before you develop property, if we aren't more friendly towards this, you will not find many people out there who want to buy twenty or thirty acres and put in twenty two lots, it's not feasible at today's costs.

Mr. Morris said we are trying to make the best of our infrastructure; without the County's help Linden went and got rural grants and extended those lines and a majority of those extensions have been into areas where the water is so poor you can't do anything with it and that's our water system, when we have to service a bunch of R40 it makes our resources stretch a long way, it's not fruitful to have all that low density when we only have a few places we can have higher density, and that's on a sandy ridge and that's right up Ramsey Street and is appropriate for rural density and R20 is very appropriate for that and we start doing R40, all we're doing is urban sprawl, and it's not going to help the community.

Mr. McLaurin said from what Mr. Morris just said the water was put out there evidently for poor water quality....

Mr. Morris corrected Mr. McLaurin and stated lower.

Mr. McLaurin said he agreed with Chair Epler, there is density beside the property, but this is an area with a lot of A1, and in these plans and a lot of meetings Mr. McLaurin went to, there was talk about promoting infill, trying to use resources closer in where you could promote walking and mass transit, there was talk about leapfrogging throughout the County, and this seems like a case of leapfrogging when you go to R20. Just because the water is out there, and the water was not really put out there, according to Mr. Morris, to leapfrog out in the County. It was put out there so that certain people could have good potable water in the rural areas, which looks really rural.

Chair Epler asked if there was any further discussion. There was none.

Mr. McLaurin repeated the motion.

Mr. McLaurin made a motion to deny the request for R20 and approve rezoning to R40, seconded by Mrs. Piland. The motion passed 5-3 with Mr. Clark, Mr. Morris, and Chair Epler voting in opposition.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 11-042. CONSIDERATION OF THE FRANCINE KELLY PROPERTY, GROUP DEVELOPMENT REVIEW, REQUEST FOR A WAIVER FROM THE 20 FOOT MINIMUM ACCESS REQUIREMENT, COUNTY SUBDIVISION ORDINANCE, SECTION 2401 D STREET ACCESS; ZONED: R6A; TOTAL ACREAGE: 1.14+/-; LOCATED AT 643 HILLY STREET; SUBMITTED BY FRANCINE KELLY (OWNER). (HOPE MILLS MIA/COUNTY JURISDICTION)

Mr. Lloyd presented land use and photos of the site. This waiver request is for access, the applicant came in for a group development. There is an existing home and there is a proposed home, now it's a storage building that they want to convert to a second structure. The problem is that the zoning ordinance says you have to have 20' of frontage on an approved private street or a public street. Access to this property is Hilley Street, which is an easement which runs out to Parkton Rd. The Town of Hope Mills is in favor of this.

The applicant was present to speak.

Francine Kelly came forward to speak in favor (Chair Epler swore in Ms. Kelly). Ms. Kelly stated that she wanted to turn the second building into a home because she has become a grandmother and they need a little more room to grow and wants to turn it into a place for her daughter to live.

Chair Epler asked if the easement was deeded.

Mr. Lloyd responded yes.

Mr. Clark made a motion to approve the request, seconded by Mr. McLaurin that the Joint Planning Board for the County of Cumberland having held a public hearing to consider the waiver request for Case No. 11-042 requesting a waiver from the 20 foot minimum access requirement, County Subdivision Ordinance and having heard all of the evidence and arguments presented, the board makes the following findings of fact and draws the following conclusions (1) it is the Planning Board's conclusion that because of other unusual physical conditions strict compliance with the provisions of the Cumberland County Subdivision Ordinance would cause a special and unnecessary hardship to the property owner. This finding is based on the following conditions: (1) this lot existed prior to current zoning regulations and would not cause

any hardship to others, (2) it is the board's conclusion that the purpose of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, (3) The property owner is not being afforded a special privilege denied to others. Because of the foregoing I move that the request for the waiver be approved. Unanimous approval.

X. DISCUSSION

XI. FOR YOUR INFORMATION

DIRECTORS UPDATE

Mr. Lloyd advised the board that the Nominations Committee needed to meet in June to elect new officers.

Chair Epler stated that Mr. Morris, Mr. Hostetter, Mr. Cain, and Mr. Pearce were on the committee.

Mr. Lloyd said that some changes were needed in the Subdivision Ordinance, so the Codes Committee will meet to go over some problems that were encountered and look at some changes.

XII. ADJOURNMENT

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