

MINUTES
February 20, 2001
7:00 p.m.

Members Present

John M. Tyson, Chair
Joe W. Mullinax, Vice-Chair
Dallas Byrd
C.S. "Pete" Connell
John M. Gillis
Clifton McNeill
Jerry Olsen
Jeff Reitzel

Staff Present

Barry Warren, Director
Thomas J. Lloyd
Donna McFayden
Matthew Rooney
Barbara Swilley

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. McNeill delivered the invocation, and Vice-Chair Mullinax led those present in the Pledge of Allegiance.

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

Mr. Lloyd asked that Case No. P01-06 be taken off of the Agenda because an amendment is being created that will eliminate the need for the rezoning.

Mr. Lloyd asked that Case No. 91-077 be taken from Plats and Plans and added to the Consent section.

A motion was made by Mr. McNeill and seconded by Mr. Gillis to approve the Agenda as amended. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

A. P00-76. REZONING FROM R6A RESIDENTIAL TO HS(P) PLANNED HIGH-WAY SERVICE, OR A MORE RESTRICTIVE ZONING CLASSIFICATION, ON THE WEST SIDE OF MCCORMICK ROAD, NORTH OF HOLLOWAY STREET, THE PROPERTY OF WOODROW AND LAUNA HINKLE. (SPRING LAKE)

Mr. Lloyd asked that this case be deferred in order to complete the Recreational Vehicle Park Overlay District to address the issue.

A motion was made by Mr. Gillis and seconded by Mr. Connell to defer Case No. P00-76 until May 1, 2001. The motion passed unanimously.

IV. ABSTENTIONS BY BOARD MEMBERS

Mr. Reitzel said that he would abstain from discussion and voting on Case 91-077.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Planning Board's policy statement on public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF FEBRUARY 6, 2001

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to approve the Minutes of February 6, 2001 as written. The motion passed unanimously.

B. P01-05. REZONING FROM R10 RESIDENTIAL TO RR RURAL RESIDENTIAL, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, SOUTH OF THE INTERSECTION OF CRYSTAL SPRINGS AND CAMDEN ROADS, THE PROPERTY OF DAVID B. SUGGS.

The Planning staff recommended approval of the RR Rural Residential District based on the following:

1. The rezoning is consistent with current development and the trend of the area over the past 10 years; and
2. The Land Use Plan calls for low-density residential development at this location.

The Planning staff found that the subject property is also suitable for the R15 and R20 Residential Districts.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the RR Rural Residential District. The motion passed unanimously.

C. P01-07. REZONING FROM A1 AGRICULTURAL TO R40A RESIDENTIAL, ON GODWIN-FALCON ROAD, ADJACENT TO THE I-95 INTERCHANGE, THE PROPERTY OF GWENDOLYN MCMILLAN, DOROTHY MCDUFFY AND CLEVELAND MYLES.

The Planning staff recommended approval of the R40A Residential District based on the following:

1. Water is available to the subject property;
2. The Planning Board's policy is to allow R40 and R40A zoning in small tracts within farmland, depending upon the character of the area; and
3. The subject property is located within the Godwin-Falcon Municipal Influence Area.

The Planning staff found that the subject property is also suitable for the R40 Residential District.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the R40A Residential District. The motion passed unanimously.

D. P01-09. REZONING FROM R10 RESIDENTIAL TO C1 LOCAL BUSINESS, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, ON THE SOUTH SIDE OF CUMBERLAND ROAD, WEST OF THE SEABOARD COASTLINE RAILROAD, THE PROPERTY OF JAMES P. JACOBS.

The Planning staff recommended approval of the C1 Local Business District based on the following:

1. The 2010 Land Use Plan calls for heavy commercial use at this location;
2. The C1 District is consistent with the development in the area;
3. Cumberland Road is designated as a Primary Business Street, and the C1 District is appropriate on a business street; and
4. The subject property meets the purpose and intents statement of the C1 District.

The Planning staff found that the subject property is not suitable for the intervening residential districts.

Note: The road widening project is complete at this location on Cumberland Road, and the subject property will not be further impacted by the remainder of the project.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the C1 Local Business District. The motion passed unanimously.

E. P01-10. REZONING FROM A1 AGRICULTURAL TO RR RURAL RESIDENTIAL, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, ON THE NORTH SIDE OF SAND HILL ROAD, EAST OF CYPRESS LAKE ROAD, THE PROPERTY OF JOE AND JANIE PURDIE. (COUNTY)

The Planning staff recommended approval of the RR Rural Residential District based on the following:

1. The 2010 Land Use Plan calls for low-density residential use at this location.

The Planning staff finds that the subject property is not suitable for the R40 or R40A Residential Districts and is suitable for the R30 District with only one unit.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the RR Rural Residential District. The motion passed unanimously.

F. P01-11. REZONING FROM M(P) PLANNED INDUSTRIAL TO A1 AGRICULTURAL, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, ON WILMINGTON HIGHWAY, NORTH OF EAST MOUNTAIN DRIVE, THE PROPERTY OF JOHN AND MARGARETE KOENIG.

The Planning staff recommended approval of the A1 Agricultural District based on the following:

1. Although the 2010 Land Use Plan calls for industrial use at this location, the area has not developed as industrial and remains rural in nature.

Note: Approximately one-fourth of the subject property and the property to the rear that borders the Cape Fear River are located within the 100-year flood designation.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendations and approve the A1 Agricultural District. The motion passed unanimously.

PLATS AND PLANS

- A. 91-077. CONSIDERATION OF THE SHOW AND PRO (C(P) SITE PLAN REVIEW) IN THE C(P) PLANNED COMMERCIAL DISTRICT FOR A REQUEST TO APPEAL CONDITION NUMBER 15 OF THE APPROVED PLAN, CUMBERLAND COUNTY SUBDIVISION ORDINANCE, ON THE NORTH SIDE OF BINGHAM ROAD, NORTH OF PEPPERBUSH DRIVE.

Mr. Reitzel left the room. Mr. Lloyd explained the request and said that the applicant agreed to comply with the conditions placed on the review.

A motion was made by Mr. Gillis and seconded by Vice-Chair Mullinax to follow the staff recommendation and approve the site plan as presented . The motion passed unanimously. Mr. Reitzel abstained from discussion and voting on this matter.

VII. PUBLIC HEARING ITEMS

- A. P01-06. CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW RETAIL SALES OF TELECOMMUNICATIONS EQUIPMENT IN A C1 LOCAL BUSINESS DISTRICT, ON NORTH REILLY ROAD, SOUTH OF DANDRIDGE DRIVE, THE PROPERTY OF NITTAYA AND GARY SILVERMAN. (COUNTY)

This case was withdrawn. An ordinance Amendment is being written to correct the situation.

- B. P01-08. REZONING FROM RR RURAL RESIDENTIAL TO O&I OFFICE AND INSTITUTIONAL, OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION, ON THE NORTH SIDE OF FISHER ROAD, WEST OF LAKEWOOD DRIVE, THE PROPERTY OF PAUL AND RUBY RUFFIN. (COUNTY)

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended denial of the O&I Office and Institutional District based on the following:

1. The 2010 Land Use Plan calls for low-density residential use at this location; and
2. The O&I Office and Institutional District is inconsistent with the development in and character of the area.

The Planning staff found that the subject property is suitable for the R10, R15 and Residential Districts and not suitable for the R5, R5A, R6 or R6A Residential Districts.

Note: The O&I Office and Institutional District is generally used as a transitional zone between heavy commercial and low-density residential areas.

Mr. Paul Ruffin, Jr. appeared before the Board and said that he owns the property and used to raise horses on it, but he is no longer able to maintain the land. He said that the property has been for sale for seven years, and he has a buyer who is now interested in purchasing the land if he can rezone it for office use. He pointed out that the land across the road is zoned O&I. He said that the land is not conducive to building homes on it.

Mr. James Pate appeared before the Board and said that he would like to purchase the land. He has an office on Hope Mills Road and lives within one mile of the subject property. He said that the O&I is consistent with what is in the area.

Mr. James Anderson, realtor, appeared before the Board and said that the area is transitional with some residential. He said that the land used to be desirable for residential, but many people have looked at the property, and the site is not conducive to residential because of the expense of developing it for homes. He said that Mr. Pate will build a nice structure that will look good and blend well with the neighborhood.

Ms. Susan Robinson, 15-year resident of the area, appeared before the Board in opposition. She said that she is concerned because the subject property abuts her backyard, and she doesn't want a business behind her home. She added that allowing the office building could have a domino effect. She said that the neighborhood is middle-class, and most residents can't afford to move. They keep the area up and have an active community watch group. She said that the new schools in the area should help keep the property values up. Ms. Robinson said that there are residences on both sides of the subject property as well as a subdivision (Aaron Lakes West) in the rear. She said that the residents want the neighborhood to remain residential in nature.

Chair Tyson reported that he received a phone call from Mr. Fitzgerald, resident of Aaron Lakes subdivision, who could not attend the meeting and is also opposed.

Mr. Reitzel said that he received two phone calls—Ms. Reynolds and Ms. Betty Monroe, both residents of the area, in opposition to the rezoning.

Chair Tyson closed the public hearing.

Mr. Byrd said with a road down the center, there would only be a small strip of buildable area for homes, and it would be a tremendous cost for only a few lots. Mr. Reitzel disagreed and pointed out that the lot has 280 feet of frontage. He said that he was merely suggesting that it can be developed residential. Mr. Byrd agreed.

Chair Tyson asked if 190 by 115 feet is a feasible lot. Mr. Reitzel said that it is and about 20 lots could be created.

Mr. Gillis asked about water and sewer, and Mr. Warren said that public water and sewer are in place.

Chair Tyson asked the staff's concern in recommending denial of the O&I. Mr. Lloyd said that this is the second request for zoning other than residential in the area, and the staff doesn't think that the road should be turned into a commercial road because the area is rural in nature.

Mr. Reitzel agreed and said that ironically the two cases on Fisher Road are both transfers of businesses from Hope Mills Road, and Fisher Road shouldn't be used to solve problems arising from the widening of Hope Mills Road.

Mr. Lloyd said that Mr. Pate originally intended to have residences on the second floor of the building, but he was informed that this would not be allowed in the O&I District.

Chair Tyson asked if the staff's recommendation would have been the same if the request wouldn't have covered the entire lot, with the rear to remain zoned for residential use. Mr. Lloyd said that the depth was not the concern of the staff—they are not recommending commercial or office use along Fisher Road.

Mr. Warren said that he looked at the area for transition or a pattern change, and he didn't see it. He said that the area has remained the same for many years. It is rural in nature, and the only commercial use is a 13-year old Food Lion down Fisher Road.

Chair Tyson asked when water and sewer were extended to the area. Mr. Reitzel said it was within the last year. Chair Tyson suggested that this would probably lead to increased density. He said that the Board can't ignore factors that will cause change. He suggested a study of the area in next year's work program.

Chair Tyson said that he would consider split zoning with O&I in the front for 200 feet and the balance to remain R10. Mr. Warren pointed out that access would be a problem to the property in the rear. There was discussion about whether a dirt road around the property serves as a physical separation.

Mr. Gillis pointed out several landlocked lots near the subject property. Mr. Lloyd said that there is a cart path that the residents use from Lake Way to Fisher Road.

Mr. Olsen said that he would like to approve the O&I, but there is too much residential use in the area, and he does not want commercial to begin there. He said that the current O&I was in place long ago and does not need to be expanded. Mr. Reitzel added that the owners of the current O&I have moved a substantial amount of their business to Hope Mills Road. He said that they may not even use the site at this time. Mr. Gillis said that it is currently used for agricultural equipment storage and contains old tobacco barns that are not used.

A motion was made by Mr. Reitzel and seconded by Mr. Olsen to follow the staff recommendations and deny the request.

Mr. Olsen asked the Mr. Ruffin if he would consider R10 zoning that would allow a higher density or multi-family use and would be consistent with the adjoining property. Mr. Ruffin said that he could not maintain the property.

Chair Tyson offered a substitute motion to approve O&I for the front 200 feet of the property with the rear to be zoned R10 Residential. Mr. Connell seconded the motion.

Mr. Reitzel said that the point that needs to be made is that Fisher Road is not ready for commercial use, and by approving the substitute motion, the Board will be opening up a problem just like that experienced on Hope Mills Road. He said to preserve the integrity of the community; he cannot support any commercial frontage on Fisher Road.

Chair Tyson said that the request is for business office use. Mr. Olsen said that approval of O&I will set up the property adjoining the subject property for commercial use because O&I generally serves as a buffer between residential and commercial properties.

Mr. Gillis asked for the owners' thoughts. Mr. Ruffin asked how people could access the rear of the property. Mr. Reitzel said that the owner would have to build a public street. Mr. Anderson said that they could possibly buffer the area in the rear, but they would need time to look at it and determine if it would be workable.

Chair Tyson said that they could work on it prior to the Commissioners' public hearing in March. He recognized Mr. Pate to speak. Mr. Pate said that he lives in the area, and he thinks that the O&I is the best use, and he would be willing to buffer the site if that is the problem. He said that Chair Tyson's proposal sounded like a logical solution.

Ms. Robinson said that she'd have to talk with the neighbors. She was told that the Planning Board would make their recommendation at this meeting, and she could meet with her neighbors before the Commissioners' meeting. She said that the neighbors might want to submit a petition. She said at least the substitute motion was better than the original proposal.

Upon a vote on the substitute motion, it passed 6 to 2 with Messrs. Olsen and Reitzel voting in opposition.

VIII. DISCUSSION

A. REPORT FROM LAND USE CODES COMMITTEE – JOHN GILLIS

Mr. Gillis reported that the Land Use Codes Committee met for an hour prior to the Planning Board meeting and discussed protection of the Averagesboro Battlefield through an Historic Preservation Commission. He said that the members agreed that the Planning Board members should not serve as that Commission. He said the issue needs further study, and no action was taken.

[It was pointed out later in the meeting that the Averagesboro Battlefield Commission wants the area protected and to be notified of any zoning requests or changes proposed in the area, and there may be a better way to approach this than forming a Commission or through an Overlay District.]

Mr. Gillis said that the Recreational Vehicle Park Ordinance was also discussed, and the members determined that they would like for the Ordinance to serve the entire County, rather than be specifically written for the Town of Spring Lake. He said that Mr. Lloyd will incorporate some of the suggestions made, and the matter will be on the agenda for the next meeting at 6:00 p.m. on March 6, 2001.

B. MCARTHUR ROAD/RAMSEY STREET STUDY – MATT ROONEY

Mr. Rooney displayed a large map indicating the area proposed for the McArthur Road Ramsey Street Study. He explained how the area was determined, originating with a smaller area for the staff to study and having areas added at the Joint City/County Planning Board meetings.

Chair Tyson asked if the Eureka Springs area could be added to the study. Mr. Rooney said that it wouldn't significantly increase the workload to

include Eureka Springs. He confirmed that the City staff would also be assisting with the study.

Mr. Reitzel asked the purpose of the study. Chair Tyson said that a study of the current land use patterns and the impact of Highway 13 are two issues he would like for the study to address. Mr. Reitzel said if that is the concern, the areas to the north of Eureka Springs and west of the current study area would be substantially influenced by the study, rather than areas that are already developed.

Chair Tyson added that the widening of McArthur Road might impact the area, and it would be wise to get ahead of the curve.

The Spring Lake Bypass was mentioned, and Chair Tyson suggested that the study may help in determining the routing of the bypass and assist DOT with the decision. He suggested looking at the areas under consideration on the Transportation Improvement Plan and making the decision determined on that. Mr. Reitzel agreed.

A motion was made by Mr. Byrd and seconded by Mr. McNeill to adopt the current map with the addition of the area south of McCormack, west of McArthur Road to the Fort Bragg reservation to include Eureka Springs. The motion passed unanimously.

C. WORK PROGRAM

There was a lengthy discussion on priorities on this year's Work Program. Several requests have been submitted from municipalities and agencies for studies, projects, amendments, etc. that are not currently included on the 2000-2001 Work Program.

Most members agreed that staff should follow the Work Program priorities unless a request could be accomplished quickly and would not interfere with time devoted to the Work Program projects.

Vice-Chair Mullinax expressed concern that the Towns may need some quick answers, and they should be able to count on the staff.

It was pointed out that the Towns have an opportunity for input into the Work Program prior to its adoption by the Board, and the governing bodies agreed to the current Work Program.

Mr. Warren explained that the Work Program projects have been assigned to staff, and outside requests are constant. He said if the requests are from a Town Board, the staff wants to provide quick service, but there needs to be a policy in place on how the Board wants the staff to respond. Mr.

Warren was told if the staff veers from the Work Program, it should be under direction of the Board, with exceptions for County Commissioner, or other, emergency requests.

Many cases were cited on where a project was started and never completed or completed and then further information was requested (private streets, borrow source operations, etc.) Chair Tyson pointed out that any municipality can initiate a request that puts the Board under a time restriction, but the option is available of not giving a recommendation. Mr. Reitzel said that this would not be the best solution, but there must be some structure.

Vice-Chair Mullinax asked for clarification on whether a Board member could ask for additional projects. Chair Tyson said that there must be an assigned priority for these requests if it means stopping work in progress. Messrs Gillis and Reitzel agreed that the Work Program priorities cannot be dropped to handle new requests. Mr. Olsen suggested that the Work Program should be treated as an Agenda and only changed by Board approval.

Chair Tyson said that the Board serves as a buffer when the staff receives requests, and the Board will assign the priority. He said that the Minutes can be used to inform the governing bodies of the priorities.

Mr. Warren said that he is thankful for the Board's guidance, and staff will continue to be sensitive to Towns' needs. Chair Tyson said that staff is to direct any requestor to the Director, and he'll inform the Board if/when the requests become too much for staff to handle.

Mr. Reitzel suggested that too much time can be spent on the Town Ordinances when the County Ordinance should be cleaned up first in order to save time on all the amendment requests.

A motion was made by Mr. Olsen and seconded by Mr. Reitzel that all project or study requests are to be given directly to the Planning Director. The motion passed unanimously.

D. REPORT ON COUNTY COMMISSIONERS' MEETING

Mr. Warren reported that the Commissioners approved the Planning Board's amendment regarding borrow source operations. He said that they approved C3 on a case where the Planning Board recommended C(P), and he was told later by a Commissioner who said that they didn't fully understand what the differences are in the two districts. Additionally, the Commissioners are asking that the Planning Board again hear the case

regarding the car wash/oil exchange that the Commissioners denied in January.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Warren said that his observance as a planner since moving to the area is that very little planning has taken place in Cumberland County. He said that the Board makes very important decisions regarding quality of life, and the Ordinance is currently so patched and confusing that there are times that the staff doesn't even understand it. He said that the Ordinance needs to be redrafted, and this is a goal he plans to begin soon. He said that chiefs meet weekly to work on the 2030 Plan, projects and Ordinance, and he intends to make sure that whatever is produced is state of the art and even award winning. He said that Cumberland County is unique in many ways, and the Department has good staff with a good Board, and he sees a bright future for the County.

Mr. Warren discussed private streets, handed out some suggestions and said that he has studied subdivision regulations throughout the State, and he plans to come up with revisions that the County will benefit from. He said that there is a way to accomplish this that is fair to the developers. He added that Class C Private Streets are not working and what he has observed is that they're used as loopholes by developers. He described what he has seen work well elsewhere and said that he would like for the Board and staff to work together over the next few months to address the issues together.

Chair Tyson said that he has served on the Board for eight years, and he outlined reasons why the County is the way it is. He said that in 1993 over half of the County wasn't zoned, and the Board was very successful in getting most of it zoned until they got to the Linden area. He said that much of what Mr. Warren observed is the result of what happened prior to zoning.

Regarding private streets, Chair Tyson said that the State used to accept maintenance on streets with plats recorded prior to 1973, but five or six years ago, DOT stopped and will now only take roads that are up to their standards.

Chair Tyson explained that the Board has tried to undertake a comprehensive review of the Ordinance over the past eight years, but so much time has had to be devoted to the 2010 Land Use Plan, initial zoning and the selection of a Planning Director (twice) that it has left little time for the Ordinance. Mr. Warren asked how the Board would feel about the staff working on a section at a time and taking it before the Land Use Codes

Committee for review and recommendation as each section is completed. Chair Tyson explained that in the past, the Ordinances were written to be as restrictive as possible, and the Board now fears it has been too restrictive. Mr. Warren acknowledge this and said that the staff would keep this in mind.

The Board went into executive session to address Mr. Warren's concerns and plans regarding personnel and the budget.

The Board came out of executive session at 10:40 p.m.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:40 p.m.