

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



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MINUTES

September 17, 2013

Members Present

Mr. Patricia Hall, Vice-Chair
Mrs. Diane Wheatley
Mr. Benny Pearce
Mr. Carl Manning
Mr. Harvey Cain, Jr.
Mr. Charles Morris
Dr. Vikki Andrews
Mr. Donovan McLaurin

Members Absent

Mr. Walter Clark
Mr. Garland Hostetter

Others Present

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

Mr. McLaurin requested that P13-43 be pulled from the consent agenda and moved to contested items.

Mrs. Wheatley made a motion, seconded by Ms. Andrews to approve the adjustment to the agenda. Unanimous approval.

III. PUBLIC HEARING DEFERRAL /WITHDRAWAL

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

Mr. Morris stated that he would abstain from voting on case P13-42.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF AUGUST 20, 2013

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

VII. PUBLIC HEARING CONSENT ITEMS

ZONING ORDINANCES

- A. **P13-36.** CONSIDERATION OF ADOPTION OF AN ORDINANCE REGULATING THE ZONING OF PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF GODWIN AND ENFORCEMENT OF THE SAME. (GODWIN)

The Planning and Inspections Staff recommends approval of the proposed Godwin Zoning Ordinance for the Town of Godwin, based on the following:

1. The proposed ordinance is consistent with the County Zoning Ordinance standards, which the properties within the town have been subject to since November 1980;
2. The zoning for each property within the town remains unchanged; and
3. The ordinance was requested by the town.

Attached to the ordinance is the proposed fee schedule that is identical to the County fee schedule for zoning-related matters. The Planning Staff member assigned to the town has conducted work sessions reviewing the proposed ordinance with the elected officials on two separate occasions. The complete text of the ordinance can be viewed at: <http://www.co.cumberland.nc.us/planning/ordinances/godwin.aspx>

Mr. McLaurin made a motion, to recommend the adoption and approval of the zoning ordinance as submitted by the Planning & Inspections staff, seconded by Mrs. Wheatley. The motion passed with a unanimous vote.

- B. **P13-37. CONSIDERATION OF ADOPTION OF AN ORDINANCE REGULATING THE ZONING OF PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF WADE AND ENFORCEMENT OF THE SAME. (WADE)**

The Planning and Inspections Staff recommends approval of the proposed Wade Zoning Ordinance for the Town of Wade, based on the following:

1. The proposed ordinance is consistent with the County Zoning Ordinance standards, which the properties within the town have been subject to since November 1980;
2. The zoning for each property within the town remains unchanged; and
3. The ordinance was requested by the town.

Attached to the ordinance is the proposed fee schedule that is identical to the County fee schedule for zoning-related matters. The Planning Staff member assigned to the town has conducted work sessions reviewing the proposed ordinance with the elected officials on two separate occasions. The complete text of the ordinance can be viewed at: <http://www.co.cumberland.nc.us/planning/ordinances/wade.aspx>

Mr. McLaurin made a motion, to recommend the adoption and approval of the zoning ordinance as submitted by the Planning & Inspections staff, seconded by Mrs. Wheatley. The motion passed with a unanimous vote.

REZONING CASES

- C. **P13-38. REZONING OF 9.88+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED WEST OF SR 1006 (WADE STEDMAN ROAD), NORTHWEST OF SR 1006 (MAXWELL ROAD); SUBMITTED BY ERNEST A. JR. AND RUTH BUNCE (OWNERS).**

The Planning and Inspections Staff recommends approval of the R40 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for "rural density residential" development as listed in the Land Use Policies Plan; and

2. The location and character of the district is reasonable and will be in harmony with the surrounding area.

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 R40 Residential district, seconded by Mrs. Wheatley. The motion passed with a unanimous vote.

- D. **P13-39.** REZONING OF 3.07+/- ACRES FROM R6A RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3857 LEGION ROAD, SUBMITTED BY GREG MCLEAN ON BEHALF OF TRACE INVESTMENTS, LLC. (OWNER) AND MICHAEL J. ADAMS PLS.

The Planning and Inspections Staff recommends approval of the C2(P) Planned Service and Retail district 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 “light commercial” development as listed in the Land Use Policies Plan; the request is also consistent with the proposed Southwest Cumberland Land Use Plan which calls for “mixed use” at this location;
2. The request is reasonable because SR 1132 (Legion Road) is a major thoroughfare that is planned as a multi-lane facility with a right-of-way of 100 feet and public utilities are available to this site; and
3. Consideration of the C2(P) Planned Service and Retail district for the subject property is reasonable because the request is comparable to development and rezonings within the general area.

The C1(P) Planned Local Business district could also be 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 C2(P) Planned Service and Retail district, seconded by Mrs. Wheatley. The motion passed with a unanimous vote.

- E. **P13-42.** REZONING OF 3.65+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF SR 1810 (GODWIN FALCON ROAD), NORTHWEST OF SR 1806 (SHERRILL BAGGETT ROAD); SUBMITTED BY CLIFTON L. JR. AND JOSEPHINE TURPIN ON BEHALF OF TURPIN RENTALS LLC. (OWNER) AND DAVID R. EVANS.

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

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “community growth area” at this location, as well as meeting the location criteria for “heavy commercial” development as listed in the Land Use Policies Plan; the request is also consistent with the Vision Northeast Land Use Plan which calls for “commercial” at this location;
2. The location and character of the district will be in harmony with the surrounding area and is comparable with recent rezonings in the general area; and
3. The request is reasonable as public utilities are available to the subject property.

The C1(P) and C2(P) districts could also be 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 C2(P) Planned Service and Retail district, seconded by Mrs. Wheatley. The motion passed with a unanimous vote with Mr. Morris abstaining from the vote.

VIII. PUBLIC HEARING CONTESTED ITEMS

- F. **P13-43.** REZONING OF 1.30+/- ACRES FROM A1 AGRICULTURAL TO R30A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF SR 1721 (TOM GEDDIE ROAD), NORTHEAST OF SR 1725 (MIDDLE ROAD); SUBMITTED BY JOHN WILLIAM AUTRY JR. (OWNER). (EASTOVER)

Mr. Lloyd stated that the Planning and Inspections Staff recommends approval of the R30A Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “community growth area” at this location, as well as meeting the location criteria for “suburban density residential” development as listed in the Land Use Policies Plan;
2. Although the district requested is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for “one acre residential lots” at this location, approval will allow for lot sizes comparable with existing lots in the general area;
3. In addition, at the time the Eastover Detailed Plan was adopted, the Sanitary District did not have public water available to the subject property; and
4. The location and character of the district is reasonable and will be in harmony with the surrounding area.

The A1A and R40 districts could also be considered suitable for this request.

Public hearing opened.

Mr. Billy Autry spoke in favor. Mr. Autry stated that he didn't get as much land as he wanted; he thought the lot was bigger, but bought the lot because his parents own the land adjacent to the subject property, and wanted to be closer to them to help them out. Mr. Autry stated that he was looking to build a house on the subject property, and also wanted to split the lot and found out that he couldn't because of the size of the lot. His only other option was to rezone the property to R30A so that he could build a house on the lot and if necessary put a manufactured home.

Public hearing closed.

Mr. McLaurin stated that generally in that area there are all brick homes and the ordinance encourages orderly growth. If developers come in and want to develop a tract of land to put houses on, it's usually rezoned to R7.5 or something similar. That lets people know who are moving in that development what exactly can be put there. That will provide for orderly growth and also provide for general welfare and health. Part of general welfare is protecting their financial investment, and the greatest financial investment that people have is their home. If you can protect their financial welfare by orderly growth we have met the purpose of why we come here. Mr. McLaurin went on to say that the requested rezoning will allow mobile homes and that would not help the value of the surrounding property and it wouldn't be orderly development compared to the other homes. Mr. McLaurin said it's the board's duty to protect their use of orderly development and financial welfare.

Mr. McLaurin made a motion to deny the request for R30A Residential district but approve R30 Residential district.

Mr. Morris asked the applicant if he had any objection to R30 zoning, and explained that R30A allows for manufactured homes and R30 means anything he puts there will be stick built.

Mr. Autry stated that he would need R30A zoning.

Mr. McLaurin made a motion to deny the adoption and approval of the consistency and reasonableness statements and to deny R30A Residential district and approve R30 Residential district, seconded by Mr. Morris. The motion passed with a unanimous vote.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 13-072. CONSIDERATION OF THE SCOTT S. & LILIANA C. PARKER PROPERTY; GROUP DEVELOPMENT REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE DIRECT STREET ACCESS; COUNTY SUBDIVISION ORDINANCE, SECTION 2401.D STREET ACCESS; ZONED: A1; TOTAL ACREAGE: 11.1+/-; LOCATED AT 6300 HALL PARK ROAD; SUBMITTED BY SCOTT S. & LILIANE C. PARKER. (OWNER).

Acting Chair Hall swore in Mr. Lloyd.

Mr. Lloyd presented the case information and stated that planning staff is for this for a number of reasons, one, there are two recorded easements, but most importantly the state statutes allowed them to create a legal lot 10 acres or greater. This lot is a legal lot, yet it has to go through this process in front of the board to get a waiver to get a group development, you don't need access, by way of the statutes to create lots 10 acres or greater. So staff recommends that one this be approved, and two, this board consider that when a legal lot like this comes in it can be an administrative procedure and avoid having to come for a group development or waiver. Mr. Lloyd just asked the board to consider making this an administrative procedure.

Mr. McLaurin made a motion that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider the waiver request for Case No. 13-072 where the property owner is requesting to not be required to have the mandatory 20 feet of road frontage and develop the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and arguments presented, I move that the board makes the following findings of fact and draws the following conclusions: 1. It is the Planning Board's conclusion that because of the size of the tract to be subdivided; strict compliance with the provisions of the County Subdivision Ordinance would cause a special hardship to the property owner and be inequitable; this finding is based on the following conditions: It would be inequitable not to allow a second unit on the existing 11 plus acre tract; 2. It is the Board's conclusion that the public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree; this finding is based on the following conditions: The public purposes of the ordinances are met because there is a recorded 30 foot wide ingress/egress easement that protects the access rights of the occupants; and 3. It is the Board's conclusion that the property owner would not be afforded a special privilege denied to others; this finding is based on the following conditions: The property owner would not be afforded a special privilege because when given a similar set of facts and circumstances the board's ruling to grant the access waiver has been and would be the same. This motion pertains to the permitting and construction of the second dwelling unit only, provided all other conditions are met, and is not intended to apply toward any future or additional development of the subject property. Because of the foregoing, I move that the request for waiver be approved, seconded by Mr. Morris. The motion passed with unanimous approval.

X. DISCUSSION

- Mr. Lloyd advised the board that the TigerSwan case will be heard at the October 1, 2013 Planning Board meeting.
- Mr. Lloyd stated that after seeing the board's reaction on the group development we'll just keep bringing them before the board.

- Mr. Lloyd stated that when making a recommendation staff does consider health, safety, and welfare, but financial interest/effect has not been deemed health, safety, and welfare by the courts.

DIRECTOR'S UPDATE

There was none.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:52 p.m.