

Charles C. Morris
Chair
Town of Linden
Donovan McLaurin
Vice-Chair

Wade, Falcon & Godwin
Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director
Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Lori Epler,
Sara E. Piland,
Cumberland County

MINUTES

August 15, 2006

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Roy Turner
Mrs. Lori Epler
Mr. Garland Hostetter
Mrs. Sara Piland
Commissioner Diane Wheatley

Members Absent

Mr. Harvey Cain

Others Present

Mr. Tom Lloyd, Director
Mr. Cecil Combs, Deputy Director
Mrs. Candice Carter
Ms. Donna McFayden
Mr. Grainger Barrett, County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. ADJUSTMENTS TO AGENDA

Mr. Lloyd asked that Case P06-40 be moved to the end of the Public Hearing to allow the applicant time to obtain graphics materials. No objections. **A motion was made by Mr. McNeill and seconded by Mrs. Piland to approve the Agenda. The motion passed unanimously.**

III. PUBLIC HEARING DEFERRALS

A. P06-50: REZONING OF 73 +/- ACRES FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED BETWEEN CEDAR CREEK AND A. B. CARTER ROADS, WEST OF WILLARD DRIVE, SUBMITTED BY MICHAEL J. ADAMS, OWNED BY J. O. CARTER, JR, WILLIAM G. ALPHIN, J. A. ALPHIN, JR, ALPHIN LIVING TRUST, LEE TRUSTIES, ALLINE A. AND J. O. CARTER, JR AND EDGAR L. AND BEULAH A. BOST.

A motion to defer the case until the September 19, 2006 Planning Board meeting was made by Mrs. Epler and seconded by Mr. McLaurin. Unanimous approval.

IV. ABSTENTIONS BY BOARD MEMBERS

Mrs. Epler stated that she would abstain from discussion and voting on Case P06-51. **A motion was made by Mrs. Piland and seconded by Mr. McLaurin to approve the request. The motion passed unanimously.**

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement regarding Public Hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF AUGUST 1, 2006

A motion was made by Mr. McLaurin and seconded by Mr. Hostetter to approve the minutes as written. The motion passed unanimously.

REZONING CASES

B. P06-58: REZONING OF 2.02 ACRES FROM A1 TO A1A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4091 HUMMINGBIRD PLACE, SUBMITTED BY ABIE GUZMAN, OWNED BY ABRAHAM AND ZORAIDA GUZMAN.

The Planning & Inspections Staff recommends approval of the A1A zoning district based on the findings that the request is consistent with the 2010 Land Use Plan; the request is in keeping with the rural nature of the area; and the request is in character with the current zoning in the area. There are no other suitable zoning districts.

C. P06-60: REZONING OF TWO PARCELS TOTALING 1.98 ACRES FROM R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTHWEST SIDE OF SOUTH MAIN STREET, SOUTHEAST OF RED MAPLE LANE, OWNED BY CHARLES T. GARDNER.

The Planning & Inspections Staff recommends approval of the C(P) zoning district based on the findings that the request is consistent with the 2010 Land Use Plan; the subject property is adjacent to commercial use; and the subject property is located on a Major Thoroughfare. The other suitable zoning districts are O&I(P) and C1(P).

A motion was made by Mrs. Piland and seconded by Mr. McNeill to approve Cases P06-58 and P06-60 as submitted. Unanimous.

REVISIONS/AMENDMENTS

D. P06-62: REVISIONS AND AMENDMENTS TO THE TOWN OF SPRING LAKE ZONING CODE, SECTION 156.087, DISTRICT DIMENSIONAL PROVISIONS, REPEALING MINIMUM AREAS FOR THE C(P) AND M(P) ZONING DISTRICTS. (SPRING LAKE)

E. P06-63: REVISIONS AND AMENDMENTS TO THE TOWN OF FALCON ZONING ORDINANCE, SECTION 12.6, FEES; AND TO THE TOWN OF FALCON SUBDIVISION ORDINANCE, SECTION 7.1, FEES; DELETING THE TEXT OF THE FEE SCHEDULE FROM BOTH ORDINANCES. (FALCON)

Mr. McNeill asked if the representatives for the Towns of Spring Lake and Falcon were in agreement. Mr. Lloyd stated that they were.

A motion was made by Mr. McNeill and seconded by Mrs. Epler to approve Cases P06-62 and P06-63 as submitted. Unanimous.

PLAT & PLAN

- F. 06-129: CONSIDERATION OF BAGGETT FAMILY, LLC, ZERO LOT LINE SUBDIVISION REVIEW, REQUEST FOR A WAIVER FROM SECTIONS 3.2 "RELATION OF PROPOSED STREETS TO ADJOINING STREET SYSTEM" & 3.17.C "STREET DESIGN", CUMBERLAND COUNTY SUBDIVISION ORDINANCE, LOCATED ON THE NORTH SIDE OF SR 1832 (MURPHY ROAD), WEST OF SR 1831 (BAYWOOD ROAD)

Mrs. Epler made a motion seconded by Mrs. Piland to accept case 06-129 as submitted. Unanimous.

VII. PUBLIC HEARING ITEMS

- B. P06-51: REZONING OF A 3.56 ACRE PORTION OF A 5.13 AC TRACT FROM R10 AND C1 TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2230 NORTH BRAGG BOULEVARD, SUBMITTED BY JOSEPH P. RIDDLE III, OWNED BY MARCH F. RIDDLE. (SPRING LAKE)

Mrs. Epler left the room.

Mr. Lloyd presented the case information and advised that this case was deferred from the July 18, 2006 Board meeting and the applicant's request has not changed. Staff recommends denial of the request for M(P) zoning but approval of C1 for that portion of the subject property currently zoned R10, even though this recommendation is not consistent with the Spring Lake Area Detailed Land Use Plan (2003), based on the findings that rezoning the R10 portion to C1 would allow for the developable area of this tract to be under the same zoning designation; and all uses allowed in the M(P) district are not suitable for properties located along a gateway into the Town. C(P) zoning may also be considered as suitable for this location.

The Public Hearing opened. Mr. Joe Riddle spoke in favor of the request, stating that his mother owned the property and that she wanted to build a mini-storage complex on the site. He stated that the request was unusual in that the zoning requirements for mini-storage in Spring Lake were different than those for the County. He stated that the complex would be attractive and an enhancement to the area.

The Public Hearing closed.

Mr. Lloyd stated that in Spring Lake mini-storage is only allowed in the M(P) zoning classification.

Mr. McNeill noted that regardless of the Board's decision Spring Lake could reverse the ruling.

Mr. Hostetter stated that the request was not consistent with the Spring Lake Area Detailed Land Use Plan.

Mr. Lloyd clarified the uses that were not suitable, according to Staff, in this zoning classification. He further stated that allowable uses included open storage, cell towers, and solid waste disposal facilities.

Mr. McNeill asked if the staff recommendation would be beneficial to the applicant. Mr. Lloyd stated that only M(P) zoning would allow the applicant to pursue the use. Discussion followed on the range of allowable uses and Spring Lake's desire to confine mini-storage facilities to M(P) zoning.

Mr. Hostetter made a motion, seconded by Mr. McNeill to deny the request. Unanimous approval. Mrs. Epler abstained from the vote.

Mrs. Epler reentered the room.

- C. P06-53: REZONING OF 5.53 ACRES FROM RR, R10, O&I(P) TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF CLINTON ROAD, EAST OF BLADEN CIRCLE, SUBMITTED BY ROBERT M. BENNETT, OWNED BY LESTER G. CARTER, JR.

Mr. Lloyd reviewed the site information and stated that this case was deferred from the July 18, 2006 Board meeting so that the applicant could resolve some "use" issues with Staff. The applicant met with the Staff and their request remains as originally submitted. In addition, Staff recommended denial of the C(P) zoning district at the July meeting and the recommendation remains unchanged. This recommendation was based on the findings that the request is not consistent with the 2010 Land Use Plan; there is sufficient vacant commercially-zoned property in the area; and the existing O&I(P) zoning district acts as a good buffer between the commercial and residentially zoned properties. There are no other suitable zoning districts to be considered. Mr. Lloyd clarified that at the July meeting there was a misunderstanding between the petitioner and staff in the petitioner's request for C(P). The petitioner has clarified that he does want storage, not a warehouse.

The Public Hearing opened. Mr. Todd Edge, petitioner, addressed the Board and clarified that the C(P) zoning is what he requested. He stated that the neighbors across from this property were all relatives and in favor of his request.

Mr. Lester Carter spoke in favor of the request and stated that this request was not a drastic zoning change. He stated that the petitioner only wants to increase the size of his business. He further stated that there was no opposition to this request.

The Public Hearing was closed. Mr. McNeill stated that the Staff reasons to deny, based on the 2030 Plan and the sufficient vacant property, were not valid reasons for denial in this case. **Mr. McNeill made a motion, seconded by Mrs. Piland, to approve the request for C(P) zoning. Unanimous approval.**

- D. P06-59: REZONING OF .92 ACRES FROM RR TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF ROCKFISH ROAD, WEST OF WIPPERWILL DRIVE, SUBMITTED BY RONNIE G. FALCON, OWNED BY DOUGLAS AND BETTY MEISENBACH.

Mr. Lloyd reviewed the site plan information and stated that the Staff recommends denial of R10 and approval of the R15 zoning district based on the findings that although the request is consistent with the 2010 Land Use Plan, there is no public sewer available to the site; and the R15 zoning district is in character with the current zoning in the area and is a more restrictive residential zoning district than RR. There are no other suitable zoning districts. Mr. Lloyd also stated that there were no speakers signed up for this case.

Mr. McNeill asked if the owners were aware that the staff recommendation differed from what was submitted. Mrs. Epler noted that normal procedure for the Land Use Codes Section was to contact the owner upon receipt of the application. Mr. McNeill stated that he was disappointed that the petitioner had not shown up for the Public Hearing.

Mr. McNeill made a motion, seconded by Mrs. Epler, to deny the request. Mr. McLaurin made a substitute motion, seconded by Mr. Turner, to deny the request for R10 and approve R20.

Mr. Barrett stated that he was concerned that the owner/petitioner was not present and that the Board should be aware that approval of R20 would reduce the options currently available to the petitioner under their present zoning. Discussion followed on whether or not the petitioner and owner were aware of the staff recommendation and if they were in favor of it. Mr. Lloyd stated that the owner was notified of the public hearing by tax record address and that there was no indication of the notification being returned. Mr. Lloyd further stated that if the Board acts on the case and it moves forward to the Commissioners meeting, the petitioner/owner will have an opportunity to speak at that meeting.

Mr. Morris noted that if the Board denied the request, the petitioner would have to wait a full year to return a request to the Board.

The substitute motion was returned for a vote and was unanimously denied. The original motion, to deny the request, was returned to the floor. Unanimous approval to deny.

The Board recessed for a five-minute break.

- A. P06-40: REZONING OF 13.19 ACRES FROM R10 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 6521 RAMSEY STREET, OWNED BY JAMES H. AND EVA S. SINGLETARY.

Mr. Lloyd presented the site information and stated that this case was presented at the June 20th meeting, at which time the applicant indicated he wished to amend his request. To the original request, Staff recommended denial of the C(P) zoning district based on the findings that the request is not consistent with the North Fayetteville Study Area Land Use Plan which calls for low density residential and open space at this location; there is sufficient vacant commercial property in the area; the subject property wraps around existing residential properties; McCloskey Road will likely be the main entrance to the future state park property currently owned by the Nature Conservancy; and the depth of the rezoning request exceeds what would normally be considered for commercial zoning and encroaches into a residential area. Mr. Lloyd stated that the applicant later requested deferral to the August 15th meeting, to which staff was in agreement. Staff has reviewed the applicant's amended rezoning request and recommends denial of O&I(P) for the back portion (7.17 acres) because this request is not consistent with the North Fayetteville Study Area Land Use Plan and would allow for the encroachment of nonresidential zoning to a residential area. Mr. Lloyd stated that the Staff recommends denial of the front portion (6.02 acres) to C(P) but approval of the 6.02 acres to O&I(P) based upon the findings that although the request is not fully consistent with the Land Use Plan which calls for low density residential and open space at this location, this area is in transition; the O&I(P) zoning district would act as a buffer for the residential areas; and the Highway Plan calls for a 6-lane divided highway at this location. There were no other suitable zoning districts to be considered.

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

Board discussion followed on the allowable uses in O&I(P), traffic problems in the area, current buffering in place, and the division of the zoning on the front and rear of the property. Mr. Lloyd restated the Staff recommendation.

Mr. McLaurin made a motion, seconded by Mrs. Piland, to approve O&I(P) on the back 7.17 acres and deny the C(P) on the front 6.02 acres.

Mr. Lloyd clarified that O&I(P) is more restrictive than C(P). Mr. McLaurin stated that O&I(P) was a good transition from residential to C(P) and would allow the petitioner room to come back in the future.

Mr. McNeill stated that he preferred the staff recommendation. Mr. Morris stated his preference that the entire property be zoned O&I(P).

Mrs. Epler made a substitute motion, seconded by Mr. Turner, to deny the request and grant O&I(P) for the entire tract. Unanimous approval.

- E. P06-61: REZONING OF SEVEN PARCELS TOTALING 15.53 ACRES FROM R6 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF ANDREWS ROAD, WEST OF RAMSEY STREET, SUBMITTED BY KIMLEY-HORN ASSOCIATES, OWNED BY CLYDE A. CULBRETH, ET AL.

Mr. Lloyd reviewed the site plan information and stated that Staff recommends denial of C(P) zoning for this location but approval of the C1(P) district, even though this recommendation is not totally consistent with the Land Use Plan, based on the findings that there is C1(P) zoning adjacent to this tract; C1(P) would allow for the uses which could accommodate the adjacent Cape Fear Valley Medical Center; and the North Fayetteville Area Detailed Land Use Plan calls for heavy commercial and low density residential at this location, C1(P) zoning provides a good balance between the two districts. O&I(P) would also be considered as suitable for this property.

The Public Hearing opened. Mr. Sal Musarra spoke in favor of the request and stated that he was agreeable to the staff recommendations. He stated the desire was to develop a plan that was beneficial to the Medical Center. The developer plans for this project to be a good transition from the residential area. Public Hearing closed.

Mrs. Wheatley asked if the neighbors had been notified of this project. Mr. Lloyd advised her of the area of those who were notified.

Mr. McNeill stated that a buffer requirement was required. Mrs. Epler noted that this property was inside of the watershed area and would have to handle their own stormwater on-site. She also asked the petitioner if they were agreeable to C1(P). Mr. Musarra stated that he was aware of the staff recommendation of C1(P) and did approve of that recommendation.

Mr. McNeill made a motion, seconded by Mrs. Epler, to follow the staff recommendation and deny C(P) but approve C1(P). Unanimous approval.

VIII. DISCUSSION

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Lloyd updated the Board on the 2030 meeting.

The Board was advised that a meeting has been scheduled for 6:00 p.m. on Tuesday, September 5th, to revisit the Zoning Ordinance.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:10 p.m.