

Charles C. Morris
Chair
Town of Linden
Donovan McLaurin
Vice-Chair

Wade, Falcon & Godwin
Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Interim Director

Clifton McNeill, Jr.,
Roy Turner,
Lori Epler,
Sara E. Piland,
Cumberland County

MINUTES DECEMBER 20, 2005

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Ms. Diane Wheatley, County Commissioner
Mr. Garland Hostetter
Ms. Sara Piland
Ms. Lori Epler
Mr. Roy Turner
Mr. Harvey Cain

Others Present

Ms. Donna McFayden
Mr. Tom Lloyd, Dep.
Director
Ms. Annette Nunnery
Mr. Grainger Barrett,
County Attorney

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

Chair Morris advised the Board that Case #P05-94 and P05-98 would be pulled from the Consent Agenda and added to Public Hearing. **A motion was made by Ms. Epler to approve the Agenda as amended. Seconded. Unanimous approval.**

III. PUBLIC HEARING DEFERRALS - There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

Ms. Epler stated her abstention regarding Cases P05-94 and P05-95.

V. POLICY STATEMENT - PUBLIC HEARING TIME LIMITS – read by Mr. Lloyd.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF DECEMBER 6, 2005

A motion was made by Mr. Turner and seconded by Ms. Epler to approve the Minutes of December 6, 2005 as written. The motion passed unanimously.

REZONING CASES

- A. P05-45: INITIAL ZONING OF .50 ACRES TO R10, LOCATED NORTH OF SAMUEL DRIVE, SOUTH OF CHAPEL HILL ROAD, SUBMITTED BY THE

TOWN OF SPRING LAKE. (SPRING LAKE)

- B. P05-92: REZONING OF 2.18 ACRES FROM A1 TO A1A, SOUTH OF ROEBUD ROAD, EAST OF MAGNOLIA CHURCH ROAD, OWNED BY WILLIAM T. MOBLEY, JR.
- C. P05-99: REZONING OF TWO TRACTS TOTALING .60 +/- ACRES FROM R10 TO C3 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF CLINTON ROAD, EAST OF WINDWOOD DRIVE, OWNED BY JEWELL W. CULBRETH AND MICHAEL S. SUTTON. (STEDMAN)

AMENDMENT

- A. P05-100: AMENDMENTS TO THE TOWN OF FALCON ZONING ORDINANCE BY ADDING SECTION 7.32., YARD SPACE LANDSCAPE REQUIREMENTS, SECTION 8.15.1., COMBINATION AND SHARED PARKING, SECTION 8.24.1., LATERAL ACCESS, AND SECTION 8.28., PARKING AREA LANDSCAPE

A motion to accept the consent items P05-45, P05-92, P05-99, and P05-100 was made by Mr. McNeill and seconded by Mr. McLaurin. Unanimous approval.

REZONING CASE

- C. P05-95: REZONING OF 4.57 ACRES FROM A1 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF SAND HILL ROAD, WEST OF SMITH ROAD, SUBMITTED BY J. MALCOLM MCFADYEN, OWNED BY MCRENT, LLC.

A second motion was presented by Mr. McNeill and seconded by Mr. McLaurin to accept Case P05-95. Motion carried. Ms. Epler abstained from the vote.

Ms. Epler reentered the room.

VII. PUBLIC HEARING ITEMS

- D. P05-98: REZONING OF 8.46 ACRES FROM A1 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTHEAST OF RAMSEY STREET, WEST OF WEST REEVES BRIDGE ROAD, SUBMITTED BY ARNELL BOBBITT, OWNED BY SEYMORE TAYLOR.

Mr. Lloyd presented slides and site maps for case P05-98. He referred to two rezoning cases in the area.

The Public Hearing was opened.

Nick Angelone, an adjacent property owner, spoke in opposition to the request. He expressed his concern with development producing congestion in the area. His understanding when he purchased his property was that surrounding property would be nicely developed.

Al Wheatley, adjacent property owner, spoke in opposition to the request. He stated that he had several concerns: saturation of the area, escalating crime, and the neighborhood being compromised. He noted that a better zoning could

be applied to this area and requested that the Board hold developers to a greater standard.

Stuart Clark, an adjacent property owner, spoke in opposition to the rezoning request. He stated that he was vehemently opposed to changing the character of this area, which is currently very rural. He stated that he did not want a high density subdivision down the street and asked the Board to keep the integrity of the area by denying the rezoning.

Arnell Bobbitt, petitioner, spoke in favor of the request. She stated that her intention was not to create a typical subdivision but to divide the property for her immediate family, allowing them all to live near each other. She stated that she had tried to choose a zoning that would allow a lot size to accommodate her needs and conform to the area, while making the best use of the land. She stated she was not opposed to another zoning if that was what the neighbors would accept. Ms. Bobbitt asked to amend her application to request rezoning to R30, allowing 9 lots.

The Public Hearing closed at 7:30 p.m.

Chair Morris stated that the area is composed of large, privately owned lots and that this is not always reflected on the site plans.

Ms. Piland requested verification that an R40 zoning would be consistent with the Land Use Plan. Mr. Lloyd stated that it would be. Ms. Piland expressed her personal preference in staying with the Land Use Plan recommendations.

A motion was presented by Mr. McLaurin and seconded by Ms. Piland to deny the R30 Residential zoning and approve R40 Residential zoning. Motion passed unanimously.

Mr. Lloyd stated that allowing 7 lots in this area would require paving of the street. The applicant stated that she was aware of that condition and would accept it.

Ms. Epler exited the room.

A. P05-94: REZONING OF FOUR PARCELS TOTALING 93.45 ACRES FROM A1 TO R20/DD/CUD OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF SAND HILL ROAD, WEST OF SMITH ROAD, SUBMITTED BY J. MALCOLM MCFADYEN, OWNED BY MCRENT, LLC.

Mr. Lloyd reviewed slides of the subject property and noted the surrounding land use and zoning. He noted that the approval of R20/DD/CUD would actually allow for less than the Land Use Plan would allow. Upon request by the Chair, Mr. Lloyd explained the quasi-judicial proceeding to the audience.

Public Hearing opened at 7:40 p.m.

Mr. Malcolm McFadyen, representing McRent, LLC, spoke in support of the request and stated that his company was trying to develop in conformance with zoning already in place in the subject area.

Andrew Paybon asked if mobile homes would be allowed in the development. Mr. McFadyen stated that only stick-built homes would be developed. He further

stated that PWC water would be brought up to the site entrance and that existing homes could tap on by request.

Alexander Evans asked if the remaining property would be developed. Mr. McFadyen stated that it would not. The plan would require that the property in question be used as open space and left undeveloped.

No one appeared in opposition to the request.

Public Hearing closed at 7:52 p.m.

Mr. McLaurin presented a motion, seconded by Mr. Turner, that the Planning Board find that the request for a Conditional Use District Application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest and that the conditional use be approved. Motion carried. Ms. Epler abstained from the vote.

Mr. McLaurin presented a motion, seconded by Mr. Turner, that the Planning Board find that the Conditional Use Application Permit, if developed as proposed, would not materially endanger the public health and safety, would not substantially injure the value of adjoining and abutting property, would be in harmony with the area in which it is to be located, and would be in conformity with the Land Use Plan, Thoroughfare Plan and other plans officially adopted by the Board of Commissioners, subject to conditions agreed upon by the staff and the developer. Motion carried. Ms. Epler abstained from the vote.

Mr. McNeill clarified for the Board that the developer's site plan was attached to the application.

- A. P05-93: REZONING OF 3.0 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT AT 7618 RHODES POND ROAD, OWNED BY JEROME F. HONEYCUTT.

Mr. Lloyd reviewed slides, maps and surrounding land use for the property. He detailed the case background noting that a citizen complaint preceded the Health Department uncovering set-back violations for the mobile home. The property owner requested a front yard variance from the BOA in October 2005 and was denied. The property owner was ordered to cease work on the site but continued to complete the set-up of the mobile home. All of the work was done without obtaining any permits. Mr. Lloyd explained that the mobile home was set back 31 feet but the A1, as well as the A1A zoning, required a setback of 50 feet. The R40 front yard setback is 30 feet, which would make the structure conforming. Mr. Lloyd noted that this property was more suitable for A1A zoning.

The Public Hearing opened at 7:50 p.m.

Mr. Jerome Honeycutt, owner, spoke in favor of the request. He asked the Board to approve R40A to allow the mobile home to remain where it currently was placed. He noted that water was available and that he was on a corner lot with a paved street. He asked for the Board's mercy in the matter.

Mr. McNeill asked the petitioner if he was told by an inspector to cease work. Petitioner stated that he had continued working after the BOA denial because he was concerned about cold weather approaching and financial deadlines with his lender. He stated that he had water and power as well as an Occupancy permit.

Mr. Lloyd noted that no permits had been obtained for that work, pursuant to County regulations. He stated that the file reflected staff comments indicating that the water hookup was illegal. Mr. Honeycutt denied that claim.

Mr. Morris asked how an occupancy permit could be obtained on the property. Mr. McLaurin asked the petitioner to show Mr. Lloyd his permit. Mr. Lloyd determined that the permit was for a septic tank, not occupancy.

Myra Baker, adjacent landowner, spoke in favor of the request and stated that she had no objection to the rezoning.

Dorothy Moore spoke in favor of the request and asked that the Board resolve the matter promptly.

James Honeycutt, adjacent property owner, spoke in favor of the request and stated that he had no problems with the rezoning.

Gerald Honeycutt spoke in favor of the request. He stated that he had underpinned the mobile home and that the county inspectors had not told them to stop work. The inspectors did not clearly say whether the workers could or could not keep working.

The Public Hearing closed at 8:10 p.m.

Mr. Turner noted that the petitioner had moved ahead in violation of county regulations and orders to cease work. He stated that he was concerned with those actions.

Ms. Epler noted that while she was sympathetic to the applicant she did not feel that the circumstances in the case warranted the Board going against county rules and regulations.

Mr. McNeill stated that he was sympathetic to the applicant but was concerned with the lack of permits and disregard for county regulations. Rezoning in this case would open the door to any other citizens with zoning violations asking the Board to solve their problems.

A motion was presented by Ms. Epler and seconded by Ms. Piland to accept the staff recommendation to deny the R40A Residential District and approve the A1A Agricultural District. Motion carried unanimously.

Chair Morris expressed his concern with the applicant and his family living in an illegally wired and set up mobile home. He asked that Mr. Lloyd follow up on those violations.

B. P05-96: REZONING OF 2.79 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT AT 1480 PORT RICHIE LANE, OWNED BY JAMES AND PATRICIA SESSOMS.

Mr. Lloyd presented slides and reviewed the surrounding land use and zoning. He noted that the staff recommended A1A, a more suitable zoning for this area, and follows the Planning Board's policy of rezoning, from A1 to A1A instead of R40, in requests of 10 acres or less.

The Public Hearing opened at 8:22 p.m.

James Sessoms appeared in favor of the request. He stated that his purpose in requesting the rezoning was to allow his immediate family to live nearby. He stated that there were approximately 15 homes on the street and that his would be at the entrance to the street. His intention was stated as being to place a modular home on the site for himself and a double wide for his son.

Becky Garcia appeared in opposition to the request. She stated that she had purchased her property based on the fact that the surrounding land required 2 acres per residence. She would like for the area to be kept rural. She noted that the residents maintain the road and that the traffic on that road is already heavy.

Marie Cox appeared in opposition to the request. She stated that her understanding upon purchase of her property was that 2 acres was required for all homes in the area.

Mr. Barrett instructed Mr. Sessoms to direct his comments to the Board.

The Public Hearing closed at 8:30 p.m.

Ms. Epler and Chair Morris requested information on the number of lots that would require paving of the street. Tom stated that 7 was the requirement.

Mr. McLaurin noted that a rezoning of R40A would actually allow for 3 additional lots at this location.

A motion was presented by Mr. McLaurin and seconded by Ms. Epler to deny the R40A Residential District. Unanimous approval.

Mr. Lloyd informed the applicant that the lot size was 2.79 acres and that he had options to purchase additional land to increase his property size to 3 acres and to consider a Group Development on his existing property.

C. P05-97: REZONING OF .34 ACRES FROM C1(P) TO C(P), AT 3831 BOONE TRAIL, SUBMITTED BY BLAINE LOVELAND, OWNED BY DORA H. HOWARD.

Mr. Lloyd presented slides and maps of the subject property and noted the surrounding land use and zoning. He noted that the Planning Board had voted to rehear this case inside of the required one-year waiting period.

Mr. Blaine Loveland appeared in favor of the request. He stated that he represented the property owner as an employee of Bill Maxwell Realty. The company has a buyer for the property if it can be rezoned to the buyer's standards. He stated that the buyer plans to build an automotive shop, which would be an improvement over the current abandoned building on the property.

Mr. Lloyd noted that one option for the applicant would be a C(P) Conditional Use District on the property. Mr. Loveland stated that he would like to investigate that option. He was reminded by Mr. Barrett of the one-year time frame for rehearings.

Discussion was entertained on the setbacks for C(P) and C1(P) and whether or not buffering of the property would be required.

Mr. Loveland requested that his case be deferred to the January 17, 2006 Planning Board meeting to allow him time to investigate the Conditional Use and zoning options.

Mr. McNeill presented a motion, seconded by Mr. Hostetter to defer Case P05-97 to the January 17, 2006 Planning Board meeting. Unanimous approval.

VIII. DISCUSSION

Chair Morris read a thank-you note from Nancy Roy, who expressed her appreciation for her recent retirement luncheon and the gifts presented to her by the Board.

Mr. McLaurin asked for procedural guidance in creating a new R20A District, to allow for removal of mobile home placement in the R20 Residential District. Mr. Barrett advised him that he needed to present that request as a motion and upon approval, refer the request to the staff. The staff should formulate the district definition and requirements and bring it back to the Board for discussion. **Mr. McLaurin presented a motion, seconded by Mr. Hostetter, requesting that the planning staff create an R20A Residential District and present it to the Board for discussion. Motion carried unanimously.**

IX. ADJOURNMENT

Upon a motion by Ms. Piland, seconded by Ms. Epler, the meeting adjourned at 8:58 p.m.