

MINUTES

May 1, 2001
7:00 p.m.

Members Present

John Tyson, Chair
Joe W. Mullinax, Vice-Chair
Dallas Byrd
John M. Gillis
Clifton McNeill
Jerry Olsen
Jeffrey Reitzel

Members Absent

C.S. "Pete" Connell

Others Present

Barry Warren,
Planning Director
Thomas Lloyd
Donna McFayden
Barbara Swilley
Grainger Barrett,
County Attorney
John Henley,
Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. McNeill delivered the invocation, and Chair Tyson led those present in the Pledge of Allegiance.

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

Mr. Olsen asked that items E and F under CONSENT be removed and placed on under PUBLIC HEARING items. The Agenda was approved by consensus with the change.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF APRIL 17, 2001

Chair Tyson asked that "The materials were received into the record by the Board" be added to the beginning of the three Conditional Use Overlay cases following the sentence asking that the materials be received.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the Minutes of April 17, 2001 with the above change. The motion passed unanimously.

REZONING CASES

A. P01-27. REVISIONS AND AMENDMENTS TO THE SPRING LAKE CODE OF ORDINANCES, SECTIONS 156.086(c), "FENCES AND WALLS," 156.008, "DEFINITIONS," TO DEFINE FENCES AND REGULATE THE LOCATION AND MAINTENANCE OF PRIVACY FENCES.(SPRING LAKE)

The Planning staff recommended approval of the proposed amendment based on the Town's request and review and recommendation of the Land Use Codes Committee.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the amendment as recommended by the Land Use Codes Committee. The motion passed unanimously.

B. P01-28. REVISIONS AND AMENDMENTS TO THE SPRING LAKE CODE OF ORDINANCES, SECTION 155.67, "SPECIFIC IMPROVEMENTS," BY CREATING (1) TRASH RECEPTACLE AREAS. (SPRING LAKE)

The Planning staff recommended approval of the proposed amendment based on the Town's request and review and recommendation of the Land Use Codes Committee.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the amendment as recommended by the Land Use Codes Committee. The motion passed unanimously.

C. P01-29. REVISIONS AND AMENDMENTS TO THE CUMBERLAND COUNTY CODE OF ORDINANCES BY DELETING EXISTING AND CREATING NEW APPENDIX A, SECTION 5.23, "CONTINUANCE OF NONCONFORMING STRUCTURES," IN ITS ENTIRETY. (COUNTY)

The Planning staff recommended approval of the proposed amendment based on the County Board of Adjustment's request and review and

recommendation of the Inspections Department and Land Use Codes Committee.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the amendment as recommended by the Land Use Codes Committee. The motion passed unanimously.

- D. P01-30. REVISIONS AND AMENDMENTS TO THE CUMBERLAND COUNTY CODE OF ORDINANCES, APPENDIX A 'ZONING', ARTICLE III', TABLES 1-A, 1-A-2, 1-B-1, 1-B-2, 1-C-1, 1-E, 1-F, 1-G, 1-H, 1-I, AND 1-J, SPECIFIED CONDITIONAL USES, BY INCLUDING IN ALPHABETICAL ORDER, "GOLF COURSES." (COUNTY)

The Planning staff recommended approval of the proposed amendment based on the Inspection Department's request and review and recommendation of the Land Use Codes Committee.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the amendment as recommended by the Land Use Codes Committee. The motion passed unanimously.

PLATS AND PLANS

- A. 01-92. CONSIDERATION OF THE JOHN ROBERT HINES PROPERTY (SUBDIVISION REVIEW) IN AN RR DISTRICT, A VARIANCE FROM SECTION 3.20, "LOT STANDARDS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE, OFF THE WEST SIDE OF BUTLER NURSERY ROAD, ON A 60-FOOT EASEMENT NAMED SHEMCREEK DRIVE.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the requested variance. The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

- A. P00-76. REZONING FROM R6A RESIDENTIAL TO HS(P) PLANNED HIGHWAY SERVICE, OR A MORE RESTRICTIVE ZONING CLASSIFICATION, ON THE WEST SIDE OF MCCORMICK ROAD, NORTH OF HOLLOWAY STREET, THE PROPERTY OF WOODROW AND LAUNA HINKLE. (SPRING LAKE)

Maps were displayed outlining the zoning and land use in the area. Mr. Lloyd explained that the case was deferred for a Recreational Vehicle Overlay District to be created for the Town of Spring Lake. The Spring Lake Town Board is now considering the Overlay District.

Mr. Lloyd said that the Planning staff recommended denial of the HS(P) Planned Highway Service District based on the following:

1. The request does not meet the purpose and intent statement of the HS(P) Planned Highway District.

The Planning staff found that the subject property is suitable for the R5A Residential District and not suitable for the rest of the intervening districts.

No one appeared in favor of or in opposition to the request.

Chair Tyson asked if the staff recommendation would be consistent to deny or approve if the Town approves the amendment. Mr. Lloyd said that the Town could consider the RV Park as a specified conditional use, and the recommendation would depend on how the amendment is treated by the Town. Chair Tyson asked if there would be any harm in further deferring the case. Vice-Chair Mullinax said that the reason that the Town Council deferred action on the amendment was in order to allow time for the Town Attorney to review it and consider options. Mr. Warren said that the Town Attorney is proposing a few minor changes. Mr. Lloyd said that the Town Inspector also wants recreational vehicles treated differently, so action may affect the vote.

Vice-Chair Mullinax said that the Town has the ordinance amendment before them, and the Planning Board has sufficiently dealt with it. He suggested that the case be sent forward with the Board's recommendation.

A motion was made by Vice-Chair Mullinax and seconded by Mr. McNeill to follow the staff recommendation and deny the request.

Mr. Reitzel asked if any of the property is located within the Fort Bragg's Noise and Accident Potential Zone. Mr. Lloyd said that it none is, but it is within the one mile buffer zone.

Upon a vote on the motion, it passed unanimously.

- B. P01-23. CONDITIONAL USE OVERLAY AND PERMIT TO ALLOW A CLASS B MOBILE HOME IN AN R10 RESIDENTIAL DISTRICT ON THE WEST SIDE OF CEDAR CREEK ROAD, NORTH OF JOHN B. CARTER ROAD, THE PROPERTY OF L. CHARLES RICE. (COUNTY)

Maps were displayed outlining the zoning and land use in the area. Mr. Lloyd explained that this case was deferred from an earlier meeting. He said that the request is to allow an additional structure on the property because the applicant's wife has severe allergy problems and must stay isolated. Mr. Lloyd said that the structure should somehow be tied to a condition that limits the use and does not allow the structure to be used as a rental.

Mr. Lloyd said that the Planning staff recommended approval of the Conditional Use Overlay District based on the finding that the request is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest.

The Planning staff recommended denial of the Conditional Use Overlay Permit after finding that the proposal does not meet the following conditions:

1. It will not substantially injure the value of adjoining or abutting property;
2. It will be in harmony with the area in which it is to be located; and
3. It will be in conformity with the 2010 Land Use, Thoroughfare and other plans officially adopted by the Board of Commissioners.

In addition, the proposed land use is inconsistent with the character and development of the area; and no circumstances have changed in the area since 1983 when the staff recommended denial of a rezoning request for RR to R10 for the same use across the street.

Note: The Institute of Government guidelines for Conditional Use Overlay Districts state that "the normal rules that apply to the type of arbitrary and discriminatory treatment of particular properties that the courts have labeled spot zoning" must still apply.

If the Planning Board recommends approval of the request, the staff encourages the Board to tie the mobile home use specifically to the medical situation cited in the application. Use of the mobile home for anything more than a location to "desanitize" visitors to the Rice residence should be prohibited.

Mr. L. Charles Rice, applicant, appeared before the Board and said that his wife has environmental health problems and is very restricted. He said that he could contaminate the area, so they currently live apart. He said that his wife must stay isolated. Mr. Rice said that he has owned

the property for 40 years, is retired and wants to temporarily live in a mobile home on the property.

Mr. McNeill asked how rare the allergy problem is. Mr. Rice said that he would estimate one out of a million. He said that it is a critical condition, and his wife is unable to attend church and hasn't even been to a funeral in five years. Mr. McNeill asked if the Rices own any other property. Mr. Rice said that they own a lot below the fire tower in Cedar Creek that doesn't allow a mobile home. Mr. Rice said that he hopes that the situation is temporary, and that some type medication will be found that will help his wife. Mr. Rice assured the Board that the mobile home would not be used as a rental unit. Mr. McNeill asked why the statement "preclude not being used for rental property" was included in the application. Mr. Rice repeated that they will not use the unit as a rental.

Chair Tyson noted that the current zoning allows only site built homes, and the request is for a mobile home. He said that the Board could allow the mobile home to meet the immediate needs, but once the condition is better, the mobile home must be removed. He said that the Board is concerned about the mobile home being used as a rental unit.

Mr. Ron Rice, son of the applicant, appeared before the Board and said that his mother asked that the statement be included on the application, but if the Board preferred, the statement could be stricken.

Mr. L. Charles Rice agreed to strike the sentence "not preclude the future use for rental property once the conditional use has ended" from the application.

Mr. McNeill asked that "Sr." be added to the statement regarding the use as living quarters for L. Charles Rice on the application because there is an L. Charles Rice, Jr. Mr. Rice agreed to the change.

Mr. Barrett cautioned the Board that he had concerns about the proper use of Conditional Use Overlay Districts. He said that the Board should keep in mind the precedence and principles used in CUs. He reminded the members that principles of spot zoning exist with CUs, and if it were not for the RR across the road, this would clearly be a case where a CU created spot zoning. He said that the information is for the Board's use when considering CUs in the future. He added that he is very uncertain about using CUs tied to conditions or life expectancies because they run with the land. He said that the Ordinance should indicate how a CU is terminated.

Chair Tyson said that CUs have been used many times in the past for family/medical situations, and they hadn't been challenged in the eight years he has served on the Board. He said that he didn't know of another mechanism to accomplish what was needed on this case.

Mr. Barrett said that there is no mechanism in place to monitor this type situation or to terminate the use when the factors no longer apply.

Mr. Reitzel said that the applicant could build a stick-built house, but that may not be the best solution in this case because the property joins M(P) zoning. Mr. Barrett suggested that all of the R10 property in the area should be reviewed.

Chair Tyson said if the RR wasn't nearby, the CU allows the R10 zoning to stay in effect, and this would be a reasonable basis for the zoning. Mr. Barrett said that a "reasonable basis" has to give consideration to all property owners in the area to be bases on determining land use.

Chair Tyson said that the Board in similar cases normally allows the use for anyone in the immediate family. Mr. Barrett agreed.

A motion was made by Mr. McNeill and seconded by Mr. Gillis to recommend approval of the Conditional Use Overlay District based on the finding that the request is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest. The motion passed unanimously.

A motion was made by Mr. McNeill and seconded by Mr. Gillis to recommend approval of the Conditional Use Overlay Permit application and site plan after finding that the proposal meets the following conditions:

- 1. It will not materially endanger the public health and safety;**
- 2. It will not substantially injure the value of adjoining or abutting property;**
- 3. It will be in harmony with the area in which it is to be located; and**
- 4. It will be in conformity with the 2010 Land Use, Thoroughfare and other plans officially adopted by the Board of Commissioners.**

In addition, the application is to be changed to reflect that Mr. L. Charles Rice, Sr. or any immediate member of Ms. Rice's family can live in the mobile home for as long as the medical condition

continues; and the statement “preclude not being used for rental property,” is to be deleted from the application.

Mr. Byrd asked what would happen if Ms. Rice dies. He was told that the Permit could no longer be used.

Upon a vote on the motion regarding the Conditional use Overlay Permit and changes to the application, it was unanimously approved.

C. P01-40. REVISIONS AND AMENDMENTS TO THE CUMBERLAND COUNTY CODE OF ORDINANCES BY CREATING SECTION 7.34 “VIEWSHED FRONTAGE,” REQUIRING A 100-FOOT SETBACK TO INCLUDE, BUT NOT LIMITED TO, LOTS IN THE A1A DISTRICT FRONTING BURNETT, ROSS, JULIAN AND NORRIS ROADS WITHIN THE AREA DESIGNATED BY THE NATIONAL REGISTER OF HISTORIC PLACES AS THE AVERASBORO BATTLEFIELD. (COUNTY)

Mr. Lloyd explained that the amendment was created to create a viewshed by requiring a 100-foot setback for properties located on a public right-of-way leading into the Averasboro Battlefield. He said that the properties currently observe a 50-foot front yard setback.

Mr. Warren reviewed slides showing current A1 zoning and proposed A1A zoning with current and future nonconforming lots indicated on the slides and a list of property owners who would be nonconforming with the 100-foot setback. He said that there would be an additional 17 nonconforming lots if the amendment is approved. Mr. Olsen said of the 41 homes that abut a paved road, 33 will be nonconforming if the amendment passes.

Mr. Jim Goodman appeared before the Board and said that the Averasboro Battlefield supports the amendment. He also had a petition signed by 202 people in support of the amendment. He said that not all of those who signed live in Cumberland County, some signed because they are in favor of preserving the area.

Mr. Stanley Johnson appeared before the Board and said that he is a history professor at Fayetteville State University. He said that he is in favor of preserving the battlefield and noted that the area has gravesites of buried war dead. He said that the 100-foot viewshed would give unobstructed view of the historic site. Mr. Johnson added that some national interest has been expressed by the Smithsonian Institute. Mr. Olsen asked where Mr. Johnson lives, and he responded that he lives in Cumberland County in the Williamsburg subdivision off Bingham Drive.

Mr. Mac Williams appeared before the Board and said that he lives in Eastover and is a member of the Averasboro Battlefield Commission in favor of preserving the area.

Mr. Ronald Bryant appeared before the Board and said that he lives on Fields Road and has recently returned to the area. He asked if anyone had visited Kenisaw Mountain near Marietta, Georgia. He said that it contains a large battlefield, and he visited it as a child. He said that the area was very remote and very impressive. He said that the area now contains new homes and strip malls that have taken away from the sacredness of the ground. He cautioned the Board that once an historic area is infringed upon, there is no reclaiming.

No one appeared in opposition to the request.

Chair Tyson closed the public hearing.

Mr. Olsen said that no one has explained why a 100-foot setback is proposed. He said that there is very little traffic area, and he opposed the 100-foot setback. He said that the area would not be usable except for a rose garden or similar use. He said that there have probably not been five homes built in the area in the past five years, and most were built prior to zoning. He said that most homeowners do not want to have their homes back so far from the yard because there is more to maintain.

Mr. Olsen continued that the residents feel that those promoting the amendment don't live in the area, and are telling the residents what they can do with their property. He said that he is in favor of preservation, but opposes the 100-foot setback. He said that the president of the Battlefield Commission asked for 30 feet. He said that the area has done fine and is well preserved with no controls.

Mr. Olsen said that he is aware of a 95-acre development proposed for the area that will contain two-acre tracts. He said that there is currently one Class A home and another in progress. He said that the amendment will not affect the manufactured homes because they are about 250 feet from the road. He said that there may be problems in the future with density on a private street. He said that 80 percent of the residents in the area have demonstrated that they do not want a 100-foot setback because they built their homes closer than 100 feet to the road.

Mr. Reitzel said that he favors preservation. He said that the advertised heading conflicts with the proposed ordinance language. He said that the newspaper ad may have been confusing to the residents. Mr.

Barrett said that if nonconforming structures are created, an additional amendment will allow extensions or enlargement of existing structures. Mr. Reitzel said that he has a problem with the phrase, "regardless of zoning."

Mr. Lloyd explained that the zoning change addresses the use of Class A homes, and the amendment specifically addresses the viewshed and was written to allow other areas to be covered under it. Chair Tyson said that this amendment is a vehicle to create viewsheds in the future.

Mr. Reitzel said that the statement "regardless of zoning classification" makes owners unable to rebuild if a structure is more than 50 percent destroyed. Mr. Warren noted that there are many nonconforming properties in the area even without the amendment.

There was discussion regarding the notification process for amendments. Ms. Swilley said that residents are not notified for amendments to the Ordinance; however, it was advertised in the newspaper.

Mr. Olsen said that people did not attend the meeting because they were not notified of the amendment. Mr. Barrett said that property owners should have been made aware of the amendment, and the Board could defer action on the case in order for staff to notify the residents. He said that the residents should understand that the amendment could make their structures legally nonconforming.

Chair Tyson asked if it would be appropriate for the Board to vote on the matter and then notify the residents prior to the Commissioners' meeting. Mr. Barrett said that either alternative would be adequate.

Mr. McNeill said that he would prefer discussing the matter after the residents have been notified.

A motion was made by Mr. McNeill and seconded by Mr. Reitzel to defer action on the case until June 5, 2001 in order for the residents of the area to be notified of the amendment.

Commissioner Henley asked if nonconforming structures could be sold. He was told that they could. He asked if the residents would be made aware of this in the notification. Mr. Warren said that the staff could send out letters explaining whether individual lots would be rendered nonconforming.

Mr. Reitzel suggested sending three separate letters—will not be affected, will be nonconforming and already are nonconforming.

Messrs. McNeill and Reitzel agreed with the notification process and included it as part of the motion. The motion passed unanimously.

A motion was made by Vice-Chair Mullinax and seconded by Mr. Byrd to hear the item first on the Agenda. The motion passed unanimously.

D. P01-41. REZONING OF THE AREA DESIGNATED BY THE NATIONAL REGISTER OF HISTORIC PLACES AS THE AVERASBORO BATTLEFIELD FROM A1, A1/CU, R40A AND RR TO A1A AGRICULTURAL DISTRICT, CONTAINING APPROXIMATELY 3000 ACRES. (COUNTY)

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended approval of the A1A Agricultural District based on the following:

1. The A1A Agricultural District is consistent with the current land use and development in the area; and
2. The 2010 Land Use Plan calls for agricultural use at this location.

Mr. Reitzel said that he had the same concerns about the rezoning that he shared regarding the amendment.

Mr. Jim Goodman, member of the Averagesboro Battlefield Commission, appeared before the Board and recognized Bob Bryan and Mr. and Mrs. John Madura, residents of the area. He said that he didn't want to repeat what he had said to the Board at their prior meeting. He said that it is important to preserve the historic area for all citizens. Mr. Goodman handed out a packet to be included in the record that included: a document "Why Preserve Averagesboro Battlefield," a March 16 editorial from the Fayetteville Observer stressing the importance of the area; and pictures of some well preserved areas within the Battlefield and others blighted with mobile homes.

Mr. Goodman said that there is presently more open space than not, and the Commission wants to prevent the battlefield from becoming like the area in the second set of pictures. He said that there are many goals of good planning including tranquility and protection of natural resources, and protection of historic resources is just as important in good land use

planning. He said that mobile homes are allowed nearly anywhere in the County, but the battlefield is in only one area. He said that the proposed rezoning will help preserve the area.

Mr. McNeill asked what specific steps the Commission has taken to promote the measures to the residents. He was told that Mr. Walt Smith has met with many of the residents.

Mr. Mac Williams appeared before the Board and said that he lives in Eastover, and he has witnessed slow, but continuous growth over the past 25 years. He said that completion of the Outer Loop will create more rapid growth. He said that he owns a small farm that the Highway 13 Bypass will destroy. He said that he will be sacrificing his heritage, but he understands the need for progress. He noted that tourism is a major industry in North Carolina, and the Battlefield will draw people to the County. He added that the Battlefield can also have an impact on the students of the County and enhance the education of museums in the area. He asked the Board to approve the rezoning to ensure protection and preservation for the citizenry of the State.

Mr. Olsen asked how far off the highway Mr. Williams' house is. He responded that it is 70 to 80 feet from the road. There was discussion about property purchased in Harnett and Cumberland Counties.

Mr. Walter Byrd appeared before the Board in opposition. He said that he grew up in one of the old plantation houses and owns property in the area. He said that he agreed with Mr. Olsen. He said that he received notice of the rezoning Saturday and found out about the setback from the newspaper earlier this morning. He said that he resents people from outside telling him how to use his land, and he is scared that this is only the first step in controlling the land. He pointed out the land he owns.

Chair Tyson asked how the rezoning would affect Mr. Byrd. He said that he might want to develop the land someday. Chair Tyson said that the main difference in the rezoning is that singlewide mobile homes will not be allowed. Chair Tyson explained that the same avenue is used to rezone or subdivide the A1A District as the residents would use in the A1 District.

Mr. Lloyd explained that the A1A is more restrictive in that it doesn't allow as many agriculturally-related business uses as the A1 does.

Mr. McNeill asked if Mr. Byrd still opposed the rezoning, and he said that he did because of his fear that this was just a first step in the process.

Mr. Goodman appeared before the Board in rebuttal. He said that any time zoning is proposed; it is a natural reaction to oppose it. He said that the Commission members do not consider themselves outsiders because they are residents of Cumberland County, and history affects all residents. He added that the area is a unique historical asset, and the Commission doesn't want to render the land useless. He said that the A1A District would not allow Class B or singlewide mobile homes. He concluded by saying that the rezoning is in the best interest of the County and entire State to preserve the area.

There was a discussion regarding the difference in the Class A, B and C homes. Mr. Barrett explained that the Class C homes were built before 1976 and follow different code requirements. The Class A homes differ in roof pitch, siding requirements and a permanent masonry foundation requirement. Mr. Lloyd said that there is also a length versus width requirement, and tongues and axles must be removed.

Mr. Gillis said that the pictures presented by the Commission are not Class A homes and are allowed throughout the A1 zoning.

Chair Tyson closed the public hearing.

Mr. Reitzel said that there may be confusion among the residents of the area because the 100-foot setback could create nonconforming parcels, structures or uses.

Mr. Gillis said that the two issues are linked, and unless someone is very knowledgeable about the ordinance, they probably wouldn't understand.

A motion was made by Mr. Gillis and seconded by Mr. Reitzel to defer action on the case until June 5, 2001.

Mr. Warren said that the staff would renotify the residents and include a list of allowed uses in the A1A District. Mr. Olsen said to also include a list of allowed uses in the A1 District. Mr. Reitzel said that the notification should be more than usual because the Board initiated the rezoning.

Mr. Barrett said that the Minutes should reflect that the thorough notice is unique to this situation, and the legal requirements were met in the process that was used for this meeting.

The motion was amended to state that first-class notification be sent to property owners with lists of allowed uses for the A1A and A1 Districts.

Mr. McNeill noted that he hadn't heard anything that indicated that there is a big difference in the two districts. Mr. Olsen agreed and said that he was prepared to support the rezoning.

Upon a vote on the motion, it passed 5 to 2 with Chair Tyson and Mr. Olsen voting in opposition.

A motion was made by Vice-Chair Mullinax and seconded by Mr. Olsen to reconsider the earlier motion to hear Case No. P01-40 first on the Agenda for June 5. The motion passed unanimously.

A motion was made by Vice-Chair Mullinax and seconded by Mr. Olsen to hear Case P01-41 first and P01-40 second on June 5.

Mr. Reitzel said that the order should be the opposite because of creating nonconforming structures. He said if it was done the other way, the Board could consider the setbacks and vote not to rezone the lots that would be made nonconforming.

Mr. Barrett said that one reason that the staff decided on the 100-foot viewshed, rather than yard setbacks was because a date could be set on when the actual 100-foot requirement would take effect. He said the order to hear the cases depends on where the Board wants to end up. Mr. Warren said any new permits issued must conform to the 100-foot viewshed requirement.

Upon a vote on the motion, it passed unanimously.

VIII. DISCUSSION

A. ADULT ENTERTAINMENT ORDINANCE UPDATE – BARRY WARREN

Mr. Warren explained that the request for a new Adult Entertainment Ordinance originated with a request from the County Board of Adjustment because of a violation that was difficult to defend because of wording in the current Ordinance.

Mr. Barrett said that two approaches may be used to regulate adult entertainment—ordinance restriction or licensing. Mr. Barrett continued that the Supreme Court ruled that adult entertainment cannot be eliminated through either approach. He said that licensing is difficult to process and enforce and can create a mess, and he prefers ordinance regulation.

Mr. Barrett said that the current ordinance worked well, and the standards match State statute. He said that the tools are in place to monitor adult entertainment, and after review, he saw no need to rewrite the ordinance. He suggested adding some definitions to assist the Inspections Department with enforcement.

Chair Tyson said that the Planning Board's request was different than the Board of Adjustment's in that the Planning Board would like to create a special entertainment zoning district. The use is currently allowed only in the C3 and M2 Districts, and in considering the appropriateness of a C3 or M2 rezoning requests, the Board has to determine that the areas are also suitable for adult entertainment use. Mr. Barrett said that creating C3A and M2A especially for adult entertainment and deleting the use from C3 and M2 might be the solution.

Mr. Warren said that the current adult entertainment districts could be amended to the new districts in the concentrated areas with others allowed to be nonconforming.

B. SIGN ORDINANCE UPDATE – BARRY WARREN

Mr. Warren said that he has reviewed the sign ordinance and asked for direction from the Board on what they wanted to accomplish with a new ordinance. Mr. Reitzel said that the request originated with institutional type signs in that the Board was asked to exclude government signs from the restrictions of the Ordinance.

In addition, the Board reported that on-premise signs are allowed as a matter of right in the C3 and M2 districts, and there is no opportunity for on-premise advertising in the other district. It was mentioned on-premise signs could possibly be expanded to the HS(P), C(P) and M1 districts.

C. CHAIR TYSON RESIGNATION

Chair Tyson told the Board that he must resign because he'll be unable to attend the next three meetings, and his term expires the first of July. Mr. Warren thanked him for his leadership and insight. He is to return at the first meeting in July for the Board to properly bid him farewell.

IX. NOMINATIONS COMMITTEE MEETING – DALLAS BYRD

Mr. Byrd scheduled a meeting of the Nominations Committee for 6:30 p.m. on May 15, 2001 to nominate a replacement for the Chair position.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 p.m.

