

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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

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

Benny Pearce,
Town of Eastover

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

May 5, 2009

Members Present

Mrs. Lori Epler, Acting-Chair
Mr. Garland Hostetter
Mr. Roy Turner
Mr. Harvey Cain, Jr.
Mr. Charles Morris
Ms. Patricia Hall

Others Present

Mr. Tom Lloyd, Director
Mrs. Laverne Howard

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that Case P09-11 would be moved from Public Hearing Consent Items to a Public Hearing.

Mr. Morris made a motion to accept the adjustments to the agenda, seconded by Ms. Hall. Unanimous approval

III. PUBLIC HEARING DEFERRAL / 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 APRIL 21, 2009

Mr. Turner made a motion to accept the minutes as submitted, seconded by Ms. Hall. Unanimous approval

VII. PUBLIC HEARING ITEMS

Acting Chair Epler asked all people who signed up to speak to come forward to be sworn in.

Acting Chair Epler asked the Board members if anyone had any conflicts with the upcoming case or if anyone felt that they needed to withdraw from the proceedings. Acting Chair Epler also asked if any of the Board members had any information or special knowledge about the case that may not come out during the meeting.

No Board members had any conflicts or withdrew from the case. No one had any additional information about the case.

Public Hearing opened.

CASE P09-11: REZONING OF 6.00+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF CHARMAIN STREET, WEST OF MURCHISON ROAD, SUBMITTED BY ATTORNEY GARRIS NEIL YARBOROUGH AND OWNED BY CHARMAIN COMPANY, LLC.

The applicant originally submitted an application requesting the C(P) zoning district. After discussion with Planning & Inspection Staff, the applicant amended their request to a C(P)/Conditional Use District and Permit, including all uses currently allowed in the C(P) district, but conditioning the Permit to mandatory public sewer connection upon development.

Mr. Lloyd reviewed the site information and stated that after considering this amended application, the Planning & Inspections Staff recommends approval of the request for C(P) Planned Commercial/CUD Conditional Use District, for all uses currently allowed in the C(P) district, based on the following:

1. The request is consistent with the Shaw Heights Land Use Plan, which calls for commercial and office, flex office and mixed use at this location; and
2. The request is reasonable because the district proposed is in character with the current zoning and land uses of adjacent properties and would allow for development that is consistent within the existing development in the surrounding area.

The C2(P) Planned Service and Retail district could also be found suitable at this location.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit, provided that upon development public sewer will be extended and connected to serve this development.

1. The request will not materially endanger the public health and safety if located according to provisions of the County regulations and recommended in that a complete site plan review will be required prior to any development of the subject property;
2. The use will meet all required conditions and specifications – site plan review at staff level will be required prior to any permit application for this site as an assurance that the development will meet or exceed the minimum standards for non-residential development within the County;
3. The use will maintain or enhance the value of adjoining or abutting properties – the subject tracts were previously rundown manufactured home park which has since been vacated and the property

owner owns the adjacent property; therefore, the property owner has a vested interest in not just maintaining but enhancing the value of the properties in the immediate area. If the site is developed according to the required ordinance standards and with the extension of public sewer into an area currently served by on-site septic systems this goal would be attained; and

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Land Use Plan and adopted planning policies. As stated above, the property owner has agreed to extend and connect to the public sewer system, public sewer service for commercial development is a stated policy in the recently adopted Land Use Policies Plan and commercial development at this location would be consistent with existing development in the area.

The owner/applicant has been given a copy of this recommendation, with attachments; his agreement is pending.

Mr. Lloyd stated that there were two people signed up to speak. One was the applicant and the other speaker just had comments.

Mr. Morris asked about the current requirements for sewer extension regarding distance for service.

Mr. Lloyd stated that it would depend on if the applicant was subdividing the property. But the applicant far exceeds the requirement.

Acting Chair Epler asked Mr. Lloyd if the applicant had agreed to extend the sewer 4500 feet plus or minus.

Mr. Garris Neil Yarborough, who represents the applicant, spoke in favor. Mr. Yarborough stated that his clients also own three other tracts of land. According to the conditional use requirements it would have to be developed in conjunction with this property, either with a recombination or some type of zero lot line development. Access would come to the property more than likely through some form of easement process or outlet on Murchison Rd. and perhaps some outlet on Charmain St. Mr. Yarborough stated that this should be in keeping with good zoning and land use planning, because it is consistent with the Land Use Plan for this area. Additionally, what the applicant's are asking to do is consistent with the area and C(P) would give the Planning staff control over site development. Mr. Yarborough wanted to point out three things regarding the conditional use requirements. First, Mr. Yarborough stated that they recognize that they cannot utilize the property for commercial purpose until public sewer is available. The City doesn't want to run sewer to it because it's not in the City, they don't want to annex it because it's got a low tax value, and it won't ever have any tax value until there is some commercial development. Mr. Yarborough stated that his clients think down the road, and if they let everyone know that there is the potential for commercial development maybe that will encourage the City to run sewer to the area. He also stated that if it gets close to this his people would also pick up whatever obligations they needed to enhance the area. But the bottom line is that they cannot use the property under the requirements that the Board would be adopting until there is public sewer available. The other thing that Mr. Yarborough wanted to bring up was that this was in the Phase II Stormwater area, and they will be required, and have agreed to accept any conditions related to that. The third thing Mr. Yarborough pointed out was that the property would be utilized in conjunction by the terms that are imposed if the recommendation is approved, in conjunction with the property that fronts on Murchison Rd. Mr. Yarborough stated that they believe this is an excellent opportunity for some development planning, and perhaps even for some encouragement for the City and PWC to go ahead and run sewer to the area. Mr. Yarborough stated that the property has vastly improved since his clients bought it. They will

care for it and maintain it until one day it turns into the type of commercial development that this Planning Board has indicated should go in this area.

Mr. Joseph Tolley stated that he just had some comments that he wanted to make. Mr. Tolley stated that he wasn't really opposed to the applicant's request. What bothers him is that there are several issues in the application that he doesn't understand. They can't decide where the front is going to be, Murchison Rd. or Charmaine St., The applicants haven't done their homework on the sewer. The sewer has to run 4500 feet all the way down Shaw Rd. Not one applicant has asked anyone else how they feel about sewer. Mr. Tolley feels that they might have had some help putting sewer in if they had asked someone. The application requires a 10 foot easement right-of-way and it's not shown. It might not be shown because no one can figure out where the front and back of the property is. There is also parking and an open space detention pond. That detention pond will be 30 feet from Mr. Tolley's property. Detention ponds are not that pretty, but they can be landscaped. Mr. Tolley stated that he really didn't have a problem with that. Mr. Tolley stated that sewer has to be extended to Shaw Heights, there have been two hundred dwellings lost in the past two years. We've only been promised sewer for 27 years. The regulations of the County and the absence of sewer is why there is no tax base in the area. Mr. Tolley asked that the Board approve the applicant's request but get serious about sewer and make sure that this is not just a petition to enhance the selling price of the property. Mr. Tolley doesn't want to see commercial property for sale signs coming into his neighborhood. He wants the applicants to be serious about developing the property and would like to see it done with sewer and would like to see how he is going to get sewer. Mr. Tolley stated that he waited half of his life for sewer and he's tired of waiting.

Acting Chair Epler told Mr. Tolley that they didn't have any answers for him. But, suggested that when this goes before the County Commissioners he lets them here the same thing. Cumberland County is not in the sewer business, the City of Fayetteville is.

Mr. Tolley stated that 27 years ago they were told in the Shaw Heights district to relax, they would be put in a watershed and this will make them the first to get city sewer; Mr. Tolley stated that they were still waiting.

Mr. Lloyd stated that the easement will be shown on the NAR.

Mr. Tolley asked why the paperwork shows a Charmain St. address.

Acting Chair Epler stated that as of right now this piece of property only has frontage on Charmaine St. When it's combined with the parcel in front of it on Murchison Rd, it will then have Murchison Rd. frontage.

Mr. Tolley stated that there would be no entrance to Charmaine St. from this property.

Acting Chair Epler stated that the site plan shows two entrances off of Charmaine St.

Mr. Yarborough spoke in rebuttal. Mr. Yarborough agreed with Mr. Tolley that sewer needs to be extended to the area. It's a bigger issue than even his clients can handle. But they are prepared to be part of the solution. Mr. Yarborough stated that in the application it states that all the entrances will be specifically identified once the recombination is effectuated.

Mr. Morris asked Mr. Yarborough if his clients were voluntarily accepting all of the conditions.

Mr. Yarborough stated that yes they are. Mr. Yarborough stated that they were not going to run sewer themselves, the whole 4500 feet, they just are not going to use it until they can get sewer there.

Acting Chair Epler asked Mr. Yarborough if he would connect to sewer when it's available.

Mr. Yarborough stated that they absolutely would. They understand that any development is dependent on having public sewer in that area.

Public Hearing closed.

Mr. Morris made a motion, seconded by Mr. Cain, that the Joint Planning Board finds that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that the Conditional Use District with the conditions as shown on the application be approved as to the staff recommendation. Unanimous approval

A motion was made by Mr. Morris and seconded by Ms. Hall to approve the Conditional Use Permit as recommended by the staff after finding that when completed, the proposal: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 3) will be in harmony with the area in which it is to be located; and 4) will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners. Unanimous approval

VIII. DISCUSSION

IX. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

Mr. Lloyd advised the Board, in reference to the case that Ms. Hall had questions about at the last meeting, that as it turned out the staff did not make a mistake, the conditions that the developer agreed to were on the condition sheet. But there will be changes made to the condition sheet so it will be easier to see.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:40 p.m.