

Charles C. Morris
Chair
Town of Linden

Donovan McLaurin
Vice-Chair
Wade, Falcon & Godwin
Joe W. Mullinax,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Dr. Marion Gillis-Olion,
Lori Epler,
Cumberland County

MINUTES September 20, 2005

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Roy Turner
Mr. Lori Epler
Mr. Joe W. Mullinax

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Dep. Dir.
Ms. Donna McFayden
Ms. BJ Cashwell
Mr. Grainger Barrett,
County Attorney
Ms. Diane Wheatley,
County Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Chair Morris delivered the invocation, and led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd asked that Cases P05-28, P05-69 and P03-091 be moved from Consent Items to Public Hearing Items. The Board concurred with the changes.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by the Board.

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 6, 2005

A motion was made by Mr. McLaurin and seconded by Ms. Epler to approve the Minutes of September 6, 2005 as written. The motion passed unanimously.

REZONING CASES

A. P05-65: REZONING OF 1.83 ACRES FROM R10 TO RR, LOCATED ON THE SOUTH SIDE OF CAMDEN ROAD, EAST OF OAKLAND AVENUE, OWNED BY DAVID L. AUTRY.

The Planning staff recommended approval of the RR Rural Residential District based on the finding that the zoning request would be compatible with the surrounding zoning in the area.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the RR Rural Residential District. The motion passed unanimously.

B. P05-66: REZONING OF .77 +/- ACRES FROM R6A TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2305 CLINTON ROAD, OWNED BY HOMER C. BULLOCK.

The Planning staff recommended approval of the M(P) Planned Industrial District based on the finding that the zoning request is consistent with existing development in the area.

The Planning staff found that the subject property could be suitable for M1(P) Planned Light Industrial District.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the M(P) Planned Industrial District. The motion passed unanimously.

AMENDMENTS

A. P05-67: REVISION AND AMENDMENT TO THE SPRING LAKE ZONING CODE, BY CREATING SECTION 156.088, ENTITLED: LANDSCAPE REQUIREMENTS, IMPLEMENTING MINIMUM ACCEPTABLE STANDARDS FOR LANDSCAPING THUS PROVIDING PROTECTION OF THE VISUAL AND PHYSICAL ENVIRONMENT FOR THE CITIZENS OF SPRING LAKE. (SPRING LAKE)

The Planning staff recommended approval of the amendments to the Spring Lake Zoning Code as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

B. P05-71: REVISIONS AND AMENDMENTS TO THE STEDMAN SUBDIVISION ORDINANCE, ARTICLE I, SECTION 1.8. "DEFINITIONS", BY ADDING IN ALPHABETICAL ORDER: ALLEY, CUL-DE-SAC, HIGHWAY PLAN, AND PLANNING STAFF; AMENDING THE DEFINITION FOR THE TERM "STREETS" WITHIN ARTICLE I. SECTION 1.8. "DEFINITIONS"; AMENDING ARTICLE III, SECTION 3.17. "STREET DESIGN"; SECTION 3.18. "BLOCK LENGTHS"; AND ARTICLE IV, SECTION 4.1. "STREETS", SUBSECTIONS "E", "GUTTERS OR CURBS AND GUTTERS" AND "F", "REQUIRED DRAINAGE"; AND AMENDING THE "TABLE OF CONTENTS" TO REFLECT THE ABOVE AMENDMENTS WHERE APPLICABLE. (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Subdivision Ordinance as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

C. P05-72: REVISIONS AND AMENDMENTS TO THE STEDMAN SUBDIVISION ORDINANCE, ARTICLE I, SECTION 1.8. "DEFINITIONS", BY ADDING IN ALPHABETICAL ORDER: HIGH VOLTAGE LINE; AND ARTICLE IV, SECTION 4.3. "OTHER REQUIREMENTS", BY ADDING SUBSECTIONS "H", "STREET TREE REQUIREMENTS" AND "I", "UNDERGROUND UTILITIES"; AND AMENDING THE "TABLE OF CONTENTS" TO REFLECT THE ABOVE AMENDMENTS WHERE APPLICABLE. (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Subdivision Ordinance as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

- D. P05-73: REVISIONS AND AMENDMENTS TO THE STEDMAN SUBDIVISION ORDINANCE, ARTICLE I. SECTION 1.8. "DEFINITIONS" BY ADDING IN ALPHABETICAL ORDER: OPEN SPACE, STEDMAN AREA DETAILED LAND USE PLAN, AND TOWN ADMINISTRATOR, AND AMENDING THE DEFINITION FOR GROUP DEVELOPMENT; AMENDING ARTICLE III. "GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN", BY CREATING SECTION 3.13.1. "REQUIRED PARKS, OPEN SPACE, RECREATION AREA PROVISIONS"; AMENDING SECTION 3.21. "GROUP DEVELOPMENTS", "K", "RECREATION AREAS"; AMENDING 3.24. "ZERO LOT LINE DEVELOPMENTS", AND CREATING 3.24 "K", "RECREATION AREAS"; AND AMENDING THE "TABLE OF CONTENTS" TO REFLECT THE ABOVE AMENDMENTS WHERE APPLICABLE. (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Subdivision Ordinance as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

- E. P05-74: REVISIONS AND AMENDMENTS TO THE STEDMAN ZONING ORDINANCE, ARTICLE X. SECTION 10.2. "DEFINITIONS OF SPECIFIC TERMS AND WORDS", BY ADDING IN ALPHABETICAL ORDER: ASSEMBLY, BED AND BREAKFAST, BOARDING HOUSE, CEMETERY, CONDITIONAL USE, CONVALESCENT HOME, DENSITY, DWELLING, GOLF COURSE/DRIVING RANGE, HOSPITAL, AND SETBACK; AMENDING THE DEFINITIONS FOR: ACCESSORY STRUCTURE OR USE, CHILDREN'S DAY CARE FACILITIES, AND RELIGIOUS WORSHIP ACTIVITIES; INSERTING INTO ARTICLE II. "GENERAL ZONING DISTRICT CLASSIFICATION", SECTION 2.11. "RESIDENTIAL DISTRICTS", AFTER "R10M RESIDENTIAL DISTRICT" IN BOLD TYPE: "R6 RESIDENTIAL DISTRICT" AND "R5A RESIDENTIAL DISTRICT"; AMENDING ARTICLE III. "PERMITTED PRINCIPAL USES AND STRUCTURES" BY CREATING TABLE 1-B.1 "PERMITTED AND CONDITIONAL USES RESIDENTIAL DISTRICT R6" AND TABLE 1-B.2 "PERMITTED AND CONDITIONAL USES RESIDENTIAL DISTRICT R5A"; AMENDING ARTICLE VII. "LOT AND YARD REGULATION", SECTION 7.3. "DISTRICT DIMENSIONAL PROVISIONS" BY INSERTING DISTRICT, MINIMUM LOT SIZE, AND MINIMUM YARD REGULATIONS FOR R6 AND R5A DISTRICTS; AMENDING ARTICLE XII. "ADMINISTRATIVE PROVISIONS", SECTION 12.6. "FEES", INSERTING R6 AND R5A INTO THE FEE SCHEDULE IMMEDIATELY AFTER R10M, AND AMENDING THE "TABLE OF CONTENTS" TO REFLECT THE ABOVE AMENDMENTS WHERE APPLICABLE. (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Zoning Ordinance as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

- F. P05-76: REVISIONS AND AMENDMENTS TO THE STEDMAN ZONING ORDINANCE, ARTICLE XII. "ADMINISTRATIVE PROVISIONS", SECTION 12.3. "ENFORCEMENT", SUBSECTIONS 12.31. "ENFORCING INSPECTOR", 12.32. "ZONING PERMIT" (SUB-SUBSECTIONS 12.321. "ZONING PERMIT REQUIRED" AND 12.322. "APPROVAL OF PLANS") AND 12.33. "CERTIFICATE OF OCCUPANCY REQUIRED" TO CONJOIN ENFORCEMENT OF STEDMAN'S ZONING ORDINANCE WITH THE TOWN'S SUBDIVISION ORDINANCE. (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Zoning Ordinance as written.

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

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

PLAT & PLAN

- A. 05-091: EAST RIDGE SUBDIVISION REVIEW LOCATED ON THE EAST SIDE OF US HWY. 301 (DUNN ROAD), SOUTH OF SR 1831 (BAYWOOD ROAD), FOR A VARIANCE FROM SECTION 3.5 "ACCESS TO UNSUBDIVIDED PROPERTY", CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to follow the staff recommendation and grant the variance. The motion passed unanimously.

VII. PUBLIC HEARING ITEM

REZONING CASE

- A. P05-28: REZONING OF 58.10 +/- ACRES FROM RR TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4674 RESEARCH DRIVE, SUBMITTED BY CRAWFORD DESIGN COMPANY, OWNED BY AMERICAN UNIFORM SALES.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd presented a slide which displayed the noise limitation and height limitation zones. Mr. Lloyd reported that the Planning staff recommended approval of the R10 Residential District based on the following:

1. The zoning request is consistent with the zoning of adjacent property.
2. The single family residential development would meet the height limitations as required by the Fayetteville Area Airport Master Plan.

The Planning staff found that the subject property could be suitable for R20 and R15 Residential Districts.

The public hearing was opened.

Mr. Scott Beasley appeared before the Board in behalf of the request and informed the Board that he was representing the owner. He told the Board that the R10 zoning request was consistent with other development in the area and was more restrictive than the RR zoning. He explained to the Board that he felt the RR zoning was intended for development with septic tanks. He informed the Board that water and sewer would be available to this site from the adjacent development under construction. He explained to the Board that residents should have the choice whether they wanted to live in the area with the airport noise. He said he felt it would be safer for single family development versus industrial as residents would be gone during the day if there was an airport incident.

Mr. Brad Whited appeared before the Board in opposition to the request. He said an area to the northwest was zoned R10 and he was here tonight concerned about the future. He told the Board he was concerned about the residential density in relation to the noise and activity levels from the airport. He said regardless of how up front realtors are to their clients that the impact of the airport is deemphasized until someone actually lives there and sees the activity of the airport. He told the Board that he asked the Planning staff to help develop policy issues to address concerns of development near the airport.

Mr. Beasley said he understood how Mr. Whited was concerned about the adjacent zoning but it did not affect this property and it was outside the noise area.

Mr. Mullinax asked about many landing and take offs of planes were there. Mr. Whited said approximately 50,000 over a year and the capacity of the airport is 250,000.

Mr. Turner asked if there were any future plans to extend the runway to that area. Mr. Whited explained that the Airport Master Plan had just been completed and there were no plans for any extension.

The public hearing was closed.

Chair Morris said that when developing the 2030 Plan that the Board should take into consideration the airport plan, uses around the airport, height regulations, noise and density of people to give direction to the developers. He said these were some of the issues that he had discussed with Mr. Whited and that Mr. Whited had also met with Ms. Roy on airport planning for the 2030 Plan.

Mr. McNeill said he appreciated Mr. Whited's comments and that this is something that they need to be aware of but he did not hear any objections from Mr. Whited on this case. He said there is only a small portion of the lot that would be within the noise zone and the development would be within the height limitations.

A motion was made by Mr. McNeill and seconded by Chair Morris to follow the staff recommendation and approve the R10 Residential District. The motion died with a vote of 3 to 4 with Chair Morris, Mr. McNeill and Ms. Epler voting in favor.

A motion was made by Mr. McLaurin and seconded by Mr. Cain to deny the R10 Residential District and approval of R15 Residential District. The motion passed 6 to 1 with Mr. Mullinax voting in opposition to the motion.

B. P05-69: REZONING OF .23 ACRES FROM R10 TO C1(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4310 CUMBERLAND ROAD, OWNED BY DREW AND KATHRENE A. BOXWELL.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the C1(P) Planned Local Business District based on the finding that the zoning request is consistent with the development trend in the surrounding area.

The public hearing was opened.

Mr. Kenneth Suhr appeared before the Board in opposition to the request. He informed the Board that he was a resident of Jean Street which was behind the proposed site. He told the Board that the zoning to commercial would be an inconvenience to the residents of the neighborhood. He said they had a problem with transients through the neighborhood and felt with the commercial zoning that this would increase. He said the corner lot was zoned R10 and owned by NCDOT. He informed the Board that the applicants were using that lot as a dumping site and NCDOT cannot mow the lot due to the debris. He said the applicants conduct a year round yard sale and the rezoning is for a resale business. He said if a site plan was submitted and shown to the residents that 95% of the residents would be opposed to it.

Chair Morris asked if the applicant was present. Mr. Lloyd said they were not.

Mr. McNeill asked Mr. Suhr if there was a residence on the lot. Mr. Suhr said there was and the applicants conducted a year round yard sale on the site.

Mr. Lloyd told the Board that a C1(P) site plan would have to show the use of the property and the outside display area. He said a buffer would have to be provided and the use of the property would be easier to regulate. He said a temporary residential yard sale would be hard to regulate and there would be no site plan.

Mr. Suhr said the site is less than 1/4 of an acre and if everything is moved inside then what would happen to the over flow of traffic leaving the business. He said he felt there would be problems exiting the site.

The public hearing was closed.

Chair Morris said he was concerned with children playing in yards next to a four lane highway and felt there would be more control with the C1(P) zoning. Mr. Lloyd informed the Board that a buffer would have to be provided to the rear and to the sides of the residential properties. Chair Morris said if the buffer was planted that it would not allow for much parking area.

Mr. Turner said if the buffer was planted that there would not be room for anything else.

A motion was made by Mr. Turner and seconded by Mr. McNeill to deny the rezoning to C1(P) Planned Local Business District. The motion passed unanimously.

CONDITIONAL USE DISTRICT AND PERMIT

- A. P03-91: REVOCATION OF A CONDITIONAL USE PERMIT FOR A PREVIOUSLY APPROVED CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A JUNK YARD AND OPEN STORAGE OF EQUIPMENT IN AN A1 DISTRICT, ON 3.21 ACRES, ON THE NORTHEAST SIDE OF WHITEHEAD ROAD, NORTH OF NC HIGHWAY 24, OWNED BY ZARKO JOHNSON.

Mr. Lloyd explained that this request was originally submitted in October 2003 as a rezoning request and the Planning Board allowed the applicant time to submit a Conditional Use Overlay application. He said the application was approved in February 17, 2004 and in March 15, 2004 by the Board of Commissioners. Mr. Lloyd told the Board that one of the conditions of the permit was to finish the construction of a partially built block building by September 14, 2004. He informed the Board the applicant requested a six month extension to complete the building which expired in April 18, 2005. Mr. Lloyd showed the Board pictures of the sites showing that the site had not changed and was not in compliance.

Mr. Lloyd reported that the Planning staff recommended revocation of the Conditional Use Overlay District and Permit based on the conditions of approval not being met as outlined in the packet material and that the zoning revert back to the A1 zoning classification. The property would have to be brought into compliance with the County Zoning Ordinance meeting the standards of the previous A1 zoning classification.

Note: The Planning & Inspections Director concurs with the revocation of the Conditional Use Overlay District and Permit.

The public hearing was opened.

Mr. Zarko Johnson appeared before the Board and informed them that the building had been torn down. He told the Board that the tires shown in the pictures did not belong to him and that people used the site as a dumping ground. He said he originally wanted a commercial business but the Board asked him if he rather submit a Conditional Use Overlay application. He said he agreed to the application because he felt his taxes would be lower. He said the building has been taken care of if that was the only problem. He told the Board he wanted to save the building but he found out that it would cost \$45,000 to complete.

Chair Morris asked if the cars were still on the site and Mr. Johnson said they were. Ms. Wheatley asked if the cars were on the site as shown in the pictures. Mr. Johnson said he took a lot of cars out but there were still cars on the site. Ms. Wheatley asked if the cars in the bushes and the weeds were there. Mr. Johnson said they were and he was proposing to put a mobile home on the site but there were too many problems out there.

Ms. Epler confirmed with Mr. Johnson that the building was torn down and asked Mr. Johnson when the building was removed. Mr. Johnson told her it was torn down yesterday. He said before the building could be completed that it had to be inspected before he could obtain a permit.

Mr. Lloyd informed the Board that this site was originally a zoning violation in 2003 citing outside storage in an A1 zoning. He told the Board they had worked with the applicant on the Conditional Use Overlay to allow the use.

Ms. Epler asked if the debris was removed from the property. Mr. Johnson explained that he was trying save some of the brick. He said the brick was worth \$3.00 each and he was going to try and sell some.

Ms. Francena Carson appeared in favor of the revocation of the permit and told the Board that there were water problems. She said it was okay if he wanted to remove some of the vehicles but she did not want any more added. She said water from his property drained onto her lot.

Mr. Lloyd explained to the Board that if the permit is revoked that the property would revert back to A1 zoning and action would be taken to have the vehicles removed.

Ms. Lois Gray said they had a very small neighborhood and wanted all the vehicles removed.

Ms. Rena Johnson informed the Board that her property was adjacent to the site. She said she was concerned about the pollution to the ground water. She said there were wells in the area and the water table was low. She told the Board that Mr. Johnson had left the wooded area to buffer her property from the view of the site.

Ms. Carson asked what type of business Mr. Johnson was operating. Mr. Lloyd explained that it was a request to operate a junk yard and open storage of heavy equipment.

Mr. Johnson appeared before the Board in rebuttal and said he did not want a junk yard. He told the Board that in order to store vehicles on the property that it was considered a junk yard. He said he was not going to disable, build or sell cars on the property. He said it is a storage site for vehicles.

Mr. McNeill asked how many cars were on the site and Mr. Johnson said there were about 15 to 20 cars. Mr. McNeill asked if the fluids were still in the cars and Mr. Johnson said none of the fluids had leaked out. He said there would not be anything disassembled on the property.

The public hearing was closed.

Ms. Epler said she was the newest member of the Board and felt that the Planning & Inspections staff has tried ardently to work with the applicant to bring his site into compliance. She explained that Mr. Johnson had been given the time and opportunity to bring his site into compliance and he still had not complied with the conditions of the permit.

Mr. McLaurin said that he had been to the site several times. He informed the Board that there were trees growing out of the cars and water standing in them. He was concerned that there were families living in the area whose children would be playing in the cars. He said it was a breeding ground for mosquitoes. He said this is a site that needs to be cleaned up.

A motion was made by Mr. McLaurin and seconded by Ms. Epler to follow the staff recommendation and revoke the Conditional Use Overlay District and Permit and restore the A1 zoning. The motion passed unanimously.

REZONING CASE

A. P05-68: REZONING OF 1.69 ACRES FROM R6A TO C1(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 1318 TOM STARLING ROAD, OWNED BY PAT LEAHY.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the C1(P) Planned Local Business District based on the following:

1. The 2010 Land Use Plan calls for medium density residential development for the property.
2. The area is predominately residential in nature and the zoning request would not be compatible with the surrounding area.

The public hearing was opened.

Ms. Pat Leahy said she owned the property next to the mechanic shop. She said she also owned the property zoned R6A and A1. She explained she was going to place a conservation easement on the rest of the property. She informed the Board that she would like to sell the property as C1(P).

Chair Morris asked if the square in the middle of the map was the location of her house and Ms. Leahy confirmed that it was. She said she moved to that location when the County started developing the Industrial Park.

The public hearing was closed.

Mr. McNeill asked if R6A was medium density. Mr. Lloyd said it was and it was traditionally used for mobile home parks.

Ms. Epler asked if the same person owned the C1(P) tract shown on the slide. Mr. Lloyd said they did not.

Chair Morris said Ms. Leahy stated she was working with the Conservation Groups and asked the purpose of the conservation easement. Ms. Leahy explained that her son would have life time rights but could not mortgage or sell the property. She said he had no children and when he died that the property would revert to the Sandhills Area Land Trust.

Mr. Lloyd said if the property was zoned C1(P) that other owners in the area could request the same zoning and expect a favorable outcome. Mr. Turner said the site zoned C1(P) was there prior to zoning. Mr. Lloyd said it was and it was initially zoned C1(P) in June 25, 1980.

Mr. McNeill asked how far the property was from the Industrial Park. Mr. Lloyd said it was approximately 1,300 feet.

Mr. McNeill recommended approval of the C1(P) zoning based on the site being 1,300 feet from the Industrial Park and that there was no opposition to the request.

A motion was made by Mr. McNeill and seconded by Mr. Mullinax to approve the C1(P) Planned Local Business District. The motion passed unanimously.

VIII. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

Ms. Roy presented the Annual Report to the Board and informed them that it would be presented to the Board of Commissioners in October. She explained that other sections of the department were included that do not normally make presentations to the Board. She told the Board that since Administration was short staffed, Ms. McFayden was responsible for compiling and designing the Annual Report. Ms. Roy informed the Board that once the report was presented in October that the various towns would be provided copies.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 8:30 p.m.