

MINUTES

September 18, 2001  
7:00 p.m.

**Members Present**

John M. Gillis, Chair  
Clifton McNeill, Vice-Chair  
David Averette  
Dallas Byrd  
Joe W. Mullinax  
Marion Gillis-Olion  
Jerry Olsen

**Members Absent**

Charles Morris

**Others Present**

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Chair Gillis delivered the invocation and then led those present in the Pledge of Allegiance.

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

The Agenda was approved as presented.

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 SEPTEMBER 4, 2001

A motion was made by Mr. Mullinax and seconded by Vice-Chair McNeill to approve the Minutes of September 4, 2001 as written. The motion passed unanimously.

B. P01-76. REZONING OF 1.09 ACRES FROM A1 TO R40A, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, ON SAMBO JACKSON ROAD,

NORTHEAST OF STEWART ROAD, OWNED BY DONALD AND CONSTANCE VANN.

The Planning staff recommended approval of the R40A Residential District based on the following:

1. The Planning Board's policy is to allow R40 and R40A zoning on smaller lots located within the farmland protection area; and
2. The uses allowed in the R40A District are consistent with the current development in the area

The Planning staff found that the subject property is also suitable for the R40 Residential District.

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

**A motion was made by Mr. Mullinax and seconded by Vice-Chair McNeill to follow the staff recommendations and approve the R40A Residential District. The motion passed unanimously.**

- C. P01-77. REZONING OF .57 ACRES FROM R10 TO R6A, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, AT 2830 GEORGE OWEN ROAD, OWNED BY TERESA B. SPELL.

The Planning staff recommended approval of the R6A Residential District based on the following:

1. The uses allowed in the R6A District are consistent with the current development in the area.

The Planning staff found that the subject property is also suitable for the R6 Residential District.

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

**A motion was made by Mr. Mullinax and seconded by Vice-Chair McNeill to follow the staff recommendations and approve the R6A Residential District. The motion passed unanimously.**

- D. P01-78. REVISION AND AMENDMENTS TO THE CUMBERLAND COUNTY CODE OF ORDINANCES, APPENDIX B, SECTION 3.20, TO ADDRESS THE LOCATION OF ACCESSORY STRUCTURES IN UNZONED AREAS.

The Planning staff recommended approval of the revisions and amendments to the Cumberland County Code of Ordinances based on the fact that accessory structures were not included in the Ordinance in unzoned areas.

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

**A motion was made by Mr. Mullinax and seconded by Vice-Chair McNeill to follow the staff recommendations and approve the revisions and amendments to the County Code of Ordinances. The motion passed unanimously.**

#### PLATS AND PLANS

- A. 01-214. CONSIDERATION OF THE GWEN A. AND MICHAEL A. MELVIN PROPERTY, SUBDIVISION REVIEW IN AN RR RURAL RESIDENTIAL DISTRICT FOR APPROVAL OF 15 FEET OF FRONTAGE ON THE SOUTHWEST END OF VINEYARD DRIVE, SOUTHEAST OF KENMORE DRIVE, SECTION 7.12, CUMBERLAND COUNTY ZONING ORDINANCE.

**A motion was made by Mr. Mullinax and seconded by Vice-Chair McNeill to follow the staff recommendations and approve the request. The motion passed unanimously.**

#### VII. PUBLIC HEARING ITEMS

- A. P01-68: REZONING OF .55 ACRES FROM R6 TO C3, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 109 NEW STREET, OWNED BY STAN AND LISA SIMMONS.

Maps were displayed outlining the zoning and land use in the area. Mr. Lloyd explained that the applicant works out of his home and requested the rezoning in order to be able to store materials on the site. A video of the site was shown.

Mr. Lloyd said that the Planning staff recommended denial of the C3 Heavy Commercial District based on the following:

1. The uses allowed in the C3 Heavy Commercial District are not consistent with the existing development and character of the neighborhood;
2. The Land Use Plan calls for medium-density residential development at this location; and
3. Approval of the C3 District would allow nonresidential uses in a residential area.

The Planning staff found that there are no intervening districts that are suitable for the subject property.

Mr. Stan Simmons appeared before the Board and said that he would like to expand his business as well as store materials on the site. He said that the purchaser of the property across the road from the subject property intends to zone his property commercial also. He said that the strip of residential between the subject property and the commercial district is used for parking for students attending Fayetteville Technical Community College. Mr. Simmons said that he would like a zone that will allow him to continue his business, even if it is more restrictive.

No one appeared in opposition to the request.

Mr. Mullinax asked if Mr. Simmons would consider a Conditional Use Overlay District and Permit so that he could continue his business. Mr. Simmons said that he would. Mr. Lloyd noted that the property is too small to consider C(P).

Chair Gillis asked what type conditions might be attached to a CU for this case. Mr. Lloyd said that the staff would probably recommend conditions regarding buffering, parking and lighting.

Chair Gillis closed the public hearing.

**A motion was made by Mr. Mullinax and seconded by Mr. Averette to refer Case P01-68 back to the Planning staff to allow the applicant to submit a Conditional Use Overlay District and Permit application at no additional cost, and that the case be set for public hearing before the Planning Board on October 26, 2001. The motion passed unanimously.**

B. P01-79. REZONING OF 2.66 ACRES FROM A1 TO RR, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, AT 4625 MACEDONIA CHURCH RD., OWNED BY WILLIAM D. AND EDNA J. CANADY CARTER

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 denial of the RR Rural Residential District and approval of the R40A Residential District based on the following:

1. Some of the uses allowed in the RR Rural Residential District are not appropriate for the subject property;
2. The R40A District is consistent with previous Board recommendations in the area; and
3. The Planning Board's policy is to allow R40 and R40A zoning on smaller lots located within the farmland protection area;

The Planning staff found that the R40 Residential District is also suitable for the subject property.

Mr. Roger Canady appeared before the Board and said that other lots in the area already contain four mobile homes, and he doesn't know why this lot could not.

Mr. Danny Bryant appeared before the Board on behalf of the applicants, his aunt and uncle. He said that his aunt wants the RR zoning so that she can put a trailer in the middle of two others on the lot. He said that there wouldn't be more than three trailers on the property. Mr. Lloyd pointed out that three mobile homes constitute a mobile home park, and the regulations are probably more stringent than the applicants would like to consider.

Ms. Edna Carter appeared before the Board and said that she inherited the land from her father and would just like to add a double wide to the property for her daughter and let her son live in the single wide that is currently on the site. She said if the

neighbors could have four trailers, she didn't understand why she couldn't be allowed to have three. She said that she may never want three, but would like to be allowed in case she ever wanted to move on to the property.

Mr. Lloyd said that if the applicant uses a group development, the R40 District recommended by staff would allow three units on the 2.8 acres—not three mobile homes—three units.

Ms. Carter said that she didn't like mobile homes and would rather have a house, but she didn't know what might happen in the future.

Mr. Paul Carter appeared before the Board in opposition and said that he recently purchased property near the subject site. He said that he understands that the family has hardships, but he didn't agree that a lot that size should have more than two trailers on it. He said that there were others in the neighborhood that oppose the RR, and they would be at the Commissioners to voice their opinions. He said that the neighbors would not mind the R40A zoning.

Vice-Chair McNeill asked if the R40A allows mobile homes. Mr. Lloyd said that it does, and he realized that three acres would be needed for a mobile home park, so this property would not be large enough to qualify.

Mr. Averette pointed out that if the property is subdivided, three mobile homes can be placed on it. Mr. Lloyd agreed.

**A motion was made by Mr. Averette and seconded by Vice-Chair McNeill to follow the staff recommendations and deny the RR Rural Residential District and approve the R40A Residential District. The motion passed unanimously.**

C. P01-80. REZONING OF 2.0 ACRES FROM PND TO C(P), OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, AT 2450 GILLIS HILL ROAD, OWNED BY MABLE S. BLUE AND GEORGE AND LANA BLUE.

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 denial of the C(P) Planned Commercial District based on the following:

1. The Board previously approved zoning along this boundary to create a buffer between the residential and commercial uses, and the PND serves as a transitional zone between the residential and commercial zoning; and
2. The 2010 Land Use Plan recommends medium-density residential use at this location, and the PND allows residential development at this density.

Chair Gillis said that he wanted to disclose the fact that his family owns an interest in the RR property near the subject property.

Mr. Neal Yarbrough appeared before the Board representing the applicants and said that the neighborhood has changed since approval of the C(P) District for the Walmart Store that adjoins the subject property. He said that this is a rapidly growing area of the County, and the staff's comments may have been pertinent at one time, but they are no longer applicable. He said that his clients didn't agree to use the land as a buffer. He said that his clients' immediate need is to rezone because they buy and sell automobiles, and they need commercial property in order to qualify for a licensed automobile dealer.

Mr. Yarbrough said that he believes a road will be cut back behind Walmart between it and the subject property. He said that his clients realized that Walmart is going to be in their backyard, and they want to adjust to the commercial use. He said that the adjoining property is owned by Mr. Frye, and he has no objections to the rezoning. Mr. Yarbrough read a letter from Mr. Frye attesting to this. Mr. Yarbrough suggested that there is a natural buffer in the area that will prevent further southern encroachment of commercial use, and that is the Conservancy District to the south. He said that it is unrealistic to zone the huge C(P) for the Walmart and not expect changes in the area. He noted that no one was in the audience in opposition to his clients' request. He said that there is no reason to deprive the family the opportunity to use their property in a manner that is most advantageous to them. He said that the Blues recognize that the property will not be a desirable place to live in 10 years.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Olsen said if the Board approves the request and adds to the commercial property, they will destroy the buffer "one brick at a time." He said if this request is approved, then the Board will have to approve requests from the rest of the property owners in the area. He said that the properties were set up by the Board as a buffer, and that will be destroyed if this rezoning is approved.

Mr. Averette asked how the property was zoned PND. Mr. Lloyd said that it was initially zoned PND along with the larger tract that is now C(P). He said the PND was used as a holding zone in the past.

Vice-Chair McNeill said that this reminded him of a previous case on Fisher Road where the Board recommended that the commercial zoning be more like a hub. He said that there is no doubt that other commercial use will go up around the C(P), especially if Cliffdale Road is extended. He added that the RR adjoining the subject property serves as a good buffer, but he wasn't sure that the PND does.

There was discussion about placement of the structures on the Walmart property and where a road might be extended.

Mr. Olsen said that the bottom line is whether the Board is going to give the residential property to commercial, or not—and that includes all of the residential property back to the Conservancy District.

Mr. Byrd said that the Walmart zoning already set the stage.

Mr. Olsen disagreed and said that not until the Planning Board and County Commissioners give it up, will it become commercial. He said if the Boards say that the “line stops here,” then the line stops there.

Mr. Mullinax said that he agreed that the Walmart set the stage for the area.

**A motion was made by Mr. Mullinax and seconded by Mr. Byrd to approve the C(P) Planned Commercial District.**

Dr. Olion asked for clarification on the number of homes nearby. She was told that there are two homes on the subject property and two more to the south as well as a church across the street.

**Upon a vote on the motion, it passed 6 to 1 with Mr. Olsen voting in opposition.**

The members discussed earlier action regarding the proposal to extend Cliffdale Road behind the Walmart property. Chair Gillis said that he thought that the Board had passed a motion to refer the extension proposal to the Transportation people. He said that he owns property in the area, and there have been discussions for years about the traffic projections and congestion. He said that an extension may be a good way to alleviate some problems that may arise in the future.

Chair Gillis suggested that the Board refer the matter to the transportation planners to see where the corridor needs to be. He added that the land is fairly high and dry and could accommodate a roadway.

Mr. Warren said that a study of the road would also anticipate the property to the south developing, and a road connection to the secondary road could reduce the number of driveway cuts off of Raeford Road.

Chair Gillis said that he thought that Gillis Hill Road is also being considered for future straightening and widening. He suggested that the entire area be studied to include Cliffdale and Gillis Hill Roads. He said that Gillis Hill Road currently has a lot of traffic that serves Fort Bragg and Hoke County.

**A motion was made by Mr. Olsen and seconded by Mr. Averette to refer the Cliffdale Road Extension to the Transportation Section to study and make recommendations to the proper authority (TCC/TAC) regarding connecting Cliffdale Road to another road—possibly, Gillis Hill Road. Included in the motion was to have the Transportation Section conduct a study of the area to include Gillis-Hill Road. The motion passed unanimously.**

## VIII. DISCUSSION

### A. REPORT ON COUNTY COMMISSIONERS' MEETING—MARION OLION

Dr. Olion reported that the Commissioners followed the Board's recommendations on all cases except one—the commercial property that now houses a liger. She said that the Board had recommended approval, but people from the Falcon Children's Home appeared at the Commissioners' meeting and expressed their concerns about the danger for a liger to be near the children at the home.

Dr. Olion added that the property on Highway 24 that requested commercial rezoning was approved as the Board recommended, and there was a lot of discussion on this case.

### B. CONDITIONAL USE OVERLAY DISTRICTS/PERMITS—PART III

Mr. Warren reviewed the handout regarding Conditional Use Overlay Districts and Permits with the Board. He and Mr. Barrett answered questions on how the CUs are to be used.

## IX. FOR YOUR INFORMATION

### A. DIRECTOR'S UPDATE

Mr. Warren briefed the Board on projects and studies currently underway in the Department.

### B. LAND USE CODES COMMITTEE—MR. OLSEN

Moderator Olsen scheduled a meeting for the Land Use Codes Committee for Tuesday, September 25 at 4:00 p.m. [Note: This meeting was rescheduled for Tuesday, October 2, 2001 at 7:00 p.m. to replace a scheduled Planning Board meeting.]

## X. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 8:45 p.m.