

Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
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,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin,  
Wade, Falcon, & Godwin

### MINUTES

July 21, 2009

#### Members Present

Mrs. Lori Epler, Chair  
Mr. Roy Turner, Vice-Chair  
Mr. Donovan McLaurin  
Mr. Benny Pearce  
Ms. Patricia Hall  
Mrs. Sara Piland  
Mr. Garland Hostetter  
Mr. Walter Clark  
Mr. Harvey Cain, Jr.

#### Members Absent

Mr. Charles Morris

#### Others Present

Mr. Tom Lloyd, Director  
Mr. Harvey Raynor  
Ms. Patricia Speicher  
Mrs. Laverne Howard  
Ms. Donna McFayden

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Hall delivered the invocation and led those present in the Pledge of Allegiance.

#### II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mrs. Piland made a request to remove Case P09-31 from the Consent Agenda and move it to Contested Items.

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

#### III. PUBLIC HEARING DEFFERAL / 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 JUNE 16, 2009

**Vice-Chair Turner made a motion to accept the minutes as submitted, seconded by Ms. Hall. Unanimous approval**

VII. PUBLIC HEARING CONSENT ITEMS

ORDINANCE ADOPTION

- A. **P09-29:** CONSIDERATION OF THE ADOPTION AND ENACTMENT OF THE TOWN OF FALCON COMMUNITY STANDARDS ORDINANCE, ESTABLISHING ACCEPTABLE MINIMUM STANDARDS FOR APPEARANCE OF PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN AND ENFORCEMENT OF THE SAME. (FALCON)

The Planning and Inspections Staff recommends approval of the *Town of Falcon Community Standards Ordinance* as proposed, based on the following:

1. The Town requested an ordinance addressing minimum standards for appearance of properties within their corporate limits;
2. The ordinance proposes minimum standards which are intended to preserve the character and integrity of the Town, protect the property values, and to promote and preserve the visual and economic interests of the Town while protecting the public health, safety and welfare of the citizens; and
3. The Town reviewed the draft document and requested that the ordinance be set for public hearing.

There was no one present to speak for or against Case P09-29.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P09-29. Unanimous approval.**

REZONING CASES

- B. **P08-42:** REZONING OF 2.01+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3378 CUMBERLAND ROAD, SUBMITTED AND OWNED BY KWANG YOL AND OK BUN LEE.

The Planning & Inspections Staff recommends approval of the request for the C(P) Planned Commercial district but only to a depth of 310 feet from the right-of-way/property line, based on the following:

1. The recommendation is consistent with the 2030 Growth Vision Plan (urban area) and with the exception of public sewer availability, is consistent with the location criteria for the district requested as enumerated in the Land Use Policies Plan;
2. Cumberland Road is designated as a "primary business street" in the Land Use Policies Plan, which recognizes strip commercial as a viable part of commercial

development and the recommendation for commercial is appropriate along this segment of road;

3. The recommendation allows for commercial development of a portion of the subject property to the same general extent of other commercial properties within the general area; and
4. The recommendation will prevent encroachment of commercial development into the immediately adjoining residential areas.

The C1(P) and C2(P) districts could also be considered suitable for this location.

The applicants have verbally agreed via telephone conversation to the Staff recommendation.

There was no one present to speak for or against Case P08-42.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P08-42. Unanimous approval.**

- C. **P09-27:** REZONING OF 24.08+/- ACRES FROM R6A RESIDENTIAL & HS(P) PLANNED HIGHWAY SERVICES TO R5A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED BETWEEN LILLINGTON HIGHWAY AND MCCORMICK ROAD, NORTH OF RIVERBANK DRIVE, SUBMITTED BY MARK J. MAHONEY; OWNED BY WOODROW W. AND LAUNA A. HINKLE. (SPRING LAKE)

The Planning and Inspections Staff recommends approval of the request for the R5A Residential district based on the following:

1. The request is consistent with the Spring Lake Area Detailed Land Use Plan, which calls for medium density residential at this location;
2. The request is consistent with the proposed 2030 Growth Vision Plan (urban area) and with the location criteria for the district requested as enumerated in the Land Use Policies Plan; and
3. The request, if approved, will allow for more uniform zoning and comparable land uses that exist within the general area.

The R6 Residential district could also be considered suitable for this location.

Note: The 2030 Growth Vision Plan and the Land Use Policies Plan are scheduled for public hearing by the Town Board of Aldermen on July 27, 2009.

There was no one present to speak for or against Case P09-27.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P09-27. Unanimous approval.**

- D. **P09-28:** REZONING OF .34+/- ACRES FROM R10 RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3709 BOONE TRAIL, SUBMITTED BY FAY FLEISCHMANN, OWNED BY MARK FLEISCHMANN.

The Planning and Inspections Staff recommends approval of the request for the C1(P) Planned Local Business district based on the following:

1. The request is consistent with the 2030 Growth Vision Plan (urban area) and with the location criteria for the district requested as listed in the Land Use Policies Plan;
2. Boone Trail is designated as a "limited business street" in the Land Use Policies Plan, which recognizes that the uses along this street are in transition from residential to non-residential and that light commercial is appropriate along this segment of the road; and
3. The request will allow for compatible uses with those uses currently predominant in the general area.

There are no other zoning districts to be considered suitable for this request.

There was no one present to speak for or against Case P09-28.

**A motion was made by Mr. McLaurin, seconded by Mr. Turner, to follow the staff recommendation and approve case P09-28. Unanimous approval.**

- E. **P09-30:** INITIAL ZONING OF 168.00+/- ACRES TO A1 AGRICULTURAL, R40A RESIDENTIAL, R40 RESIDENTIAL AND RR RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED EAST OF DUNN ROAD, NORTHWEST OF INTERSTATE 95; SUBMITTED BY THE TOWN OF GODWIN; OWNERS MAGGIE GALE MURPHY ADKINS, MYERS G. & CLARA GAYLE M. BRAXTON, JAMES W. BURNETT, JAMES W. & PAULINE BURNETT, CLEVELAND L. BURNETT, MARGARET COOPER, WINIFRED G. CORPUS, CLIFTON GODWIN, BEULAH M. LINDSEY, LEONARD S. MATTHEWS, FLETCHER D. MCNEILL, LOUIS & JENNIFER MCNEILL, RONALD & LOUIS MCNEILL & MARY M. SYMS, RONALD & MARJORIE MCNEILL, WILLIE C. MCNEILL, GERALDINE MCRAE, CHRISTOPHER M. PETERSON, BERLEAN M. SMITH LIFE ESTATE, CLENTIS MALLOY & FERMAN LEE SMITH, CLENTIS O. SMITH, JOSEPH & HELEN SMITH, MELBA DELORIS SMITH, MARY MCNEILL & HAROLD E. SYMS, JR. & LOUIS J. MCNEILL. (GODWIN)

The Planning and Inspections Staff recommends approval of the initial zoning to the A1 Agricultural, R40 and R40A Residential and RR Rural Residential districts of the subject properties as shown on the attached sketch map, based on the following:

1. Although the districts requested are not entirely consistent with the 2010 Land Use Plan, which calls for farmland at this location, the districts requested are consistent with the proposed 2030 Growth Vision Plan that designates the subject properties as being located in a *Community Growth Area*;

2. The districts meet or exceed the location criteria enumerated in the proposed Land Use Policies Plan as designated for suburban density (RR) and rural density residential (A1, R40 and R40A); and
3. The proposed zoning districts are the same as the properties are currently zoned under the County jurisdiction and the request was submitted by the Town of Godwin.

Note: A public hearing has been scheduled by the Town of Godwin for consideration of adoption of the 2030 Growth Vision Plan along with the Land Use Policies Plan on July 20, 2009.

There was no one present to speak for or against Case P09-30.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P09-30. Unanimous approval**

- F. **P09-32:** REZONING OF 1.01+/- ACRES FROM C3 HEAVY COMMERCIAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3830 ROCOSO PLACE, SUBMITTED AND OWNED BY ELIJAH B. AND JANICE M. YOUNG.

The Planning & Inspections Staff recommends approval of the request for the RR Rural Residential district for the subject property, based on the following:

1. Although the request is not consistent with the 2030 Growth Vision Plan (urban area) and the location criteria for suburban density residential as listed in the Land Use Policies Plan (no direct public street access), the request is reasonable since, if approved, it will allow the current existing use of the property to be made conforming;
2. The RR Rural Residential district is identical to all other residentially-zoned properties within the general area; and
3. The record at the time the subject property was rezoned to C3 Heavy Commercial is not clear and the property owner states it was never their intent to have their home zoned commercial.

There are no other suitable zoning districts to be considered for this request.

There was no one present to speak for or against Case P09-32.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P09-32. Unanimous approval.**

- G. **P09-33:** REZONING OF 1.19+/- ACRES FROM RR RURAL RESIDENTIAL/CU CONDITIONAL USE OVERLAY DISTRICT AND PERMIT (TO ALLOW A CHILDREN'S DAYCARE FACILITY) TO O&I(P) PLANNED OFFICE AND INSTITUTIONAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 3353 DUNN ROAD; SUBMITTED BY CRAIG WHEELER; OWNED BY SHREE GANESHJI, LLC. (EASTOVER)

The Planning and Inspections Staff recommends approval of the request for rezoning to the O&I(P) Planned Office and Institutional district for the subject property, based on the following:

1. Although the request is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for an activity node and heavy commercial at this location, the request is reasonable because the Land Use Plan map designating the activity nodes is not parcel specific and does include at least a portion of the subject property in a planned activity node;
2. The recommendations adopted in the Eastover Area Detailed Land Use Plan do not specifically address office and institutional type uses, but it could be reasoned that these type of uses are grouped with the term “commercial” and the Land Use Plan encourages non-residential development at activity nodes rather than creating strip commercial development along thoroughfares;
3. The subject property does not fully comply with the location criteria for office and institutional development that is listed in the proposed Land Use Policies Plan, since the site is not located within an office park and will not serve as a transition between commercial and residential uses – subject property is located between two planned commercial districts - however, approval of this request will meet several of the stated objectives in the plan, including: encouraging new office and institutional uses, providing sufficient zoned office and institutional areas to accommodate the needs of the residents and reducing regulatory measures that hinder office and institutional development; and
4. The O&I(P) district requires plan approval from the Town Council or the Board of Adjustment prior to commencement of any new development.

There are no other suitable districts to be considered for this request.

Note: A public hearing has been scheduled by the Town of Eastover for consideration of adoption of the 2030 Growth Vision Plan along with the Land Use Policies Plan on August 4, 2009.

There was no one present to speak for or against Case P09-33.

**A motion was made by Mr. McLaurin, seconded by Vice-Chair Turner, to follow the staff recommendation and approve case P09-33. Unanimous approval.**

#### VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P09-31: REZONING OF 2.19+/- ACRES FROM O&I(P) PLANNED OFFICE AND INSTITUTIONAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 3135 DUNN ROAD; SUBMITTED BY VIVEK TANDON-LUST, LLC; OWNED BY GREG AND LAURIE BARNES.**

Mr. Lloyd reviewed the site information and stated that the Planning & Inspections Staff recommends approval of the request for rezoning to the C2(P) Planned Service and Retail district for the subject property, based on the following:

1. Although the request is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for an activity node and medium density residential at this location, the request is reasonable because the Land Use Plan map designating the activity nodes is not parcel specific and does include at least a portion of the subject property in a planned activity node;
2. The recommendations adopted in the Eastover Area Detailed Land Use Plan specify that high intensity non-residential development (commercial and industrial) should be concentrated at nodes at the intersection of major thoroughfares – both Dunn Road and Murphy Road are classified as major thoroughfares in the Highway Plan;
3. The recommendations adopted in the Eastover Area Detailed Land Use Plan encourage non-residential development at activity nodes rather than creating strip commercial development along thoroughfares;
4. The C2(P) district is considered as “light commercial” in the proposed Land Use Policies Plan and the subject property complies with the listed location criteria proposed in the plan; and
5. The C2(P) district requires plan approval from the Town Council or the Board of Adjustment prior to commencement of development.

The C1(P) Local Business district could also be considered suitable for this location.

Note: A public hearing has been scheduled by the Town of Eastover for consideration of adoption of the 2030 Growth Vision Plan along with the Land Use Policies Plan on August 4, 2009.

There was one speaker present to speak in favor.

Chair Epler asked Mr. Lloyd if the existing structure, presently on the subject property, met the setback requirements for the requested zoning.

Mr. Lloyd stated that the structure would be legal nonconforming. The use of residential would also be legal nonconforming if it were rezoned.

Chair Epler asked if the applicants would like to come forward.

Mr. Neil Grant came forward to speak in favor for the applicant. Mr. Grant wanted to make a correction to the name of the LLC it should be Vivek Tandon-LVST, LLC. Mr. Grant noted that the subject property has 428 feet of road frontage on the I-95 Business off ramp. That intersection is a major intersection, and of the four corners that is the only one that is not C(P) except for the opposing corner which is Department of Transportation land, which Mr. Grant believes has no zoning. The applicant wants to rezone to C2(P) and improve the property and build something nice and provide services to the Eastover area.

Mrs. Piland stated that she wanted the case pulled from the Consent agenda because of concerns about the residential area. There are a lot of houses in the area; there is a really good buffer along I-95 and along the off ramp so the residential area is well protected and when this property was first zoned, Mrs. Piland stated she believed it was

a Conditional Use property, because there was a retail business there. Then the second zoning was O&I and each of those were somewhat protective of the residential area. Mrs. Piland stated that her concern was whether or not C2(P) zoning would be protective of that residential area, Mrs. Piland feels more comfortable with O&I because she knows the area and the residences in the area.

Mr. Grant stated that the only thing he could address is that when residential abuts C2(P) that the setbacks and the buffers are fairly substantial. Any project that goes on the property will have to meet all codes and setbacks. Anything that we do on the property will be done properly, meeting all setbacks and codes. It will still have to be approved by the Town for the final site plan review.

Mrs. Piland stated that the access area is a busy area and was curious about when the area was rezoned O&I and it became the private school; she asked what kind of requirements were placed on access by the Department of Transportation (DOT) and was a third lane required.

Ms. Speicher stated that DOT stated that a turn lane might be required; they never followed through with it because the private school and daycare never actually began operation. They also restricted the site to one driveway.

Chair Epler stated that until a site plan is submitted to DOT they won't make a final requirement on a driveway.

Mrs. Piland asked what part of the subject property was in the activity node, and how much of the property was in the activity node and how much is residential.

Ms. Speicher stated that it was not parcel specific.

Mr. Lloyd stated that the activity nodes are not parcel specific, there's no given circumference or diameter, and we need to look more closely at this. In this case it's split. They didn't look at the parcel when they drew the activity node as any particular size, it should at least cover a whole parcel.

Chair Epler asked if the activity node was centered at the intersection of Murphy Road and Dunn Road or is it centered on the I-95 off ramp intersection.

Mr. Lloyd stated that it was probably more centered at the Murphy Road area. But it's not specifically centered on either one; it's just in that general area and does come down further towards Murphy Road.

Mrs. Piland restated her concern about access - when going north from the intersection on Hwy 301 there is a median there that prevents traffic from turning left into the Kangaroo service station, there is no such median on the southern side of Hwy 301 from that intersection. Mrs. Piland stated that that is what she was thinking about in regards to safety, because traffic is allowed to make a left turn into that, and that concern was raised when this was a private school proposal. If they (NCDOT) did that on the left side for safety purposes, one would think that would be done on the south side.

Chair Epler stated that they couldn't begin to assume what DOT would do.



Mr. Lloyd stated that the access had been discussed by staff.

Mr. Grant stated that the projects that Mr. Tanden and his family had done in the past and were currently involved in are all very well done, and whatever is required of them has been done. Every project he has seen that they have done has enhanced the area, using proper green space and the properties are well maintained on a daily basis.

Mr. Lloyd stated that because this is a rezoning we can negotiate those sort of concerns on the site plan. We can not at this meeting as opposed to a conditional use district, we do not have the power to hold up a project. Usually we do not have a problem when we negotiate a site plan.

Ms. Speicher reminded the Board that the Town Board would have approval authority on the site plan.

**Mr. Clark made a motion to follow the staff recommendation and approve Case P09-31, seconded by Mr. Cain. The motion passed with a vote of 7 to 2, Mr. McLaurin and Vice-Chair Turner opposed.**

Mrs. Piland asked Mr. Raynor if any vote that some of the Board members took on this case and at the Planning Board level, would not necessarily be binding if they had to vote at the Town Council level.

Mr. Raynor stated no, they are two different boards so it would be two different votes.

## IX. DISCUSSION

Chair Epler thanked Mr. McLaurin for all of the work that he did during his two years as Chairman of the Board.

Mr. McLaurin thanked Chair Epler and the Board for the opportunity to serve as Chairman.

Mr. Lloyd presented Mr. McLaurin with a plaque in appreciation of his service as Chairman of the Cumberland County Joint Planning Board.

## X. FOR YOUR INFORMATION

### DIRECTOR'S UPDATE

#### A. 2009-2010 WORK PROGRAM

Mr. Lloyd advised the Board that he passed out a revised version of the Work Program to include Hope Mills' requests. Mr. Lloyd reviewed the one change for Eastover and requested to remove item number four re-evaluation of portions of the Eastover Land Use Plan. Mr. Lloyd requested that the Board vote on the Work Program with any suggested changes.

**Mrs. Piland made a motion to approve the 2009-2010 Work Program deleting item number 4 under Eastover, but otherwise as submitted, seconded by Ms. Hall. Unanimous approval.**

**B. CONSTANCE DOGOOD UPDATE**

Mr. Lloyd advised the Board that all of the complaints received had been resolved.

**XI. ADJOURNMENT**

There being no further business, the meeting adjourned at 7:32 p.m.