



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Walter Clark,
Cumberland County

Benny Pearce,
Town of Eastover



Planning & Inspections Department

MINUTES

March 17, 2015

Members Present

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

Members Absent

Others Present

Mr. Thomas Lloyd
Ms. Annie Melvin
Mrs. Laverne Howard
Ms. Patricia Speicher
Mr. Rick Moorefield
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

Mr. Pearce requested that Case P14-61 be moved from the consent items and moved to contested items.

Mr. Morris made a motion to approve the agenda with the adjustment, seconded by Ms. Andrews. 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 MARCH 3, 2015

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

VII. PUBLIC HEARING ITEMS

TEXT AMENDMENT

- A. **P15-16.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, BY AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS, INSERTING IN ALPHABETICAL ORDER THE TERM AND DEFINITION FOR “DISTILLERY, SMALL”; AMENDING ARTICLE IV PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403. USE MATRIX BY INSERTING IN ALPHABETICAL ORDER A NEW ROW ENTITLED “DISTILLERY, SMALL” IN THE LAND USE COLUMN AND ALLOWING THIS USE AS PERMITTED IN THE C(P) PLANNED COMMERCIAL ZONING DISTRICT COLUMN ON THIS SAME ROW AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the text amendment in Case No. P15-16 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* as it is an effort to promote the redevelopment of deteriorating commercial areas and reduce regulatory measures that hinder commercial development – stated goals of the plan.

The staff further recommends the board find that approval of the text amendment is reasonable and in the public interest because the growing microdistilling movement can be a vehicle for economic development.

2nd MOTION

The Planning and Inspections Staff recommends approval of Case No. P15-16 for a text amendment creating provisions for small distilleries in the County based on the following:

If approved, the proposed amendment would define and permit small craft distilleries in a less intensive district thus delineating them from major manufacturing distilleries that are only permitted in the M(P) Planned Heavy Industrial district.

Mr. McLaurin made both of the motions referenced above, seconded by Mr. Morris, to follow the staff recommendations and approve the request. The motions passed unanimously.

- B. **P15-17.** REVISION AND AMENDMENT TO THE TOWN OF FALCON ZONING ORDINANCE, CREATING PROVISIONS REGULATING RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS BY AMENDING ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF PERMITTED USES, TABLE 1-A, PERMITTED AND SPECIAL USES RESIDENTIAL DISTRICTS – R-40A, AND TABLE 1-I, PERMITTED AND SPECIAL USES CD CONSERVANCY DISTRICT; AMENDING ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF PERMITTED USES BY CREATING SECTION 3.45, RECREATION VEHICLE PARK AND/OR CAMPGROUND, INCLUDING SUB-SECTIONS (A) THROUGH (M); AND AMENDING ARTICLE X. DEFINITION OF TERMS, SECTION 10.2 DEFINITIONS OF SPECIFIC TERMS AND WORDS BY INSERTING DEFINITIONS FOR: ANCILLARY, CAMPGROUND/RV PARKS, RECREATIONAL VEHICLE, AND RECREATIONAL VEHICLE PARK; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

1ST MOTION

The Planning and Inspections Staff recommends approval of Case No. P15-17 for a text amendment creating provisions for recreational vehicle parks and campgrounds within the Town of Falcon based on the following:

1. If approved, the proposed amendment would allow recreational vehicle parks and campgrounds as permitted uses within the town; and
2. The proposed provisions would ensure that the minimum standards would be met.

2nd MOTION

The Planning and Inspections Staff recommends the board find that approval of the text amendment in Case No. P15-17 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* as it is an effort to ensure that the Town of Falcon's zoning ordinance is updated and revised to be more consistent with county standards.

The staff further recommends the board find that approval of the text amendment is reasonable and in the public interest as the town is a destination for religious worship coupled with the close proximity to I-95 necessitates the need for campgrounds and RV parks.

Mr. McLaurin made both of the motions referenced above, seconded by Mr. Morris, to follow the staff recommendations and approve the request. The motions passed unanimously.

VIII. PUBLIC HEARING CONSENT ITEMS

REZONING CASE

- C. **P15-15.** REZONING OF 1.74+/- ACRES FROM A1 AGRICULTURAL TO R40A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 7209 BUTLER NURSERY ROAD, SUBMITTED BY JENNIFER C. MELTON (OWNER).

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-15 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "rural" at this location as the proposed district would allow development at one or less units per acre. The request is also consistent with the draft South Central Land Use Plan which calls for "farmland" at this location.

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *individual well and septic systems are allowed; could be located in any defined critical area as defined by the Fort Bragg Small Study Area; desirable to be limited to 1 unit per acre in areas with hydric soils and severe septic tank limitations; desirable to not be located in an area that is a prime industrial site and may be outside the Sewer Service Area.*

2nd MOTION

The Planning and Inspections Staff recommends the board approve Case No. P15-15 for the R40A Residential district based on the above information and the following:

- The R40A Residential district will allow for land uses and lot sizes that exist in the general area.

Mr. Morris made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.

- D. **P15-05.** REZONING OF 1.88+/- ACRES FROM R6A RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL/CZ CONDITIONAL ZONING FOR RETAILING, OFFICE AND TRADE CONTRACTOR OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF SR 1126 (BROOKLYN CIRCLE), NORTHEAST OF LADY LANE ROAD; SUBMITTED BY THOMAS D. HORNE AND TIMOTHY SEALY ON BEHALF OF DIRECTIONAL SERVICES INC. (OWNER) AND GREG BAGLEY.

On February 22, 2015 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for a C2(P) Planned Service and Retail/CZ Conditional Zoning district for trade contracting with open storage.

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-05 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban fringe” at this location as approval would be consistent with the zoning for adjacent property under the same ownership. The request is consistent with the Southwest Cumberland Land Use Plan which calls for “heavy commercial” at this location.

The staff also recommends the board approve this rezoning request as it is reasonable and in the public interest because the district requested for the subject property meets most of the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required*, the criteria not met is public sewer which is not available; *should serve as a transition between heavy commercial, office & institutional or residential development*, this request would serve as a transition as heavy commercial already exists adjacent and at the intersection of Brooklyn Circle and US HWY 301 S and *should provide convenient goods and services to the immediate surrounding neighborhood*.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff recommends the board approve Case No. P15-05 for the C2(P) Planned Service and Retail/CZ Conditional Zoning district for trade contracting with open storage based on the following:

- The location and character of the requested district will be in harmony with the general area.

There are no other districts considered suitable for this request at this location. The property owner has voluntarily agreed to all “Ordinance Related Conditions.”

Mr. Morris made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.

IX. PUBLIC HEARING CONTESTED ITEM

CONDITIONAL ZONING DISTRICT

- E. **P14-61.** REZONING OF 21.85+/- ACRES FROM RR RURAL RESIDENTIAL TO R30 RESIDENTIAL/DD DENSITY DEVELOPMENT/CZ CONDITIONAL ZONING FOR A 25 LOT RESIDENTIAL SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED SOUTH OF SR 1828 (JAMES DAIL ROAD), EAST SIDE OF SR 1831 (BAYWOOD ROAD); SUBMITTED BY FRANCES TART (OWNER) AND CHRIS MANNING. (EASTOVER)

1st MOTION

The Planning and Inspections Staff recommends the board approve Case No. P14-61 for the R30 Residential/DD Density Development/CZ Conditional Zoning district for a 25 lot residential subdivision based on the following:

- The proposed development plan along with the Ordinance Related Conditions, provides a means of protecting and retaining the rural viewshed of the area 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.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P14-61 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “community growth area” at this location because the district requested will allow for single family dwelling units on relatively large lots in a suburban area. Although the requested district is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for “one acre residential lots” at this location, the request for R30

Residential is logical as the property is currently zoned RR Rural Residential which would allow for 20,000 sq. ft. lots and a wide variety of land uses that are not allowed in R30 .

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *septic systems allowed based on soil type, lot size, and distance from sewer; must have direct access to a public street*, Baywood Road is a public street and the subject property is *not located in any defined critical area as defined by the Fort Bragg Small Study Area*.

Generally, there are no other districts suitable for this request at this location. The property owner has voluntarily agreed to all "Ordinance Related Conditions."

There were people present to speak in favor and in opposition.

Public hearing opened.

Ms. Frances Tart spoke in favor. Ms. Tart stated she was asking for favorable consideration for the rezoning of the subject property. Ms. Tart and her husband have owned the property since the 1970's and for forty years the property has gone unchanged and the property taxes get paid. The property became a part of Eastover when the municipality was formed in 2007. The proposed project will consist of nice homes in the two hundred thousand to three hundred thousand dollar price range. This project would increase the tax base of Eastover by approximately five million dollars; it will provide additional users for the public water system and it will actually appreciate the value of surrounding properties. Eastover has a vision for their town, and they are commendable. Provisions are provided in the requested rezoning that address any concerns they may have. This proposed project will preserve open space through restriction of development on a large percentage of the land. Any issues of septic tanks will be addressed through Environmental Health. Many of the lots are over one acre in size; Ms. Tart understands that this is a concern for the Town of Eastover. They have a policy that a lot has to have a certain amount of square footage for septic tanks, to say that one size fits all when it comes to land development is outside the bounds of good planning. Ms. Tart agrees that public sewer would be preferable, but it is not available and Eastover cannot provide it at this time. To deny rezoning based upon that one issue, when Environmental Health has approved it is unreasonable. Sometimes we have to adjust our lens and see the overall benefit to the town. We have worked diligently on this project, there were several encroachments on this property by several property owners and we have worked amicably with them and resolved these issues. This is a win/win situation for all involved. Ms. Tart asked the board again for their approval and thanked them for their time.

Mr. Scott Brown spoke in favor. Mr. Brown stated that they worked together with County staff, and worked with property owners to remove encroachments. A large portion of this site is covered with wetlands and there are provisions for this in the density development. This will allow for certain situations like this and will provide forty percent open space. We have complied with the forty percent open space requirement, the forty foot right-of-way buffer, and a twenty foot natural buffer. Mr. Brown stated that they were present asking for the board's recommendation to the Town of Eastover.

Mr. Gene Williford spoke in favor. Mr. Williford stated that he thought the proposed project was admirable and thought it would work. The only thing he has a problem with is mobile homes, he is against that.

Mr. Lloyd stated that the current zoning will allow mobile homes.

Pamela Crabtree spoke in opposition. Ms. Crabtree stated that she was concerned with what is being rezoned and where they are planning to build.

David Perkey spoke in opposition. Mr. Perkey pointed out his property on the map. Mr. Perkey stated that he couldn't use half of his property because of wetlands. Mr. Perkey stated that one of his concerns

was with the wetlands. He is also concerned with the twenty foot buffer and is worried about property values.

Mr. Lloyd stated that issues the speaker brought up about flooding are regulated by the State, the Department of Environment & Natural Resources, so that will be looked at and monitored by the State, the detention ponds as well as erosion control and sedimentation, and the Army Corp of Engineers regulates wetlands.

Kim Nazarchyk spoke in opposition. Mr. Nazarchyk stated that he was currently serving as the Eastover Town Manager. He stated that this case does not entirely meet the Eastover Land Use Plan due to the size of the lots. We do like a one acre lot, but we know that is not always feasible in all cases. His concern is even though the average lot size is twenty thousand square feet, from what he determined there will be roughly sixteen possibly eighteen lots that will be less than twenty thousand square feet, but most of those are somewhere between fifteen and seventeen thousand square feet, and that's just a little smaller than what we like to see. Hydric soils could present a problem in the future. Mr. Nazarchyk requested that the board deny the request for rezoning.

Mr. Morris asked Mr. Nazarchyk if he was aware that the current zoning is for RR which is twenty thousand square feet, with the current zoning there are no buffers, no forty percent and would allow manufactured homes.

Mr. Nazarchyk said yes he was aware.

Ms. Evelyn L. Stackley spoke in opposition. Ms. Stackley pointed out her property on the map. Ms. Stackley stated that they moved to Eastover for privacy, and what they are concerned about is single wide trailers coming in.

Mr. Morris stated that there seems to be some miscommunication about the current RR that allows for single wide manufactured homes, the proposed rezoning of R30 does not, but we keep hearing that some publication went out that everyone has interpreted that there will be single wide manufactured homes when that's not the case at all.

Mr. Lloyd stated that the notice letter always reads what the current zoning is and in this case the current zoning allows manufactured homes and the requested rezoning designed for single family homes.

Mr. Brown spoke in rebuttal. Mr. Brown stated that he agrees that there is some miscommunication that is causing a misunderstanding, what we're asking for is actually restricting the property. We are asking for fewer lots and restricting the use. Mobile homes aren't even allowed with the requested rezoning. We could put trailer parks and more lots without having to ask for anything.

Mr. McLaurin asked Mr. Brown if this could work with R40 rezoning.

Mr. Brown stated that he had not looked at that, but he would have to see what the restrictions on R40 would be.

Mr. Pearce asked Mr. Brown of the twenty five lots that he has now how many are less than twenty thousand square feet.

Mr. Brown stated that nineteen were less than twenty thousand square feet.

Mr. Pearce said that six have greater than twenty thousand, and three of those six have part of the wetlands on them, is that correct?

Mr. Brown said yes. Mr. Brown stated that the wetlands have been delineated.

Public hearing closed.

Mr. Morris made both of the motions referenced above, seconded by Mr. McLaurin, to follow the staff recommendations and approve the rezoning request. The motions passed with Mr. Pearce voting in opposition.

- F. **P15-09.** REZONING OF 8.42+/- ACRES FROM R6A TO C2(P) PLANNED SERVICE AND RETAIL/CZ CONDITIONAL ZONING FOR RETAILING, OFFICE AND TRADE CONTRACTOR OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF SR 1126 (BROOKLYN CIRCLE), NORTHEAST OF LADY LANE ROAD; SUBMITTED BY THOMAS D. HORNE AND TIMOTHY SEALY ON BEHALF OF DIRECTIONAL SERVICES INC. (OWNER) AND GREG BAGLEY.

On February 22, 2015 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for a C2(P) Planned Service and Retail/CZ Conditional Zoning district for trade contracting with open storage.

1st MOTION

The Planning and Inspections Staff recommends the board find the request is not consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban fringe” at this location, approval would allow incompatible commercial encroachment into a residential area, and that the request is not consistent with the Southwest Cumberland Land Use Plan which calls for “medium density residential” at this location.

The staff also recommends the board further find that this request is not reasonable nor in the public interest because the district requested for the subject property does not meet the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required*, public sewer is not available; *should serve as a transition between heavy commercial, office & institutional or residential development*, this area is an established residential neighborhood and not in transition, and *may be located along a street that is in transition from residential to non- residential through redevelopment and physical improvements*, Brooklyn Circle is a local residential street serving residential uses.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff recommends the board deny Case No. P15-09 for the C2(P) Planned Service and Retail/CZ Conditional Zoning district for trade contracting with open storage based on the following:

- The requested district is not logical as it would allow commercial uses to encroach into a residential area.

There are no other districts considered suitable for this request. The property owner has voluntarily agreed to all “Ordinance Related Conditions.”

There were people present to speak in favor.

Public hearing open.

Mr. Timothy Sealy spoke in favor. Mr. Sealy stated that he has operated his business for ten years and has created over forty local jobs. Mr. Sealy would like to expand, they need the extra space; they don't plan on having any big trucks on Brooklyn Circle. The land was purchased from the County at auction. No plans on doing anything negative and will put up a fifty foot buffer behind any residential. Mr. Sealy pointed out other property he owns surrounding the subject property.

Mr. Clark asked Mr. Sealy what his business was.

Mr. Sealy stated underground utility work, underground power, gas, water.

Mr. Clark asked if what he wanted to store was materials.

Mr. Sealy said yes and had plans to put a secure lot.

Greg Bagley spoke in favor. Mr. Bagley is a professional engineer and was present representing Mr. Sealy. Mr. Bagley stated that one of the concerns was that there was no sewer on the subject property, but we have water. The need for sewer has been reduced on this site, we have over eight acres and its zoned R6 you could put 48 residences here, but we will have a miniscule amount of water use. Staff helped to get us to this point and reduce it. We have one building with four bathrooms and no showers.

Public hearing closed.

Mr. Morris stated that there was no one present in opposition, that either shows that everyone there thinks that this is an improvement or they are not concerned that it is going to damage their values. Mr. Morris stated that one of his concerns was, would the board's actions affect the adjacent property values. Another concern is that is a residential road and this will be a commercial encroachment on it and the red brick house there will have a commercial use on two sides of it and don't think that will improve the value of it.

Mr. Clark made a motion to defer case P15-09 for thirty days, without having to pay resubmission fee, to give the applicant time to work on an ingress / egress to occur on HWY 301, seconded by Mr. Morris. Unanimous approval.

X. DISCUSSION

Mr. Lloyd stated that we would just email the changes made to the solar farms proposal to the Codes Committee so it could move forward to the Planning Board.

XI. ADJOURNMENT

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