



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Walter Clark,
Cumberland County

Benny Pearce,
Town of Eastover

CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

Planning & Inspections Department

MINUTES

January 20, 2015

Members Present

Ms. Patricia Hall, Chair
Mr. Charles Morris
Mr. Benny Pearce
Mr. Donovan McLaurin
Mrs. Diane Wheatley
Mr. Carl Manning
Dr. Vikki Andrews

Members Absent

Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mr. Walter Clark

Others Present

Ms. Patricia Speicher
Ms. Annie Melvin
Mrs. Laverne Howard
Mr. Robert Hasty, Jr.
Assistant County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

Ms. Speicher advised the Board that Case P15-08 would be moved from Consent Items to Contested Items.

Mr. Morris made a motion to approve the agenda with the adjustment, seconded by Dr. Andrews. Unanimous approval.

III. PUBLIC HEARING DEFERRAL/ WITHDRAWAL

Chair Hall read the deferred cases with the deferral dates.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Ms. Speicher read the policy statement.

VI. APPROVAL OF THE MINUTES OF DECEMBER 16, 2014

Mr. Pearce made a motion to accept the minutes as submitted, seconded by Dr. Andrews. Unanimous approval.

VII. PUBLIC HEARING ITEM

TEXT AMENDMENT

P15-04. REVISIONS AND AMENDMENTS TO THE TOWN OF SPRING LAKE ZONING ORDINANCE, CODE OF ORDINANCES, CHAPTER 42 ZONING BY AMENDING ARTICLE I. DEFINITIONS, SECTION 42-8. DEFINITIONS BY UPDATING THE PROVISIONS FOR DAY CARE FACILITY AND RELIGIOUS WORSHIP ACTIVITY; AMENDING ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 42-63. DISTRICT USE REGULATIONS, TABLE OF USES AND SECTION 42-65. INCIDENTAL USES, (A) HOME OCCUPATIONS; AND AMENDING ARTICLE IV. SPECIAL USES, SECTION 42-91. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES, (C) DAY CARE FACILITIES, AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (SPRING LAKE)

1ST MOTION

The Planning and Inspections Staff recommends approval of Case No. P15-04 for a text amendment revising the provisions for day cares within the Town of Spring Lake based on the following:

1. If approved, the proposed amendment would expand the provisions of day cares to include adult day cares as well as providing development criteria for small day cares being permitted as home occupations; and
2. The amendment was requested by the Town of Spring Lake.

2ND MOTION

The Planning and Inspections Staff recommends the board find that approval of the text amendment in Case No. P15-04 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* as it is an effort to ensure that the Town of Spring Lake's zoning ordinance is updated and revised to be more in line with county standards. The proposed amendment is also consistent with the Spring Lake Area Detailed Land Use Plan as it will afford the town board the opportunity to ensure the character of the town is retained, which is the stated primary goal of the plan.

The staff further recommends the board find that approval of the text amendment is reasonable and in the public interest because the town's property owners will be afforded a wider range of options when offering day care services for the residents of Spring Lake and surrounding areas.

Mr. Morris made both of the motions referenced above, seconded by Dr. Andrews, to follow the staff recommendations and approve the request. The motions passed unanimously.

VIII. PUBLIC HEARING CONSENT ITEM

REZONING CASE

- A. **P15-06.** REZONING OF 2.00+/- ACRES FROM A1 AGRICULTURAL/CU CONDITIONAL USE OVERLAY FOR A HOME CATERING BUSINESS TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2761 COUNTY LINE ROAD, SUBMITTED BY ANDREW C. MILLER AND CANDACE D. WARREN (OWNERS).

1ST MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-06 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "rural" at this location as the proposed district would allow development at one or less units per acre. The request is also consistent for the proposed South Central Land Use Plan which calls for "*farmland*" at this location.

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *individual well and septic systems are allowed, public water and sewer are not available; could be located in any defined critical area as defined by the Fort Bragg Small Study Area; desirable to be limited to 1 unit per acre in areas with*

hydric and severe septic tank limitations soils; desirable to not be located in an area that is a prime industrial site; and may be outside the Sewer Service Area.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff also recommends the board approve Case No. P15-06 for R40 Residential district based on the following:

1. The R40 Residential district will allow for land uses and lot sizes that exist in the general area; and
2. If approved, the rezoning would remove the conditional use overlay district allowing for a home catering business which is not in operation at this site.

There are no other districts considered suitable for this request.

Mr. Pearce made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.

- B. **P15-10. REZONING OF 5.78+/- ACRES FROM M(P) PLANNED INDUSTRIAL TO RR RURAL RESIDENTIAL AND CD CONSERVANCY OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2587 NAVY ROAD, SUBMITTED BY SHAWN WATTS (OWNER) AND ROBERT M. BENNETT, PE/PLS.**

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-10 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban” and “open space” at this location as the proposed district would allow development at less than 2.2 units per acre and greater than one. The requested districts are also consistent with the proposed South Central Land Use Plan which calls for “*suburban density residential*” and “*open space*” at this location.

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject properties meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *septic systems are allowed*, public sewer is not available; *direct access to a local road is required*, Navy Road is a public street; and the subject property is *not located in any defined critical area as defined by the Fort Bragg Small Study Area*.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff also recommends the board approve Case No. P15-10 for R20 Residential and CD Conservancy district (where the *Special Flood Hazard Area* exists) based on the following:

1. The R20 Residential district will allow for land uses and lot sizes that exist in the general area; and
2. The request is logical as the subject and several surrounding properties were initially zoned M(P) in 1979 but have mostly remained legal nonconforming residential or are undeveloped.

There are no other districts considered suitable for this request.

Mr. Pearce made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.

IX. PUBLIC HEARING CONTESTED ITEMS

- C. **P15-08.** REZONING OF 18.50+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTH SIDE OF SR 1704 (PALESTINE ROAD), EAST OF US 401 (RAMSEY STREET); SUBMITTED BY JOHN CULBRETH ON BEHALF OF CULBRETH LAND AND TIMBER CO. LLC. AND PHYLLIS P. STREIT (OWNERS).

Ms. Speicher presented the case information and photos.

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-08 is generally consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “rural” at this location because the district requested promotes efforts that *encourage the development of new housing stock and provide an assortment of housing types and neighborhoods to meet the needs of all residents in the County*. The request is consistent with the North Central Land Use Plan, which calls for “suburban density residential” at this location and the general area already contains suburban and low density developments.

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject properties meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *septic systems are allowed*, public sewer is not available; *direct access to a local road is required*, Palestine Road is a public street; and the subject property is *not located in any defined critical area as defined by the Fort Bragg Small Study Area*.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff also recommends the board approve Case No. P15-08 for R20 Residential district based on the following:

1. The R20 Residential district will allow for land uses and lot sizes that exist in the general area; and
2. Public water is available to serve this site.

There are no other districts considered suitable for this request.

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

Mr. John Culbreth spoke in favor. Mr. Culbreth stated that the subject property will have lots larger than the Castlebrook Subdivision, the plan is to have this development tie into Linden water, so each lot will be on the community water system. Mr. George Rose designed the subdivision and he was able to get twenty five lots in there. Mr. Culbreth also said that the Department of Transportation (DOT) has approved the street design, and he met with the Town Board of Linden and they felt this would be an asset to the community.

Mr. Morris asked Mr. Culbreth if the dam is still drained.

Mr. Culbreth stated that the dam had been rebuilt and will be put back together in the spring and the pond will be built back up.

Mr. Morris asked Mr. Culbreth if anything occurred to the wetlands with the occurrence of the dam breaks.

Mr. Culbreth said that there were some soils that went downstream, Dam Safety came in and said that what kept it from completely failing was the fact that it was paved and the water went across and eroded the back part of the dam. Mr. Culbreth said they built the dam back to its original height but only half as wide.

Mr. Ernest Smith spoke in favor. Mr. Smith stated that he had no objections to the rezoning request; his main thing is that he would like to tap into water if it is available.

Jamie Bowden spoke in opposition. Mr. Bowden stated that he was speaking for about one hundred homeowners who signed a petition requesting the rezoning be to R40 instead of R20, and presented the petition to the Board. Mr. Bowden stated that some of the concerns are with soils, wetlands, and the size of the lots. They also have concerns with water.

Ms. Sandra K. Bowden-Johnson spoke in opposition. Ms. Johnson stated that her property backs up to the subject property, and didn't want anything back there. She stated that she also signed the petition and agrees that the rezoning should be to R40. She also has concerns with water and security.

Mr. Morris asked Mr. Culbreth if the subject property were rezoned to R40 would he still extend the water.

Mr. Culbreth said no, they would do individual wells; the layout is based on an R20 design, so he is requesting R20 because that's what they need.

Mr. McLaurin reminded the board that they could only be concerned with the rezoning, not the number of lots.

Public hearing closed.

Mrs. Wheatley said that R40 has been discussed in the past and it has been palatable in this community.

Mr. Morris said that the land is zoned A1 and the engineers have zoned it to the highest and best use because that's what they're paid to do, he hates it when a developer spends money on an engineer to develop a plan based on what they feel is best, prior to coming to the Planning Board or buying the property under contingency. Mr. Morris said that he felt the density needs to be there and feels that the larger lot size is what is best and would concur with Mrs. Wheatley.

Mr. Morris said that the Town of Linden is looking is into extending water. Eventually it will happen it just a matter of funding and grants.

Mr. Morris made a motion to deny both of the motions referenced above, seconded by Dr. Andrews, and recommended rezoning to R40 for the subject property. The motions passed unanimously.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 14-151. CONSIDERATION OF THE JEFFREY & FLORA CLABO PROPERTY; GROUP DEVELOPMENT REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE DIRECT STREET ACCESS; COUNTY SUBDIVISION ORDINANCE, SECTION 2401.D, STREET ACCESS; ZONED: A1; TOTAL ACREAGE: 15.63 +/-; LOCATED AT 2278 & 2282 NEY COURT; SUBMITTED BY JEFFREY & FLORA CLABO (OWNERS).

Ms. Speicher presented the case information and the site photos.

There were no speakers.

Mr. McLaurin made a motion, seconded by Dr. Andrews that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider Case No. 14-151 in which the property owner is requesting a waiver of the ordinance from the requirement to have direct street access and to develop the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and arguments presented, I move as follows:

The Board finds the following facts: 1. The property owner is seeking approval for a second dwelling unit on a 15.63+/- acre tract that is served by a recorded ingress/egress easement; 2. Given a similar set of facts and circumstances the board's ruling to grant the waiver would be the same.

Based on the foregoing facts, the Board concludes: A. Because of the condition or nature of adjoining areas strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and B. The public purposes of the County's subdivision and zoning ordinances would be served to an equal or greater degree, and C. The property owner would not be afforded a special privilege denied to others.

Based on the foregoing conclusions, the Board grants the request for waiver subject to the following conditions which are intended, in so far as practicable, to secure the objectives of the requirements that are waived: 1. This waiver approval is not intended to apply toward any future or additional development of the subject property; and 2. Conditions of approval, numbered 1 through 13, as included in the board packet material apply. The motion passed unanimously.

XI. DISCUSSION

DIRECTOR'S UPDATE

- **SET LAND USE CODES AND COMPREHENSIVE PLANNING COMMITTEE MEETING DATES**
 - The Board decided that they wanted Committee meetings to be during lunch.
 - Informational meeting for the full Planning Board to be on February 3rd at lunch.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 7:54 pm.