

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

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



COUNTY of CUMBERLAND

Planning and Inspections Department

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

MINUTES

July 17, 2012

Members Present

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

Members Absent

Others Present

Mr. Thomas Lloyd
Ms. Patricia Speicher
Ms. Donna McFayden
Mrs. Laverne Howard

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mrs. Epler asked that the agenda be adjusted to allow the Nominations Committee to present their request for a new Chair and Vice-Chair.

Mr. Lloyd requested after approval of the June 19, 2012 minutes he be allowed to present past Chairman Roy Turner with a plaque.

Mr. McLaurin asked that case P12-43 be moved to contested items.

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

III. PUBLIC HEARING WITHDRAWAL

P12-39: REZONING OF 3.06+/- ACRES FROM A1 AGRICULTURAL TO R40A RESIDENTIAL (ORIGINAL REQUEST WAS A1A AGRICULTURAL) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 7132 SIM CANADY ROAD, SUBMITTED BY DONALD H. AND SHELBY T. TOWNSEND (OWNERS).

Mr. Pearce made a motion, seconded by Mr. McLaurin to approve the withdrawal. Unanimous approval.

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 19, 2012, 2012

Mr. McLaurin asked that the entire text amendment be added to the minutes for Case P12-32.

Mr. Hostetter made a motion to accept the minutes with changes, seconded by Mr. McLaurin. Unanimous approval.

VII. PRESENTATION

Mr. Lloyd presented Mr. Roy Turner, former Chairman of the Planning Board a plaque in appreciation for his time as a Planning Board member.

VIII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P12-44:** REZONING OF 2.18+/- ACRES FROM R15 RESIDENTIAL/CUD CONDITIONAL USE DISTRICT FOR A 312 LOT RESIDENTIAL SUBDIVISION (PORTION OF) AND THE PERMIT TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1801 TOM STARLING ROAD, SUBMITTED BY BOYD DALE JR. AND MAE SMITH PARSONS (OWNERS).

The Planning and Inspections Staff recommends approval of the A1 Agricultural district for this request based on the following:

The portion of the subject property zoned R15 Residential/CUD Conditional Use District is the result of a mapping error related to the approval and digitizing of case P10-09 (RR and A1 to R15/CUD & CD/CUD approved on 04/19/2010). This request is reasonable and consistent as it is simply a correction returning that portion of the subject property to its original zoning classification of A1 Agricultural and in no way affects the density of Case No. P10-09.

There are no other districts considered suitable for this request.

Mr. McLaurin made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve A1 Agricultural district, seconded by Mrs. Piland. The motion passed with a unanimous vote.

- B. **P12-45:** INITIAL ZONING OF 14.11+/- ACRES TO R40A RESIDENTIAL, O&I OFFICE AND INSTITUTIONAL AND M INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 7743, 7761 AND 7793 GODWIN FALCON ROAD AND ON THE SOUTH SIDE OF SR 1810 (GODWIN FALCON ROAD), WEST OF SR 1806 (SHERRILL BAGGETT ROAD); OWNED BY GODWIN FALCON FIRE DEPT. INC., DAVID B. AND MARGARET HUDSON AND JAMES W. AND DIANE M. DORMAN.

The County Planning Staff recommends approval of the initial zoning to the R40A Residential, O&I Office and Institutional and M Industrial Districts of the subject properties as shown on the attached sketch map, based on the following:

1. The request is consistent with the Northeast Cumberland Detailed Area Plan, which calls for “medium density residential” and “commercial development” at these locations, as well as meeting the location criteria for “community growth area” as listed in the Land Use Polices of the 2030 Growth Vision Plan;
2. The districts requested are reasonable as public utilities are available to the subject properties; and
3. The request was submitted by the Town of Falcon.

The effective date of annexation was July 1, 2012. There are no other suitable districts to be considered for this request.

Mr. McLaurin made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve R40A Residential, O&I Office and Institutional and M Industrial Districts of the subject properties as shown on the sketch map seconded by Mrs. Piland. The motion passed with a unanimous vote.

IX. PUBLIC HEARING CONTESTED ITEMS

REZONING CASE

- C. **P12-43:** REZONING OF 26.34+/- ACRES FROM C(P)/CU PLANNED COMMERCIAL/CONDITIONAL USE OVERLAY FOR OPEN STORAGE OF EQUIPMENT AND SUPPLIES TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3459 THROUGH 3555 GILLESPIE STREET, SUBMITTED BY CLYDE RAY SR. AND HELEN R. WEAVER (OWNERS) AND ZEB GARDNER.

Mr. Lloyd stated the Planning and Inspections Staff recommends approval of the C(P) Planned Commercial district for this request based on the following:

1. Although the request is not entirely consistent with the location criteria for “heavy commercial”, which calls for public water and sewer – sanitary sewer is not available, the request is reasonable as the 2030 Growth Vision Plan designates this area as urban;
2. The C(P) Planned Commercial district is consistent with the zoning in the general area; and
3. The location and character of the use will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

Mr. McLaurin asked why an applicant couldn't just ask to revert back to original zoning instead of having to go through the rezoning process all over again.

Mr. Lloyd stated that the ordinance was amended in 2005, so they weren't allowed to do everything without the conditional use overlay back in 1999. Before 2005 all the uses weren't allowed in C(P).

Mr. McLaurin stated that they wouldn't have the same uses that they had in 1999.

Mr. Lloyd said that the applicants in 1999 got the C(P)/CU to be able to do what they're doing now, because the C(P) didn't allow all the uses, now they are allowed in the C(P).

Mrs. Epler made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial district, seconded by Mr. McLaurin. The motion passed with a unanimous vote.

- D. **P12-37:** REZONING OF 24.73+/- ACRES FROM A1 AGRICULTURAL AND C(P) PLANNED COMMERCIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 3435 MURPHY ROAD AND NORTHEAST OF SR 1832 (MURPHY ROAD), SOUTHEAST OF I-95; SUBMITTED BY SANDRA F. AUTRY, MARY J. SWANN, SHARON A. PENNY AND MARSHA D. AUTRY AS THE MARGARET MURPHY AUTRY HEIRS (OWNERS) AND JAMES SHERRILL, REMAX HOMEOWNERS LTD. (EASTOVER)

At the June 19, 2012 Planning Board Meeting, the Board asked the property owners if they would consider modifying their request to Conditional Zoning and agree to extend and connect to public sewer. On June 21, 2012 the property owners amended the original application and are now requesting your consideration of a favorable recommendation for a C2(P) Planned Service and Retail/CZ Conditional Zoning District [C2(P)/CZ] for **retailing** on the subject property. However, the property owners are requesting approval of the staff numbered lot 2 to be permitted to install a private septic system, with development on the remaining lots being conditioned upon extension and connection to the public sewer system. The property owners agreed to all "Ordinance Related Conditions" on July 2, 2012.

As the amended request and agreed upon "Ordinance Related Conditions" are more restrictive than the original request, the Staff Recommendation remains unchanged.

Mr. James Sherrill spoke in favor. Mr. Sherrill stated that they did exactly as described, went back and worked with staff to restructure the request to go with the conditional zoning. The owners have no intention of developing the property themselves; they don't have the resources or the knowledge to do that. They anticipate that the retail store coming in at site number two would attract a developer who does have the resources and the ability to develop it. The highest and best use for that land is commercial and within the Eastover Plan for commercial, pulling sewer by any developer coming in would almost always have to be a requirement for their plan to recoup the revenue that they would have through any kind of development.

Jonathan Johnson spoke in opposition. Mr. Johnson stated that he and his wife spoke last month, and his concerns are the same, wanted clarification on the plans, quality of life being threatened, noise, lights, crime, and transient population are still concerns.

Mrs. Piland stated that she appreciated the petitioner working with staff in trying to find some common ground and understands their need to sell their property in a timely fashion and wanting the entire tract zoned commercial, but still has concerns about a large tract of land being zoned commercial without sewer. The reasons for that are basically environmental, as well as the impact on residential areas, which could be environmental too. Mrs. Piland stated that she read a report from the Environmental Protection Agency (EPA) identifying a large shopping area and large business development as having twice the amount of pollutants as the average urban area. Read further as to why that happens, large concentrations of metal going into the septic tank and other chemicals that may be used in businesses going into the septic tank and their not dissolvable, they tend to either/or contaminate the septic tank or they get into the ground water. That is a real concern. Mrs. Piland said she couldn't support

the entire tract of property being zoned C2(P) at this point, however, as she understands there is a buyer available for lot number two and understands that the property owner cannot provide sewer, because it's costly.

Mr. Sherrill spoke in rebuttal. Mr. Sherrill stated that he was informed that lot number four was in a creek and not developable, and didn't feel that it should be addressed, but stated that they would like to see all of the lots changed if possible.

Mr. Clark stated for clarification that the request included all of the lots.

Mr. Sherrill stated the request was for development sections one and three, no intentions at this point of any development, there is no developer on hand for it, the Autry family has tried to address with the conditional zoning and putting in place if there is future development of that area with the conditional zoning, to their understanding anything that is a permitted use will come before the board as well. They have also included language that as a development part of that, sewer would need to come in to develop that parcel, one and three as well.

Mr. Lloyd stated that they need to make sure that the applicant understands and agrees to all of the conditions.

Public Hearing closed.

Mrs. Piland made a motion to approve C2(P)/CZ for retailing on lot number two and that the owner be allowed to use an on-site septic system prior to sewer availability and the availability be defined according to the Eastover Sanitary District (ESD) and the sewer system has the capacity to accommodate the development and that the interim on-site septic system be decommissioned at the time sewer is available and the property connected to the sewer system within one year of sewer availability and that the owner understand that there may be assessment costs related to the connection. For lot number four be approved for C2(P) and deny the petitioners request for lot number one and lot number three and that all other conditions applied by staff apply, seconded by Mr. Pearce.

Mrs. Epler stated that the applicants have made concessions and done the best that they could to assure that when the rest of this property, before it is developed, sewer would be run to it. They've put in a thirty foot buffer at the back of the property and will need to do additional buffering. This is going to be a hub of commercial property, if you look at this from a different standpoint; it is hard for this family who owns this property and has no desire to develop it, it's hard for them to put this property on the market as commercial property when a proposed developer or buyer comes in here and knows they are going to have to go through a rezoning process. Mrs. Epler stated that they know what this area is going to be and feels like this family should be able to market this property reasonably, and they're not going to be able to do that if it's not zoned commercial. When it comes back and wants to purchase that property and sewer is available, these homeowners may not be protected by a buffer at that time, because if they come in for a straight rezoning you might not be able to put that condition on that rezoning. Mrs. Epler feels like they have gone above and beyond and can't support the motion.

Mr. Sherrill came forward and stated that he couldn't comment on the pending sale for lot number two and their acceptability to the motion.

Mr. Lloyd clarified that the motion wouldn't effect who's purchasing the lot it would be on the property owner, and that the property owner would need to agree, it couldn't be the representative.

Mr. Sherrill stated, after consulting with the owners, they could not commit to what the buyer of this particular retail site would be willing to do. This site is less than twelve thousand square feet with two toilets and two sinks, with no opportunity for expansion or growth. The impact of that, we don't know if that would be enough to force them into the position where they would need to connect. The owners would like to see this case move forward to Eastover.

Mr. Morris asked Mr. Sherrill if he was aware that if the case was denied they would not be able to come back for a year.

Mr. Sherrill stated they were aware.

Mrs. Epler made a motion, seconded by Mr. Morris to defer Case P12-37 for one month to come back on August 21, 2012 to give them time to consult with the proposed buyer, the property owner agreed. Unanimous approval.

X. NOMINATIONS COMMITTEE REPORT

Ms. Hall advised the board that Mr. Clark was nominated as Chairman and Ms. Hall was nominated as Vice-Chairman.

Ms. Hall made a motion to accept the nominations of Chairman and Vice Chairman, seconded by Mr. McLaurin. Unanimous approval.

XI. DISCUSSION

DIRECTOR'S UPDATE

WORK PROGRAM

- Mr. Lloyd presented the work program for the upcoming year. The board added working on Godwin and Eastover Zoning Ordinance and Board of Adjustments for Godwin, Wade, and Eastover.

Mr. Morris made a motion, seconded by Mrs. Epler to approve the adjusted work programs. Unanimous approval.

MPO – PLANNING BOUNDARY

- Mr. Lloyd stated that he attended a Transportation Coordinating Committee (TCC) meeting about the proposed MPO boundaries for the municipal planning area, and had some concerns about where that goes to the east of Eastover. The TAC committee needs to have an Eastover representative and feels that the board needs to be apprised of what goes on with this committee and will keep them apprised of what goes on with the MPO boundary.

XII. ADJOURNMENT

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