

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

MINUTES December 16, 2008

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Walter Clark
Mr. Benny Pearce
Mrs. Sara Piland
Mr. Garland Hostetter

Others Present

Mr. Tom Lloyd, Director
Mrs. Laverne Howard
Ms. Donna McFayden
Mr. Grainger Barrett, County Attorney
Ms. Patricia Speicher

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that cases P08-62 and P08-63 would be moved from Public Hearing Consent Items to Public Hearing Contested Items.

Mrs. Piland made a motion to approve the adjustments to the agenda, seconded by Mr. Hostetter. Unanimous approval

III. PUBLIC HEARING DEFERENTIAL/WITHDRAWAL

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF NOVEMBER 18, 2008

Mr. Clark made a motion to approve the minutes as submitted, seconded by Mr. Pearce. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

There were none.

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P08-62:** REZONING OF 31.20+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED AT 6185, 6189, & 6193 NC HWY 87 S, SUBMITTED BY LURAN INVESTMENTS, LLC, OWNED BY JOAN E. HUMPHREY HEIRS.

Mr. Lloyd reviewed the site information and stated the staff recommends denial of the R20 Residential district, but recommends approval of R30 Residential district based on the following:

1. Although the requested zoning district is inconsistent with the 2010 Land Use Plan, which call for farmland at this location, the recommended R30 district not addressed in the text of the 2010 Land Use Plan, is consistent with the zoning and uses in the general area;
2. Approving the R20 district works against the stated objective of the County Commissioners to promote and establish countywide water; in that, allowing densities of 2.2 units per acre or greater without public water dissuades the extension or provision of water in outlying areas in order to develop land at higher densities in areas outside any MIA or Sewer Service Area; and
3. Approving the R20 District is contrary to the philosophy of the negotiated MIA Agreement with the City of Fayetteville in that it would allow densities of 2.2 units per acre outside the MIA and/or Sewer Service area without the provision of public water.

Note: In the past, the Planning and Inspection Staff, as well as the Planning Board, has approved the R20 zoning classification without public water. This was prior to the MIA agreement and these recommendations were consistent with the Commissioners' stated goals at that time.

The R40 Residential district could also be considered suitable for this request.

The applicant has verbally agreed to the R30 Residential district.

Mr. Lloyd stated that originally when the staff considered this case for recommendation, the request was to R20 and that's how it was advertised, thus, we wrote our reasons for denying R20 and that's what's in your packet. At that time, staff did recommend that R30 or R30A district was suitable. Even though R30 has not been introduced into the area it is under 2.2 units per acre and staff felt that the R30 district, which is rarely used, would be an acceptable district in this area. For that reason staff recommended approval of the R30.

Vice-Chair Epler asked Mr. Lloyd how much of the area was in the Sewer Service Area.

Mr. Lloyd stated that it was a very small portion.

There was one person to speak in favor and one person to speak in opposition.

Mr. Thomas McLeod spoke in favor. Mr. McLeod stated that he just purchased the property and the only thing they want to do is build affordable housing. Mr. McLeod stated that there is an abundance of three hundred thousand dollar homes in the area, and they just want to put one hundred fifty thousand dollar homes in the area. Mr. McLeod plans to leave the existing store and the house that is on the front of the property and disturb a minimal amount of the woodlands. Mr. McLeod stated that R30 would be suitable for them.

Vice-Chair Epler asked Mr. McLeod if there were any dwellings on the property now.

Mr. McLeod stated yes, including the barn there are two dwellings, an old store, an apartment and the barn.

Vice-Chair Epler asked if there were people living in the dwellings.

Mr. McLeod stated no. The Gray's Creek Christian Center rents the store, they are in it right now, and have been in it for a number of years.

Vice-Chair Epler asked if the structures that are there right now would stay there.

Mr. McLeod stated that they would stay there.

Chair McLaurin asked which of the structures was a barn.

Mr. McLeod stated the barn that was behind the store would stay on the property.

Mr. Clark asked Mr. McLeod what size housing he was planning to build.

Mr. McLeod stated fifteen to seventeen hundred square foot housing, stick built.

Vice-Chair Epler stated that any decision made could not be based on that information.

Chair McLaurin restated that Mr. McLeod was not going to disturb much of the wooded area.

Mr. McLeod stated that was correct, much of what they wanted to do would be done in the cleared area on the property.

Chair McLaurin asked about how many acres were in the cleared area.

Mr. McLeod stated it was roughly between twenty-three and twenty-five acres.

Chair McLaurin stated that he was looking at about forty lots on twenty-three acres. With well and septic that would get him down to two houses per acre.

Vice-Chair Epler asked if a Conditional Use District was discussed or considered for this property, that way we know that the woodlands and hydric soils areas would be preserved.

Mr. McLeod said that he had considered that and they would be in favor of Density Development.

Vice-Chair Epler stated that the Board would not necessarily recommend approval for that, but in this area, with the density that is out there now, even R30 is a little high.

Chair McLaurin stated that his concern was at R30 trying to put approximately forty dwellings on twenty-three acres, that's getting pretty close to two dwellings per acre. Based on the policy that the County Commissioners have and the agreement with the City of Fayetteville over the Municipal Influence Area, that's getting close to what they were trying to avoid in a septic-well situation. It's been in the paper about the water and septic problems out that way. It's just close as far as density on well and septic, which is what our County Commissioners are presently trying to avoid.

Mr. McLeod asked if Density Development would help in the area that Chair McLaurin was describing.

Chair McLaurin stated that he didn't think it would, because generally with Density Development you need water and sewer, because the houses are closer together unless there's going to be a package type sewer and that hasn't even been tried in this County that he was aware of. Chair McLaurin stated that he was looking at a standpoint of this being in the County, and feels that that is a lot of density for the area with no water and sewer.

Mrs. Piland stated that she had a general question and wondered if maybe they had forgotten to add something to the MIA and Sewer Service Area guidelines; when we say "R30" then allow a development to be a zero lot line development, which defeats the purpose of the agreement to try and avoid the septic issue.

Mr. Lloyd stated that the septic issue would be more of a Health Department area, and they have already said that a half an acre is plenty throughout most of the County. As far as the well situation, most of those wells have to be dug deeper and deeper out there, but it's the same water that's going to be drawn from, whether it be a hundred or three hundred feet apart. The septic tank issue is left up to the Health Department, and they have always said that a half acre is fine.

Mr. James McRae spoke in opposition. Mr. McRae stated that he had appeared for many years before the Board since the area was initially zoned, and has watched it go from A1 to R40 and now it's being considered for R30. Mr. McRae stated that he would be opposed to the rezoning for the same reasons that the Board had stated. The concerns he has are the lack of water and sewer and the lack of infrastructure in the area. We have schools that are overcrowded and inadequate law enforcement. For those reasons I am concerned that if we go down to R30 it contradicts what the County Commissioners have considered in the MIA areas and I would be opposed for those reasons. I understand that R40 has been recommended in that area, and I will leave that to the wisdom of the Board, but I think that R30 is too dense.

Mr. C.S. Melvin spoke in opposition. Mr. Melvin stated that he doesn't know Mr. McLeod and didn't come to make an enemy out of him. Mr. Melvin stated that the water is good in the area where he is and since the turn of the century there has been a good supply of water and several years ago the table lowered; at this time we have to go fifty-six feet to get water. Mr. Melvin recommended that the Board consider R40 zoning.

Mr. McLeod spoke in rebuttal and pointed out that they were only a mile from Food Lion and McDonald's. Mr. McLeod stated if the Board wouldn't approve R30 he would like the opportunity, if the Density Development would be more suitable, to put something together and present it again, before they rule on it.

Vice-Chair Epler stated that some of the things that the Commissioners and the Board are concerned about in areas like this that are still rural, are preserving woodlands and preserving the atmosphere that's there now. Density Development would allow that because you would have to set aside an open space and the area that's wooded now wouldn't be allowed to be disturbed. But from the conversation that we've had here that is not the only concern that we have on this particular piece of property for this rezoning case. The density is a bigger question to us than the preservation is, but it's certainly within Mr. McLeod's right to withdraw this and come back with a Density Development.

Mr. McLeod stated that he wasn't sure what is to be cleared, and didn't want to mislead the Board about knowing the exact amount of cleared acreage.

Mrs. Piland asked Mr. McLeod if he was at all interested in R40.

Mr. McLeod stated they would like R30.

Mrs. Piland stated that R40 seems to be more in keeping with the character of that area and it would also address some of the density issues and concerns that we have.

Mr. Clark stated that the Density Development wouldn't help because we're not talking about green space and open space; we're talking about well and septic.

Chair McLaurin stated that a Density Development would either have sewer and water or there would be community water and maybe a package sewer system on a piece of adjoining land so that the waste can be dealt with.

Mr. McLeod stated that was something he didn't want to do.

Chair McLaurin stated that if there were no zero lot line that would be one thing, but when you have a zero lot line all those areas that you don't want to use and can't use get pulled in then that makes the area that you are trying to use for well and septic even that much smaller. It's a matter of the well and septic on the amount of area that will be able to be used times the density that you would like to have.

Mr. McLeod asked if the Board takes into consideration whether the community will be a zero lot line community. In other words if it were not a zero lot line community would the Board be more apt to approve R30 zoning?

Chair McLaurin stated that it wasn't the Board's option, it was the applicant's option on whether or not to use a zero lot line.

Mr. Lloyd stated unless the applicant did a Conditional Use District and one of the conditions was that all lots have a minimum of thirty thousand square feet.

Vice-Chair Epler stated that if it were a Density Development you would have to preserve forty percent of that property, that means undeveloped. That would leave you with nineteen developable acres; when you take fifteen percent of that out for your streets, which can't be included in your density calculations, and you have to have a thirty thousand square foot lot that's going to cut you back, you would probably only be able to get twenty-five or twenty-seven lots out there. So you would be in the same position with a density development or a straight rezoning.

Public Hearing closed.

Mr. Lloyd stated that a Conditional Use District could be done without it being a Density Development CUD. Mr. Lloyd corrected his earlier statement and stated that none of this area is in the Sewer Service Area.

Chair McLaurin stated that none of it is in the Sewer Service Area but it would still go back to getting pretty close to the Commissioner's desire not to have the density at 2.2 or greater with well

or septic. It's borderline on the problems with the County that the Commissioners are trying to alleviate.

Mrs. Piland stated that the Sewer Service Area was established for a purpose and it is her hope to maintain the integrity of that.

Vice-Chair Epler stated that personally she feels that the density that has been requested and even the density that staff recommended at R30 is not appropriate at this time for this area. If they had water than it would be a different story. Vice-Chair Epler feels that R40 is much more desirable at this location.

Mrs. Piland stated that she agreed with Vice-Chair Epler.

Chair McLaurin stated that there was also a problem with the layout of the tract of the land and also the watershed with the pond on the adjoining property goes along with what Mrs. Epler said and adds more problems.

Mr. Clark made a motion, seconded by Mrs. Piland to deny the request for R30 zoning and recommend approval of rezoning to R40 Residential. Unanimous approval

- B. **P08-63:** REZONING OF 2.71+/- ACRES FROM R30 RESIDENTIAL TO R30A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED AT 1188 CYPRESS LAKES ROAD, SUBMITTED BY J. THOMAS NEVILLE, ESQUIRE, OWNED BY JOHN LEE MCARTHUR, JR.

Mr. Lloyd reviewed the site information and stated the staff recommends approval of R30A Residential district based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for low density residential at this location;
2. The request is consistent with the land uses currently allowed within the general area; and
3. Public utilities are available to the site.

There was one person to speak in favor and five people to speak in opposition.

Mr. Thomas Neville spoke in favor. Mr. Neville stated that he appreciated the opportunity to speak before the Board. Mr. Neville stated that prior to coming to the meeting he drove through the area and saw what was consistent with the different zoning areas, in that there are a variety houses in the area. There are some houses whose values are in excess of three hundred thousand dollars; there are also a lot of smaller houses on this very road. As you pull onto Cypress Lakes Road, one of the first things you see on the left is what is commonly referred to as a Jim Walters home, if you look to the right pretty soon you will see what was originally a mobile home that was later bricked up on the sides, if you continue further down you will see my clients house which is a Class A manufactured home, if you go a little bit further you will see a true mobile home from some years ago still there, and intermingled within all of this you will see a number of very nice homes that appear to be well over a quarter million dollars. There's a little bit of everything out there, there are areas that were predominately agricultural. You take the good with the bad, of course the good and bad is not always defined by the same people and the definition is not

always the same. What you do find is a consistent feeling or theory that one has a right to do with his property what he desires to do, as long as it is consistent with the area and it is not a detriment to his neighbors. What we propose to do is not a detriment to this area and it is consistent with the area and we believe it should be approved. Mr. Neville read the definition of a manufactured home to the Board. Mr. Neville stated that the reason he was reading this is because if you go through the area you see the smaller homes with small roof pitches and the Class A manufactured homes that are out there today, most couldn't tell the difference between these older homes, what was built in the forties, versus what you see in Class A manufactured homes today. Mr. Neville presented a use matrix which tells the permitted uses in a certain zoning classification. The only distinction Mr. Neville found between R30 and R30A is the Class A manufactured home. Mr. Neville stated that the essential issue before the Board is the Class A manufactured distinction. Mr. Neville stated that his client does not intend to just throw up two additional manufactured homes; he intends to do landscaping. Mr. Neville pointed out that the property is very well maintained and has nice landscaping and it is the intention to do the same with the additional homes he plans to add. Mr. Neville restated that the intended use is not a detriment to the neighborhood and it also serves a use that is needed, not everyone can afford to live in a home that is a quarter million dollars or more. There is a need for housing for everyone and that has been brought to light in the current economy.

Vice-Chair Epler asked Mr. Neville how long his client owned the property.

Mr. Neville stated that he would have to ask his client.

Vice-Chair Epler stated that the subject property was rezoned from A1 to R30 in August of 2007. Vice-Chair Epler asked if the owner requested that rezoning.

Mr. Neville stated that his client did request the rezoning.

Vice-Chair Epler asked if the manufactured home was on the property then and if it was conforming when the home was put there.

Mr. Lloyd stated that if the property is subdivided sewer will have to be extended.

Mr. Joseph Christopher spoke in opposition. Mr. Christopher stated that he was opposed to the rezoning to R30A because it is not consistent with the surrounding areas. Mr. McArthur had the property rezoned in August of last year, he agreed to R30 zoning and said he would place three stick built homes on this property. By allowing Mr. McArthur to rezone this property, the Board will allow him to place three manufactured homes there. In accordance with the zoning ordinance, page 18, a manufactured home park is defined as a multi-family development on any site or track of land with two spaces intended to be occupied by manufactured home regardless of whether a charge is made for such services, so we will in fact have a mobile home park there. The district that surrounds Mr. McArthur's property is R40 across the street, R10 to the rear, and A1 to the left and right. There are no manufactured homes in the immediate area, except for Mr. McArthur's. The manufactured home that the attorney referred to is bricked in and is not classified as a manufactured home according to public records. The pitch of the roof is normal, the eaves are approximately twelve inches, and the electrical connection is consistent with a stick built home. The public record search showed that Mr. McArthur owns approximately four parcels of land and eleven manufactured homes, of which two are located in the Hellendale Mobile Home Park in Hope Mills. Mr. Christopher stated that if the rezoning is approved, Mr. McArthur will put trailers on the property.

Ms. Gizelle Rodriguez spoke in opposition. Ms. Rodriguez stated that she is opposed to the rezoning because she feels it will decrease the value of her property.

Mr. Brian T. Schneider spoke in opposition. Mr. Schneider stated that he is opposed to the rezoning because he feels Mr. McArthur will place manufactured homes on the subject property which will decrease his property values.

Ms. Kathleen Palmer spoke in opposition. Ms. Palmer stated that she and her husband will have owned their house for three years, and will probably have to move if a manufactured home park is behind their property and visible from the property. Ms. Palmer stated that she is certain that this will decrease her property values.

Mr. Harry Whisnant spoke in opposition. Mr. Whisnant stated he was in the area when there was nothing out there. It was a shock to see the mobile home across the street. Since it is already zoned R30, it should stay that way. If Mr. McArthur is going to sell the property, he should sell it as it is.

Mr. Neville spoke in rebuttal. Mr. Neville stated that under the guidelines the home his client is going to place on the property is a Class A manufactured home; it's not a mobile home or a trailer. There are specific guidelines and facts that distinguish the two. Class A manufactured does not fit under the parameters of a mobile home. There are mobile homes and Jim Walter homes on the same road that predate his client's house. The bottom line is when you move to a rural area in the country you have to accept what's there. Mr. Neville stated that his client has a right to improve his property, if his improvements are not consistent with the neighborhood that's one thing, but what he is proposing is consistent with the neighborhood. The issue isn't density, we're already at R30 the issue here is solely Class A manufactured homes.

Mr. Lloyd stated that a manufactured home park is not allowed in R30 or R30A and a manufactured home park would be three or more spaces on the same lot. The applicant did rezone one year ago and was asked if he knew what that meant and he stated yes and still agreed.

Vice-Chair Epler asked Mr. Neville if his client understood a year ago and agreed to R30, and if he has changed his mind.

Mr. Neville stated that his client agreed to R30 and a year later he is before you again saying this is what he would like to do with his property and asking that the Board rule on it again. What is important is that his Class A manufactured home was there in 1992; three trailers aren't being added, at the most two are being added and it is consistent with the area.

Mrs. Piland asked Mr. Neville what has changed now that would warrant rezoning to R30A in that area.

Mr. Neville stated that he wasn't here a year ago, so he isn't aware of what has changed.

Mr. Barrett rephrased the question for Mr. Neville "Are you aware of any change in circumstances in the area since the rezoning in 2007 that would require rezoning now?"

Mr. Neville stated that someone else could answer that better than he could. The only thing that appears is what he refers to as the Jim Walters home.

Public Hearing closed.

Vice-Chair Epler stated that she understands the feelings of the people in the area, they have stick built homes, they're in a neighborhood, and they don't want a trailer park behind their house. But this isn't a trailer park that we are talking about, these are Class A manufactured homes, there was a Class A manufactured home on the subject property when they purchased their property and adding two more. We can't make the determination that it will lower their property values, they are in a different neighborhood and there is a different entrance to their homes, but I understand where they are coming from. They have an investment there and they want to protect it. The one thing that bothers me is that the applicant knew a year ago that he would not be allowed to keep a Class A manufactured home on that property if he agreed to R30, he could keep it but he couldn't add any additional homes. If anything happened to that Class A manufactured home he could not replace it with another manufactured home. He would have been better off at that time if he wanted to have his house conforming, to have left it A1. I can't speak for him, but in our experience, the different stance of our economy today has maybe precipitated him coming back and asking for rezoning. I certainly have sympathy for that, we have all felt it, but he made this decision a year and a half ago and I can't support rezoning to R30A.

Chair McLaurin stated that there was no case of "trailer hate" going on. Chair McLaurin stated that he himself had lived in trailers before. Where a person lives or the type of dwelling a person lives in has very little to do with the caliber of the person, as far as his experience goes. We have zoning and at the front of the ordinance it states that the ordinance is to provide for the public health, safety, and general welfare. Part of general welfare is financial welfare. Many years ago Mr. Al Prewitt went and started developing the Cypress Lakes area and looking at the things the way he did, he didn't worry about zoning, he was trying to have a golf and horse community, he was an avid horseman. He wanted everyone to have nice lots and he had a place out there where they could have horses. There are mobile homes and double wide trailers there now. But the general trend and the trend of the zoning in that area are stick built type houses. When everybody in this subdivision bought, this neighborhood was zoned R10 which led them to believe they would have a certain amount of protection from the general public. They relied on that as far as the type of construction that would be around them when they made their financial investment for part of their general welfare. People have moved into that area and they have moved in behind Mr. McArthur and as they moved in behind him, many of them military families, who made their investments, they looked over and saw R30 and they depended on this general public that designated this R30 for their financial protection while they are protecting us. As far as the Jim Walter type home that has been referred to, if somebody is going to live in it or keep living in it they had better to be ready to spend a lot of money, because it's looking very dated out there. The general trend of this area is towards R10 and stick built homes. That's what people are depending on when they move out there, that the trend is stick built homes, they are looking for their investments to be protected. We keep hearing on the news that the value of homes is going down, and I don't think that we need to do anything that will disturb the general financial welfare of the people as it is now.

Mr. Clark made a motion, seconded by Vice-Chair Epler to deny the request for R30A rezoning. Unanimous approval

X. DISCUSSION

XI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

XII. ADJOURNMENT

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