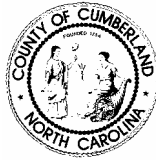


Clifton McNeill, Jr., Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
John M. Gillis, Jr.
Dr. Marion Gillis-Olion
Cumberland County



Nancy Roy, AICP, Director
Thomas J. Lloyd
Deputy Director

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Frank Underwood,
Town of Stedman

COUNTY of CUMBERLAND

Joint Planning Board

MINUTES
April 20, 2004

Members Present

Mr. Charles Morris, Vice-Chair
Mr. David Averette
Mr. John M. Gillis
Dr. Marion Gillis-Olion
Mr. Donovan McLaurin
Mr. Joe W. Mullinax

Members Absent

Mr. Clifton McNeill, Chair
Mr. Frank Underwood

Others Present

Ms. Nancy Roy, Director
Mr. Thomas J. Lloyd
Ms. Donna McFayden
Ms. Patti Speicher
Ms. BJ Cashwell
Mr. Grainger Barrett,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd requested that Case No. P04-28 be moved from the Consent Items to Public Hearing Items. A motion was made by Mr. Gillis and seconded by Mr. McLaurin to approve the amended agenda. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

Mr. Averette said he would abstain from discussion and voting on Plat & Plan 98-351.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF APRIL 6, 2004

A motion was made by Mr. McLaurin and seconded by Mr. Gillis to approve the Minutes of April 6, 2004 as written. The motion passed unanimously.

REZONING CASES

- A. P04-25: REZONING OF .94 ACRES FROM R6A AND R10 TO C1, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE SOUTH SIDE OF CUMBERLAND ROAD, ACROSS FROM AKE STREET, OWNED BY ALICE V. HALL NAYLOR AND EDWARD M. ESPINOSA.

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

1. The 2010 Land Use Plan calls for light commercial and low-density residential use at this location; and
2. The subject property is adjacent to C1 zoning.

The Planning staff found that the subject property is also suitable for the O&I Office and Institutional District.

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

A motion was made by Mr. Gillis and seconded by Mr. McLaurin to follow the staff recommendation and approve the C1 Local Business District. The motion passed unanimously.

- B. P04-26: INITIAL ZONING OF 269.18 ACRES, MORE OR LESS, TO CD AND RR OR A MORE RESTRICTIVE ZONING DISTRICT ON THE SOUTHWEST SIDE OF CUMBERLAND COUNTY.

The Planning staff recommended approval of the CD Conservancy and RR Rural Residential Districts based on the following:

1. The zoning recommended is consistent with the current land use on the property and zoning in the area.

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

A motion was made by Mr. Gillis and seconded by Mr. McLaurin to follow the staff recommendation and approve the CD Conservancy and RR Rural Residential Districts. The motion passed unanimously.

- C. P04-27: REZONING OF A .40-ACRE PORTION OF A .76-ACRE TRACT FROM R6A TO C3, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2978 CUMBERLAND ROAD, SUBMITTED BY DAVID C. MATTHEWS, JR.

The Planning staff recommended approval of the C3 Heavy Commercial District based on the following:

1. The 2010 Land Use Plan calls for heavy commercial use at this location; and
2. The subject property is adjacent to C3 zoning.

The Planning staff found that the subject property is also suitable for the C1 Local Business District.

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

A motion was made by Mr. Gillis and seconded by Mr. McLaurin to follow the staff recommendation and approve the C3 Heavy Commercial District. The motion passed unanimously.

D. P04-29: REZONING OF 17.43 ACRES FROM RR TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT ON THE SOUTH SIDE OF CAMDEN ROAD, WEST OF WALDOS BEACH ROAD, SUBMITTED BY K. DOUGLAS BARFIELD.

The Planning staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan calls for low-density residential development at this location; and
2. The uses allowed in the R10 District are consistent with the development and land use on the surrounding tracts.

The Planning staff found that the subject property is also suitable for the R15 District.

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

A motion was made by Mr. Gillis and seconded by Mr. McLaurin to follow the staff recommendation and approve the R10 Residential District. The motion passed unanimously.

E. P04-30: REZONING OF .82 ACRES FROM R10 TO C3, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 4244 CUMBERLAND ROAD, SUBMITTED BY JIM MOHLER.

The Planning staff recommended approval of the C3 Heavy Commercial District based on the following:

1. The uses allowed in the C3 District are consistent with the development and land use on the surrounding tracts.

The Planning staff found that the subject property is also suitable for the O&I Office and Institutional and C1 Local Business Districts.

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

A motion was made by and seconded by to follow the staff recommendation and approve the C3 Heavy Commercial District. The motion passed unanimously.

VII. PUBLIC HEARING ITEM

- A. P04-28: REZONING OF 53 ACRES FROM A1 AND R40A TO R15, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE EAST SIDE OF RAMSEY STREET, ACROSS FROM COATS ROAD, OWNED BY DAVID RAYNOR AND TERRY BILL.

The public hearing was opened. Mr. Lloyd informed the Board that the site would be serviced with Linden water and septic tanks.

Maps were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the R15 Residential District based on the following:

1. The uses allowed in the R15 District are consistent with the density and land use on surrounding tracts; and
2. Public water is available to the site.

The Planning staff found that the subject property is also suitable for all of the intervening districts (R40, R30, R30A, R20 and RR).

Mr. Terry Bill, appeared before the Board in favor of the request and said they planned to develop the site with single family dwellings. He explained the lot sizes would vary but they would be at least a minimum of 15,000 square feet. He informed the Board that the soil had been determined acceptable for septic tanks and the land not useable would be resolved during the planning of the development. He told the Board he had talked with a representative of the school system and they informed him that most of the schools were at capacity but their long-range plan was to build another elementary school. He said he felt the development would enhance the neighborhood and that there was R15 and R40 zoning near the site.

Mr. David Raynor appeared before the Board in favor of the request and explained to the Board that sight distance was done in regard to access to 401 and that the site had proper drainage. He informed the Board that the Town of Linden would be extending water service to the development. He said there was another development called Castlebrook being done south of their property.

Mr. Robert Shoup appeared before the Board in opposition to the request and said he had obtained soil information from the Soil Conservation Office. He explained that Johnston Loam and Blaney Loamy were the two-predominately types of soils on the site. He said neither of the loams would be suited for septic tanks. He presented maps showing the lack of soil suitability for septic systems for the site.

Ms. Celine Shoup appeared before the Board in opposition to the request and presented a map from the Department of Agriculture showing the wetlands in the area. She told the Board that according to the Department of Agriculture regulations that any changes done with wetlands must be reviewed by the US Army Corp of Engineers and no information had been provided that this had been

done. She informed the Board that their land had to be perked five times because of wetlands and they had to build closer to their neighbors.

Mr. Lloyd explained that the issue before the Board was to consider the rezoning request and that when the Planning staff reviewed the subdivision that conditions would be required to obtain approval for wetlands.

Mr. David Teague appeared before the Board in opposition to the request and said he had the same problems as Ms. Shoup in trying to have a septic system installed. He informed the Board that he owned 10 acres in the area and he said a half or one acre lot would not be feasible for development. He said the schools in the area were either near capacity or over according to the information provided by the County and did not include the 105 houses proposed for Castlebrook.

Mr. Gary Parker appeared before the Board in opposition to the request and informed the Board that the 2010 Land Use Plan called for farmland protection in that area.

Mr. Raynor said they were aware of the wetlands on the property and that would be addressed with the engineers and each lot would have to be tested before it could be developed.

Public hearing was closed.

Mr. Averette asked how much of the area was zoned A1 and R40A. Mr. Lloyd said only a small portion was zoned R40A but it was predominately A1.

Mr. Averette explained that there were safeguards for wetlands and the issue before the Board was the rezoning of the property. He said the developers would not be allowed to place septic tanks or drain fields within the wetlands area.

Vice-Chair Morris said the density was consistent with what was in the area and he did share the concerns on wetlands and septic tanks but the Army Corps of Engineer and the Health Department would address these issues.

A motion was made by Mr. McLaurin and seconded by Mr. Averette to follow the staff recommendation and approve the R15 Residential District. The motion passed unanimously.

B. P04-31: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A CARPET CLEANING OFFICE IN AN R6A DISTRICT ON .46 ACRES AT 1444 BINGHAM DRIVE, SUBMITTED BY AMI CROUTER.

Maps were displayed indicating the zoning and land use in the area. Mr. Lloyd explained the reason the case was before the Board was because it would be a home occupation, it would be limited to 25% of the existing house and employees were limited to immediate family. He said the proposed use was to allow a Carpet Cleaning Office with the following guidelines given by the applicant: 1) Four employees with only two on the premises; 2) Hours of operation: Monday thru Friday, 9 a.m. – 5 p.m.; 3) Location would be for administrative office for the

business; 4) There would be two vans that would not be parked at this location; and, 5) There would be 8 to 10 parking spaces between the front and back. Mr. Lloyd reported that the Planning staff recommended denial of the Conditional Use Overlay District based on the finding that the request is not reasonable at this location.

The Planning staff recommended denial of the Conditional Use Overlay Permit based on the findings that the proposal:

1. Will not be in harmony with the area in which it is to be located; and
2. Will not be in conformity with the 2010 Land Use and Thoroughfare Plans.

Ms. Ami Crouter said they were not sure how much parking they would need and the vans would not be parked at the site. She said there would be two employees.

Mr. Gillis asked if they were currently using the site as a business. Ms. Crouter said they were currently only using it for storage. She informed the Board that Bingham Drive would be widened to five lanes at a later time.

Mr. Gillis asked if the Planning staff had considered conducting a study for the Bingham Drive area as had been done for the Cumberland Road area. Mr. Lloyd explained that they have not had the activity in the area. Mr. Gillis said with the installation of five lanes that it changes the character of the area with residences being located that close to a major thoroughfare. Mr. Lloyd informed the Board that the ROW acquisition had been done and construction would begin in July.

Ms. Roy informed the Board that the property would be annexed in July, 2004 and a study could not be completed until the new fiscal year.

Vice-Chair Morris said there was no adjacent commercial property that was shown in the information provided by the Planning staff.

Mr. Thomas Foldesi said at the corner of Bailey Lake and Bingham Drive there was an office and another corner had a Telemarketing Company.

A motion was made by Mr. Gillis and seconded by Dr. Olion to follow the staff recommendation and deny the Conditional Use Overlay District based on the finding that the request is not reasonable at this location. The motion passed unanimously.

VIII. PLATS AND PLANS

- A. 98-351: TAYLORS CREEK MOBILE HOME PARK PLAN REVIEW ON THE WEST SIDE OF US HWY 301, SOUTH OF BLACK AND DECKER ROAD FOR A VARIANCE FROM SECTION 3.25.C, "REQUIREMENTS FOR MOBILE HOME PARKS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE

Mr. Averette left the room.

Ms. Speicher explained the request before the Board tonight was to consider a variance from Section 3.25.c of the Cumberland County Subdivision Ordinance.

She said Section 3.25.c required that all mobile homes be located at least twenty-five feet apart. She said the Board at their February 18, 2003 meeting set guidelines for the park to be brought into compliance. She informed the Board that as of today the following mobile homes were not in compliance:

- 1) nine mobile homes – previously given 1 year to be brought into compliance;
- 2) twelve mobile homes – previously given six months to be brought into compliance; and
- 3) two proposed mobile home that do not meet standards.

Ms. Speicher stated the staff recommended the Board deny the variance request or at the very least set a new time period for the park to be brought into compliance.

Ms. Jana Berg, representing Landsouth Properties, said at the February 18, 2003 meeting the Board required the applicant to move 28 mobile homes. She said two mobile homes were to be immediately moved, 16 to be moved in six months and 10 within one year. She said two were moved immediately, 25% were moved that required six months and 10% were moved that required one year. She said the noncompliance mobile homes had a Certificate of Occupancy and were occupied. She said tenants have resided continuously in the homes and the vacant mobile homes were moved into compliance. She said in order for the applicant to bring the mobile homes into compliance that he would have to breach his lease and move people into temporary housing. She explained most of the mobile homes were occupied by young couples with small children and elderly people that could not afford to move. She indicated that many of the couples were military families with head of holds deployed to Iraq and this hindered their being able to move. She told the Board this would cause the applicant to breach leases and subject the park to lawsuits. She said they were asking for a variance from Section 3.25.c. because there were unusual physical conditions on the site due to the mobile homes being occupied. She explained that strict compliance with the provisions of the ordinance would cause unusual and unnecessary hardship on the subdivider. She said it would cause a breach of contract and the “covenant of quiet enjoyment” plus cause a financial burden. She asked that a temporary variance be granted for the mobile homes that had six month to be moved until they became vacant. She asked that a permanent variance be granted for the ones to be removed in a year, as the separation violation was small. She said the alternative was to grant a temporary variance on all the mobile homes until the tenants move out.

Ms. Speicher explained the problem the staff had was that there would be no way to track when tenants leave.

Vice-Chair Morris said some of the issues the Board were concerned with was fire hazards and the distance between the mobile homes and that the Board had been very flexible with granting timelines. He asked what action would be taken if the applicant failed to comply with what was required. Ms. Speicher explained that a cease and desist order would be done and it could force the whole park to close.

Ms. Berg told the Board the applicant did not own the mobile homes on the lot that he only leased the land to the tenants.

Mr. Gillis asked if the applicant had a tabulation of when the leases terminated on the nonconforming units. Mr. Barnett, the applicant, explained to the Board that the leases were ongoing as long as the tenant complied with the contract. He said the normal length for tenants was about three years and after that they normally buy their own land.

Mr. McLaurin asked how many vacant spaces were there. Mr. Barnett said there were about 35. Mr. McLaurin said that there would then be room for the mobile homes to be relocated. Mr. Barnett said that there would. Mr. McLaurin expressed concern about fires in the park and the dangers that would arise from the location of the mobile homes in violation.

A motion was made by Mr. McLaurin and seconded by Mr. Mullinax to deny the variance request from Section 3.25.c. of the Cumberland County Subdivision Ordinance. The motion passed unanimously.

IX. DISCUSSION

A. UPDATE FROM LAND USE CODES COMMITTEE

Mr. Gillis said that one of the issues discussed at the meeting was the review schedule for the ordinance and asked Ms. Roy to update the Board.

Ms. Roy explained that on May 11 that the Land Use Codes Committee meeting would begin at 5 p.m with no set adjournment time. She explained that there were five major sections that were divided among the staff that would be presented at the May 11 meeting. She said a presentation would be done of each section then they would have a question and answer period after each presentation.

X. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy informed the Board that there would be a joint meeting scheduled in May with the County Commissioners and some of the items to be discussed were comprehensive planning and joint boards.

Ms. Roy said that when regulations were created to eliminate the moving of pre-1976 mobile homes, the staff did not foresee the result of closing mobile home parks. She said the Health Department had closed a mobile home park and there were five pre-1976 mobile homes that have to be relocated.

Vice-Chair Morris asked if a solution had been discussed with the County Attorney. Ms. Roy said it was suggested that an amendment be done to the ordinance to allow mobile homes to be moved in such situations.

A motion was made by Mr. Gillis and seconded by Dr. Olion to direct the staff to write an amendment to the ordinance and present it at the next meeting. The motion passed unanimously.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:25 p.m.