

Roy Turner,
Chair
Cumberland County

Walter Clark,
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

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

October 18, 2011

Members Present

Mr. Roy Turner, Chair
Ms. Patricia Hall
Mrs. Lori Epler
Mr. Benny Pearce
Mr. Donovan McLaurin
Mr. Harvey Cain, Jr.
Mr. Charles Morris

Members Absent

Mr. Walter Clark
Mr. Garland Hostetter
Mrs. Sara Piland

Others Present

Mr. Tom Lloyd
Mrs. Laverne Howard
Ms. Patricia Speicher
Mr. Rick Moorefield,
County Attorney
Ms. Donna McFayden

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. McLaurin asked that Case P11-47 be deferred for 30 days.

Mr. Lloyd advised that Case P11-45 would be pulled from Consent Items and moved to Contested Items.

Ms. Morris made a motion, seconded by Mrs. Epler to approve the agenda with the adjustments. Unanimous approval.

III. PUBLIC HEARING DEFERRAL / WITHDRAWAL

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

Mrs. Epler stated that she would abstain from voting on Case P11-46.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF SEPTEMBER 18, 2011

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

VII. JOINT PLANNING BOARD DEADLINE/MEETING SCHEDULE

Mrs. Epler made a motion, seconded by Mr. McLaurin to remove the January 1, 2012 meeting from the schedule and approve. Unanimous approval.

VIII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P11-46:** REZONING OF 6.36+/- ACRES FROM M(P) PLANNED INDUSTRIAL AND RR RURAL RESIDENTIAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED SOUTH OF SR 1007 (OWEN DRIVE), WEST OF SR 2283 (WATSON LAKE ROAD); SUBMITTED BY BOBBY L. AND THAN T. ROGERS (OWNERS).

The Planning and Inspections Staff recommends denial of the request for RR Rural Residential but approval of R40 Residential based on the following:

1. The request for RR Rural Residential for the subject property is not consistent with the location criteria as listed in the Land Use Policies of the 2030 Growth Vision Plan because public water is not readily available and the subject property does not have direct access to an approved private street or a public street;
2. The recommended R40 Residential district is in keeping with the lot sizes and uses that exist in the surrounding area; and
3. The R40 Residential district is more suitable for areas with hydric soils.

There are no other suitable districts to be considered for this property at this time and the property owners have given their verbal agreement to this staff recommendation.

Mr. Morris made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve case P11-46 for R40. Unanimous approval.

- B. **P11-49:** REZONING OF 4.21+/- ACRES FROM M INDUSTRIAL AND R15A RESIDENTIAL TO R15A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 6119, 6151 AND 6171 BROOKS STREET AND 6725 HILL STREET; SUBMITTED BY CLIFTON L. JR. AND JOSEPHINE TURPIN (OWNERS). (FALCON)

The Planning & Inspections Staff recommends approval of the R15A Residential district for this request based on the following:

1. The request is consistent with the Northeast Cumberland Detailed Area Plan, which calls for residential development at this location and the location criteria for "low density residential" as listed in the Land Use Policies of the 2030 Growth Vision Plan, specifically the subject property has access to public water and sewer, direct access to a public street and is within three miles of a recreation area;
2. The location and character of the use will be in harmony with the surrounding area; and
3. The request for the residential zoning district is a logical extension of the R15A district.

There are no other districts considered suitable for this request.

Mr. Morris made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve case P11-49 for R15A. Unanimous approval.

- C. **P11-50:** REZONING OF .55+/- ACRES FROM R6 RESIDENTIAL/CU CONDITIONAL USE OVERLAY FOR BINGO AND INDUSTRIAL OPERATION (SEWING) TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 806 KATIE STREET, SUBMITTED BY EDMON E. AND KATHRYN S. MONSOUR (OWNERS).

The Planning & Inspections Staff recommends approval of the C(P) Planned Commercial district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” at this location, as well as meeting the location criteria for “heavy commercial” development as listed in the Land Use Policies Plan;
2. The location and character of the use will be in harmony with the surrounding area; and
3. Public utilities are available to the subject property.

There are no other districts considered suitable for this request.

Note: This is another example of land located in the center of urban development and served by PWC, which needs to be annexed prior to annexation of new development.

Mr. Morris made a motion, seconded by Mr. Pearce to follow the staff recommendation and approve case P11-50 for C(P). Unanimous approval.

IX. CONTESTED ITEMS

CONDITIONAL ZONING DISTRICT

P11-45: REZONING OF 29.77+/- ACRES FROM R40 RESIDENTIAL TO R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CZ CONDITIONAL ZONING DISTRICT FOR A 36 LOT RESIDENTIAL SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHEAST SIDE OF SR 1832 (MURPHY ROAD), NORTHWEST OF SR 1831 (BAYWOOD ROAD); SUBMITTED BY MARY B. RICE ON BEHALF OF BAGGETT FAMILY, LLC (OWNER). (EASTOVER)

Mr. Lloyd presented the case information and stated that the Planning & Inspections Staff recommends conditional approval of the requested rezoning to R20 Residential/ DD Density Development/CZ Conditional Zoning for the 36 lot residential subdivision, based on the following:

1. Although the request is not consistent with the Eastover Area Detailed Land Use Plan map, which calls for one acre lots at this location, it is a reasonable since the difference in density is negligible at slightly less than one unit per acre and the subject property is located between a designated activity node (non-residential) and the Baywood Subdivision area, designated as low density residential (2.1-6 units per acre);
2. The Eastover Plan incorporates the Nodal Corridor Urban Form concept for development in the written text of the plan, had it been contemplated that public water would be available to the properties east of I-95 and following the nodal corridor concept, with the subject property being a little more than one half mile from an activity node, it would likely be adjacent to high density residential uses – the plan reads: *the appropriate land uses surrounding non-residential development nodes are to be high-density residential uses and other support uses, thus creating a neighborhood around the node;*

3. In addition, at the time the Eastover Plan was adopted the Sanitary District had not proposed to extend east of I-95 and it was not foreseen that the properties on the east side of I-95 would have public water available at this early date – utility availability is the reason given for the Baywood area being designated as low density residential in the plan;
4. The proposed development plan along with the ordinance related conditions provide a means of protecting and retaining the rural character of the area, a stated goal adopted in the plan, by providing the 40 foot wide roadside buffer, a 20 foot wide perimeter buffer and ensuring the permanent retention of 40 percent of the tract as open space; in addition, other goals of the adopted plan such as providing a neighborhood identity, a mixture of housing types and densities, providing a positive visual image and interest along thoroughfares will be attained with approval of this development; and
5. The subject property is entirely surrounded by RR Rural Residential and approval of this request would allow for the same lot sizes but more restrictive land uses.

There are no other suitable zoning districts to be considered for this request. The property owner has voluntarily agreed to this staff recommendation and all attached “Ordinance Related Conditions” provided that in the event the owner opts to develop this subdivision with public streets as opposed to private, the revised plans can be reviewed and approved at staff level.

There were people signed up to speak in favor and in opposition.

Talmage Baggett spoke in favor. Mr. Baggett stated that he and his sisters own the property and it was rezoned in the late 90’s to R40, before water was available to the area. It can be developed to R40 which is roughly one lot per acre or they can go with slightly smaller lots. If they are able to use the higher density, it becomes feasible to do a development with a private street and a gated community. They are looking to market to people who are ready to downsize. Mr. Baggett stated that he thought this would make a nice transition from Eastover which we want to keep not so dense, which we all appreciate. From the road you will see mostly open ground; there will be a homeowners association that will maintain the common property. This will be a beneficial subdivision for Eastover. This is a very slight deviation from a land use plan that Eastover has.

Robert Bennett spoke in favor. Mr. Bennett stated that he could answer any questions about the engineering or terrain aspect of the land, but pointed out that the subject property was suitable to density development. The outer perimeter, except for the very east end of it is high and good land. There is a low area down the central part of the land that has been reserved for open space, which is a large open space; houses will hardly be noticeable from Murphy Road. There are concerns about traffic, but traffic is going to increase over the years on Murphy Road whether this subdivision goes forward or not, it’s on the transportation thoroughfare plan and is classified as a major thoroughfare to be widened at some future date. The Transportation Department has been called on in review of this project to dedicate additional right of way, Mr. Baggett and his family are willing to do that. So they are trying in every way to make this a good project.

Mr. Turner asked Mr. Bennett if lots designated 28, 29, and 30 inside of the development, is that still on high ground where the wet area is behind them?

Mr. Bennett stated that all the roads and lots are on higher ground, the terrain has been investigated by a soil scientist who pointed out what is not suitable for septic tanks and that is the part that has been designated for open space to remain trees and natural vegetation.

Mr. Doug Culbreth spoke in opposition. Mr. Culbreth stated that he and his brother own most of the property surrounding the subject property, and have developed the lots on both sides of the road on the left and the right of the subject property. They are delighted with the fact of having a new development in the area. This area has been developed as a rural area, all of our lots are at least an acre a piece, we have approximately sixty acres across the road from there, and thinks that the people they have sold lots to wanted a rural type of atmosphere, and the land use plan still calls for R40. Mr. Culbreth stated that this was like spot zoning, if this was to be allowed. It's not much of a deviation but still thinks it should be one acre lots to preserve the rural atmosphere.

Mr. Morris asked Mr. Culbreth if water was available when he developed his properties.

Mr. Culbreth stated that water was not available.

Mr. Steve Godwin spoke in opposition. Mr. Godwin stated that he has been a home builder for about 41 years, but was present as a property owner that's about 300 feet from where the entrance to this development will be. Eastover is a rural area and is in opposition because this is spot zoning.

Gene Williford spoke in opposition. Mr. Williford stated that he owned property adjacent to the subject property on the east and north side. Mr. Williford said that he would like to see the property kept as one acre tracts, because that's the way Eastover wants it to be, and agrees with that. He's heard mention of Baywood and the density, but no one has mentioned that there's a 150 acre golf course in there with those houses, which cuts the density. Baywood and Stone Creek are not in Eastover Township, they shouldn't even be considered. We are talking about Eastover Township.

Mr. Scott Reynolds spoke in opposition. Mr. Reynolds stated that he was attracted to the one acre lots, which is why he moved to Eastover, and would like to keep it like that. It's an attractive road with those lots and anything else would just detract from that. This will put more people and cars in danger on that road.

Shirley Smith spoke in opposition. Ms. Smith stated that she will be right next to the gate where the entrance is proposed, and her concerns are with the increased traffic.

Mr. Morris asked Ms. Smith how she felt about having a 20' buffer between her property and the adjacent property.

Ms. Smith stated that the buffer would help tremendously, but her real concern is the traffic.

Dave Steinmetz spoke in opposition. Mr. Steinmetz stated that most of his concerns had been answered, or they have been spoken. But his main concerns are with the conditions that would be placed on this.

Mr. Baggett spoke in rebuttal. Mr. Baggett stated that the people who have spoken, he knows well and considers friends. It is unusual that they would be opposing this when most of the property owners in the area have property that is zoned more dense than what he is asking for. With this being less dense than most of the property around it, he's asking for a chance to develop this property and make something special. We are willing to work with anything reasonable, this is a nice piece of property and looks forward to developing it.

Mrs. Epler asked Mr. Baggett if he was going to market all of the lots in the subdivision at the same price regardless of their size.

Mr. Baggett said that there would be some difference in some of the prices.

Mrs. Epler asked about the proposed location of the gate and where it would be.

Mr. Baggett said that they would want people to get off of the road, but it would be on the street coming in and at least two car lengths or so up so people could get in. The gate, from the center of the road it would probably be 50 or 60 feet off. We have proposed a divided median there with the gate in the middle.

Mrs. Epler asked if the Department of Transportation making them put in a turn lane on Murphy Road.

Mr. Baggett said they have talked about it and suspects that they will require that.

Mrs. Epler said that she was asking the questions about the gate because there is a genuine concern for traffic. That's a necessary evil with development, it's going to happen.

Public Hearing closed.

Mr. Morris stated that part of this whole discussion is as our community grows with infrastructure, people don't understand that RR zoning allows for manufactured homes, 20,000 square foot lots, and a lot of different uses. When asking for R20 or R40 they are basically placing themselves in a box where they have to build a stick built house on those properties and they are limiting those developments to that. A lot of the discussion is people not understanding the differences of the zoning. One of the reasons that we designed these things and had the staff place these in the ordinance was to not only preserve the rural environments by utilizing these large open spaces, but also to buffer it from adjacent communities, and utilizing the existing infrastructure. This particular case the family is asking for a 7 lot difference in what they are doing, and that's what we've been asking this community to do for the last 3 years. This is exactly the response that we have all wanted and hoped to see.

Mrs. Epler said that there were a lot of comments about Eastover wanting 40,000 square feet per unit and can understand if that's what they want for their community, but for all practical purposes except for people who visit and live in this neighborhood it's not going to have any other appearance than an underdeveloped piece of property except for that road going in from Murphy Road.

Chair Turner said that everybody in the Eastover community should be happy that they have the developments that they do and seem to live in harmony. The board tries to make every effort to do the right thing. The Planning staff and board has done an excellent job to try and keep everything on an even keel and have some good standard practices in this part of the County. Development is coming, so all we can do is the best that we can.

Mr. Lloyd stated the proposed density would also work as an R30 Density Development.

Mr. Morris stated that he agreed with Mr. Lloyd that this could work as an R30, but at the same time everything that it is around it is rural residential and is essentially 20,000 square feet. So R20 in a rural residential is the same thing just more restrictive. But has no objection to doing the R30 because this will come up again where we have rural residential zoning versus someone that wants to do R20 or R30 and right now all Eastover has wanted to do is R40, it would be nice to see some R30 out there.

Mr. Lloyd said that the thing with a straight R30 is that buffers would not be required along Murphy Road, or around the perimeter, which is why the density fell.

Mr. Morris asked Ms. Mary Rice, the petitioner, if she would have any objection to R30 Density Development.

Ms. Rice stated she had no objections to R30 Density Development.

Mr. Morris made a motion, seconded by Mrs. Epler to accept the voluntary change by the petitioner to R30 Density Development as proposed with conditions as disseminated to the Planning Board. The motion passed 5 to 1 with Mr. Pearce voting in opposition.

X. PUBLIC HEARING WAIVER REQUEST

CASE NO. 11-056. CONSIDERATION OF THE KENNETH HARDIN PROPERTY; REQUEST FOR WAIVER FROM CONSTRUCTION OF REQUIRED SIDEWALK; COUNTY SUBDIVISION ORDINANCE, SECTION 2302.A. MUNICIPAL INFLUENCE AREA AND SECTION 2305. A.4. SIDEWALKS; ZONED: M(P)(AOD); TOTAL ACREAGE: 12.43+/-; LOCATED AT 1171 SOUTH EASTERN BOULEVARD; SUBMITTED BY KENNETH HARDIN (OWNER). (FAYETTEVILLE MIA/COUNTY JURISDICTION)

Mr. Lloyd presented the case information and stated that the developer is requesting waiver from the requirement to construct a sidewalk along South Eastern Boulevard (US HWY 301/I-95 Bus) as required by condition # 15. The construction of a sidewalk is required under the County's Subdivision Ordinance because the adopted Highway Plan for South Eastern Boulevard (US HWY 301/I-95 Bus) classifies this street as a major thoroughfare. This development is also located within the City of Fayetteville's Municipal Influence Area (MIA), which also requires the construction of the sidewalk.

There were two people signed up to speak.

Joseph Brunson spoke in favor. Mr. Brunson stated that there is no pedestrian traffic on north bound or south bound of that road, there doesn't need to be any pedestrian traffic. Sidewalks aren't needed; it will just be in the way.

Kenneth Hardin, applicant, spoke in favor. Mr. Hardin stated that he decided to expand his business by putting in a recycling station. When discussing the installation of three phased power with PWC to operate this equipment they suggested subdividing the land and setting up a separate meter which would save the price of the installation. Mr. Hardin doesn't agree with having to install a sidewalk and feels it is not needed, especially when there are no sidewalks within a mile and a half going towards the airport or towards the City.

Mr. McLaurin asked Mr. Lloyd if there was any correspondence from the Department of Transportation (DOT) stating that if any sidewalk that was put in would have to be off of their right-of-way and also for the sidewalk to be connected back out to their right-of-way at some point, the property owner, County, and DOT, sign a three way agreement and that the property owner would be jointly liable for upkeep of the sidewalk and liable for any injuries.

Mr. Lloyd stated the it said the municipality would be liable, it would be the City of Fayetteville.

Mr. McLaurin also stated that there was a letter from the Engineering Dept. suggesting a waiver for this property.

Mr. McLaurin made a motion to approve the request, seconded by Mr. Pearce that the Joint Planning Board for the County of Cumberland having held a public hearing to consider the waiver request for Case No. 11-056 requesting a waiver from the construction of a required sidewalk, County Subdivision Ordinance and having heard all of the evidence and arguments presented, the board makes the following findings of fact and draws the following conclusions (1) it is the Planning Board's conclusion that because of other unusual physical conditions strict compliance with the provisions of the Cumberland County Subdivision Ordinance would cause a special and unnecessary hardship to the property owner. This finding is based on the following conditions: (1) There is no change in development on the property that should render requirements for sidewalks and would not cause any hardship to others, (2) it is the board's conclusion that the purpose of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, (3) The property owner is not being afforded a special privilege denied to others. Because of the foregoing I move that the request for the waiver be approved. Unanimous approval.

XI. JOINT APPEARANCE COMMISSION REQUEST

Mr. Lloyd updated the Board on the Joint Appearance Commission request and the Codes Committee recommendations to not put a ban on clear cutting and that staff would closely monitor billboard locations along the Hope Mills Bypass and I-295, but wouldn't put anything in the ordinance.

Mrs. Epler made a motion, seconded by Mr. McLaurin to follow the Land Use Codes Committee's recommendations. Unanimous approval.

XII. DISCUSSION

DIRECTOR'S UPDATE

- Mr. Lloyd reminded the board that the ADHOC committee would be meeting to discuss the new annexation policies on Thursday, October 20th.

XIII. ADJOURNMENT

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