

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,
Director
Cecil P. Combs,
Deputy Director

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

MINUTES June 20, 2006

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Roy Turner
Ms. Lori Epler
Mr. Garland Hostetter

Members Absent

Ms. Sara Piland

Others Present

Ms. Patti Speicher
Ms. Donna McFayden
Ms. BJ Cashwell
Mr. Grainger Barrett,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. ADJUSTMENTS TO AGENDA

Chair Morris said that Case No. P06-39 would be moved from Consent Items to Public Hearing Items as the first case. Ms. Speicher asked that Case No. P06-33, be moved to Consent. She also asked for P06-45 to be moved to Consent as the applicant concurred with the C(P) zoning and there was no opposition. She further asked that Case P06-49 be moved to Consent with the 10.79 acres to the north side of the road zoned M(P) and the 22.92 acres on the south side zoned C(P). She informed the Board that the BP Station would provide buffering and this would be the main entrance way into the Town of Wade from the Interstate. She informed the Board that there was an amended Staff Recommendation for Case P06-37 approving R15 zoning for this case and asked for the case to be moved to Consent. **A motion was made by Mr. McNeill and seconded by Vice-Chair McLaurin to approve the Agenda with the changes. The motion passed unanimously.**

III. PUBLIC HEARING DEFERRALS/WITHDRAWALS

- A. P06-47: REZONING OF TWO PARCELS TOTALING 7.62+/- ACRES FROM A1 TO A1A, AT 3745 AND 3837 FINAL APPROACH DRIVE, SUBMITTED BY JONATHAN KEITH, OWNED BY O'BREYTON KNOWLES HEIRS.

Ms. Speicher informed the Board that the applicant requested to withdraw his application. The Board concurred with the request.

IV. ABSTENTIONS BY BOARD MEMBERS

Mr. Cain said he would abstain from discussion and voting on Case P06-39. **A motion was made by Ms. Epler and seconded by Vice-Chair McLaurin to approve the request. The motion passed unanimously.**

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Ms. Speicher read the Board's policy regarding public hearing time limits.

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VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JUNE 6, 2006

Chair Morris said he was not listed as present on the Minutes and Ms. Epler said she was late for the meeting and did not make the motion for Case 06-096. **A motion was made by Vice-Chair McLaurin and seconded by Mr. Cain to approve the Minutes with the noted corrections. The motion passed unanimously.**

REVISION/AMENDMENT

B. P06-33: REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, AMENDING ARTICLE IV. PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403 USE MATRIX, TO ALLOW SINGLE FAMILY DWELLING TO BE PERMITTED ON THE SECOND FLOOR AND ABOVE FOR COMMERCIAL, RETAIL & OFFICE SPACE IN THE C(P) DISTRICT, SUBMITTED BY BRADLEY W. YOUNG.

This request for consideration of a text amendment was deferred from the May 16, 2006 at the applicant's request. The Planning & Inspections Staff recommended denial of the proposed amendment as submitted. The Staff did agree that with some minimum standards in place in the Ordinance, allowing residential dwellings on the second floor or above could be a viable use of properties in the commercial districts.

The Planning & Inspections Staff recommended approval of the request if the Board favorably considered recommending adoption of the attached standards (text amendment) affecting Article II (Definitions), Article IV (Use Matrix), and Article IX (Individual Uses). This recommendation has been forwarded to the applicant.

No one appeared in favor or in opposition to the amendment.

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the staff-version of the amendment as written. The motion passed unanimously.

REZONING/INITIAL ZONING CASES

C. P06-34: INITIAL ZONING AND REZONING OF 13.46 +/- ACRES FROM R6A TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF WADE-STEDMAN ROAD, WEST OF I-95, SUBMITTED BY THE TOWN OF WADE, OWNED BY MERRILL MCLAURIN. (WADE)

The Planning & Inspections Staff recommended approval of the R15 district based on the following:

1. The request is consistent with the Wade Study Area Detailed Land Use Plan; and
2. This request was initiated by the Town of Wade.
3. Town of Wade water and NORCRESS sewer is available to the site.

The R10 zoning district is the only other suitable district.

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

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

D. P06-37: REZONING OF THREE PARCELS TOTALING 45.61 ACRES FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, SOUTH OF SAND HILL

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ROAD, WEST OF TOWER ROAD, SUBMITTED BY CHRISTOPHER ROBERTS,
OWNED BY JAMES BUXTON, ANNIE M. FREEMAN AND THELMA BATTLE.

The Planning & Inspections Staff recommended denial of the R15 and approval of R20 zoning district at the May 16, 2006 meeting. The Planning & Inspections Staff had reconsidered this request and now recommended approval of the R15 zoning district based on the following:

1. The R15 district is consistent with the 2010 Land Use Plan and development in the general area; and
2. Public water is available to the site and the soils are suitable for septic; and
3. The subject property has frontage on a major thoroughfare, Sand Hill Road.

The other suitable zoning districts to be considered for this site are R40, R40A, R30, R30A, R20, and RR.

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

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

- E. P06-41: INITIAL ZONING OF 79.77 ACRES TO R5A AND C3 OR TO A MORE RESTRICTIVE ZONING DISTRICT, WEST OF LILLINGTON HIGHWAY, SOUTH OF PINE KNOLL DRIVE, SUBMITTED BY THE TOWN OF SPRING LAKE, OWNED BY HUFF-CAVINESS LLC. (SPRING LAKE)

The Planning & Inspections Staff recommended approval of the R5A and C3 districts based on the following:

1. Although the request is not consistent with the Spring Lake Area Detailed Land Use Plan, the subject properties are consistent with the existing development in the area; and
2. This request was initiated by the Town of Spring Lake.
3. The subject properties are located on a major thoroughfare; and
4. Spring Lake water and sewer is available to the site.

Other suitable zoning districts are O&I, HS(P), C1 and C(P).

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

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the initial zoning to R5A Residential District and C3 Heavy Commercial District. The motion passed unanimously.

- F. P06-42: REZONING OF 2.0 ACRES FROM R10 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2420 AND 2434 GEORGE OWEN ROAD, SUBMITTED BY TIM EVANS, OWNED BY WILLIAM C. AND VIDA L. LONG.

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

1. Although the request is not consistent with the 2010 Land Use Plan, the subject properties are located on the Hope Mills Bypass near a major intersection; and
2. The request is consistent with the current zoning in the area; and
3. Public water and sewer is available to the site; and
4. John Brady Road is an appropriate "stop point" for the rezoning of properties in this area to commercial zoning.

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Other suitable zoning districts are R6, R6A, R5, R5A, O&I(P) and C1(P).

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

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the C(P) Planned Commercial District. The motion passed unanimously.

- G. P06-43: REZONING OF 2.0 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 7461 AND 7473 RUFUS JOHNSON ROAD, SUBMITTED BY TOMMY SMITH, OWNED BY CARRIAGE CROSSING, INC.

The Planning & Inspections Staff recommended approval of the R40A based on the following:

1. The request is consistent with the 2010 Land Use Plan; and
2. The request is reasonable considering the lot sizes in the general area.

Note: The Planning and Inspections Staff's preference would be for rezoning to A1A; however, one of the existing structures on the subject property is not a Class A manufactured home and would become nonconforming.

There are no other suitable districts to be considered for this site.

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

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the R40A Residential District. The motion passed unanimously.

- H. P06-45: REZONING OF .26 ACRES FROM R10 TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3034 LEGION ROAD, SUBMITTED BY JIM MOHLER, OWNED BY DOUGLAS L. NEW.

The Planning & Inspections Staff recommended denial of M(P) and approval of the C(P) district based on the following:

1. The request is not consistent with the 2010 Land Use Plan, however the area meets the purpose and intent of the C(P) district; and
2. The C(P) district is in character with the existing zoning in the area.

The O&I(P) and C1(P) zoning districts are the only other suitable districts.

No one appeared in favor or in opposition to the request but the applicant did concur with the C(P) Planned Commercial District zoning.

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the C(P) Planned Commercial District. The motion passed unanimously.

- I. P06-46: REZONING OF THREE PARCELS TOTALING 3.64 ACRES FROM R6A AND C3 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF MURCHISON ROAD, AND ON THE NORTH AND SOUTH SIDES OF BERNADINE STREET, SUBMITTED BY JIM MOHLER, OWNED BY 96 INVESTORS, INC.

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

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1. The request is consistent with the 2010 Land Use Plan, calling for an Activity Node at this location; and
2. The subject property is located on a major thoroughfare; and
3. The C(P) district is in keeping with the current zoning within the area.

Other suitable zoning districts are O&I(P) and C1(P).

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

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the C(P) Planned Commercial District. The motion passed unanimously.

- J. P06-48: REZONING OF 1.87 ACRES FROM R6 TO C1 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 230 CHAPEL HILL ROAD, SUBMITTED BY AMMIE M. JENKINS, OWNED BY SANDHILLS FAMILY HERITAGE ASSOCIATION. (SPRING LAKE)

The Planning & Inspections Staff recommended approval of the C1 district based on the following:

1. Although the request is not consistent with the Spring Lake Area Detailed Land Use Plan, the request is consistent with the character of the neighborhood; and
2. Approval of the request would allow for the use of the vacant non-residential structure on the site.
3. Town of Spring Lake water and sewer are available to the site.

The O&I zoning district is the only other suitable district.

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

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

- K. P06-49: REZONING OF TWO PARCELS TOTALING 33.71 ACRES FROM A1 TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, NORTH AND SOUTH OF WADE-STEDMAN ROAD, ON THE WEST SIDE OF I-95, SUBMITTED BY JAMES A. MCLEAN III, OWNED BY LUTHER C. AND LINDA S. BARNES JR.

Ms. Speicher informed the Board that the Planning & Inspections Staff recommended approval of 10.79 acres to the north side of the road for M(P) zoning even though this is not consistent with the Wade Study Area Detailed Land Use Plan, industrial use of this property would be buffered from the I-95 interchange by the existing BP station on the adjacent property and the rezoning would provide an economic benefit to the Town of Wade. This request is supported by the Town. The 22.92 acres on the south side for C(P) zoning is consistent with the 2010 Land Use Plan. No one appeared in favor or in opposition to the request.

A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendation and approve the M(P) Planned Industrial District for 10.79 acres on the north side of the road and C(P) Planned Commercial District for 22.92 acres on the south side. The motion passed unanimously.

VIII. PUBLIC HEARING ITEMS

REZONING CASES

Mr. Cain left the room.

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Maps and slides were displayed illustrating the zoning and land use in the area. Ms. Speicher reported that the Planning & Inspections Staff recommended approval of the R40 district based on the following:

1. The request is consistent with the 2010 Land Use Plan; and
2. The request is consistent with the current zoning and lot sizes in the general area.

There are no other suitable districts.

The public hearing was opened.

Mr. Harvey VonCannon appeared before the Board in favor of the request and said he felt if it was to be a nice clean development then he did not have a problem with the request. He told the Board that he did not want manufactured homes on the property as he thought it would devalue the land. He told the Board that the property needed to be developed since it is being eroded with 4-wheelers driving on the land.

Mr. Steve Core appeared before the Board in opposition to the request and said he resided across from the property. He informed the Board that he operated a Crawfish and Catfish pond where he aerated the water at night in the summer. He said according to the Noise Ordinance that the noise level for an agricultural area could not be more than 75 decibels and on the weekend in residential areas, the level goes down to 45 decibels after 10 p.m. He told the Board if the property was rezoned that he might be cited for noise violation because the noise ratio would drop to 45 decibels.

Chair Morris asked the distance of the pond from the road. Mr. Cores said it was approximately 500 or 600 yards.

Ms. Epler said that all property that was adjacent to A1 land has a disclaimer placed on the recorded plat stating that if anyone owns or buys property in that subdivision that there are agricultural industries around there. Ms. Speicher said it specifically addresses noise, odor, etc.

Mr. Core told the Board that an owner behind him filed a complaint about the noise and the Sheriff's Department closed his business down temporarily.

Mr. Barrett told Mr. Core that according to Section 9.5-23 Terminology and standards, (b) Definitions: Classification of use occupancies. "...All premises where agricultural activity is legally permitted shall be considered agricultural use." He said according to this definition that the 75 decibels would always apply to the property as long as it was zoned agricultural.

Mr. Core told the Board that he had to go to court because he was recorded as doing 60 decibel but it was determined that the adjacent property was also agricultural. Mr. Barrett explained that Section 9.5-23 applies to his property.

Mr. M. L. Core appeared before the Board in opposition to the request and said he was representing residents in the area. He told the Board that he would like the property to remain A1 and that all his family have developed their property at the A1 zoning standards. He said he did not have a problem with manufactured homes as long as they comply with the 2 acre minimum. He said traffic would increase with the amount of lots allowed and that he would rather have 10 houses than 20. He informed the Board that three miles from the property, Mr. William Draughon is developing his property to the A1 standards.

Chair Morris asked if the petitioner was present. There was no response.

Ms. Speicher read the following comment from the Eastover Sanitary District.

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“Recommend approval of R40 CUD, if possible, where the CUD would not allow the use of Zero Lot Line. The area has houses uniformly spaced, and zero lot line would not fit aesthetically in the community. If the CUD is not possible, recommend the property remain A1.”

The public hearing was closed.

Mr. McNeill asked the acreage of lots between the Wade-Stedman Road and the bulk of the property. Ms. Speicher said they were a little over ½ acre. Ms. Epler asked for clarification of the acreage along Amadoris Drive. Ms. Speicher said they were a little less than one acre.

Mr. McNeill asked for clarification of the acreage of the two lots included in the request and if a recombination had to be done. Ms. Speicher explained the lots were about 1 acre and the two lots would have to be recombined to blend them into the new development.

Mr. Turner said the County is getting less rural and a lot of the residents have been there for many years and have developed nice homes. He said he was in favor of the area remaining A1.

A motion was made by Mr. McLaurin and seconded by Ms. Epler to defer this case to the July 18, 2006 meeting to allow the applicant to be present. The motion passed 6 to 1. Chair Morris voted in opposition to the motion. Mr. Cain abstained from discussion and voting on this matter.

B. P06-40: REZONING OF 13.19 ACRES FROM R10 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 6521 RAMSEY STREET, OWNED BY JAMES H. AND EVA S. SINGLETARY.

Mr. Cain returned to the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Ms. Speicher reported that the Planning & Inspections Staff recommended denial of the C(P) district based on the following:

1. The request is not consistent with the North Fayetteville Study Area Land Use Plan which calls for low density residential and open space at this location; and
2. There is sufficient vacant commercial property in the area; and
3. The subject property wraps around existing residential properties; and
4. McCloskey Road will likely be the main entrance to the future state park property currently owned by the Nature Conservancy; and
5. The depth of the rezoning request exceeds what would normally be considered for commercial zoning and encroaches into a residential area.

There are no other suitable districts for this area.

The public hearing was opened.

Mr. James. H Singletary, the applicant, appeared before the Board in favor of the request and explained to the Board that he would like to duplicate his development to be similar to One Village Plaza on Robeson Street. He informed the Board that due to the denial recommendation, he would like to amend his request and rezone only two to 3 acres fronting on Ramsey Street to C(P) and the remaining property to O&I which would meet the North Fayetteville Study. He told the Board that the adjacent property owners had no objections to the request and one had his property up for sale. No one appeared in opposition to the request.

The public hearing was closed.

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Ms. Epler asked when he amended his request and Ms. Speicher said she was not of aware of it until tonight.

Chair Morris said that he traveled the road frequently and due to the heavy traffic count that it was not appropriate for residential development. He said that the applicant needs time to amend his application to determine what zoning changes he wants done.

A motion was made by Chair Morris and seconded by Mr. Turner to defer this case to July 18, 2006 to allow the applicant time to amend his application. The motion passed unanimously.

C. P06-44: REZONING OF .78+/- ACRES FROM C1 TO C3 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 6769 CLINTON ROAD, OWNED BY HARRY T. PARKER. (STEDMAN)

Maps and slides were displayed illustrating the zoning and land use in the area. Ms. Speicher reported that the Planning & Inspections Staff recommended denial of the C3 district request based on the following:

1. The request is not consistent with the Stedman Area Detailed Land Use Plan; and
2. The existing zoning is the more appropriate zoning district for this tract due to the residential nature of the area.

There are no other suitable districts to be considered for this site.

The public hearing was opened.

Chair Morris asked for clarification of the uses in the C3 district. Ms. Speicher explained that the Stedman C3 allowed similar uses that the County C(P) zoning allowed. She informed the Board that the proposed use of the property would be for ATV parts and repairs. She told the Board that there was no one in opposition but there were five people to speak in favor.

Mr. Harry T. Parker, owner, appeared before the Board in favor of the request. He said he and Mr. Curtis Mitchell envisioned providing a service to the Stedman area by providing parts and service for mini-cycles/ATVs. He said he also wanted to provide sales of motorcycles and four wheelers. He informed the Board that all the equipment would be stored in the building with operation hours from 9 a.m. to 5:30 p.m. with hours on Saturday from 9 a.m. to 2 p.m. He told the Board that property located 200 yards west was zoned C3. He said this business would save travel time for customers that would normally drive to Fayetteville, Clinton or Dunn for vehicle service.

Chair Morris said C(P) allows vehicle parts and accessories. Ms. Speicher said the business is allowed also in C1 but the repair service requires C3 zoning and C(P) requires a minimum of 2 acres which they do not have.

Mr. Curtis Mitchell appeared before the Board in favor of the request and informed the Board that their property was zoned C1 which allows parts and minor repair. He explained that the C3 would allow them to sale go carts, small scooters and small vehicles. He said this addition would not create any more traffic or noise.

Mr. Roy Stalnaker appeared before the Board in favor of the request and said Hwy. 24 would be the best location for the business. He asked for the approval of the request.

Mr. David Hill appeared before the Board in favor of the request and said this would make it convenient for him to obtain parts for his children's vehicles.

Ms. Barbara Blackmon appeared before the Board in favor of the request and said she had lived in Stedman for 26 years. She informed the Board that she had been riding motorcycles

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for 10 years and this business would be an asset to the Stedman area. The public hearing was closed.

Ms. Epler asked if Stedman had Conditional Use Permit in their ordinance. Ms. Speicher said they did not.

Mr. Cain said there was not any opposition to the request and recommended the approval of the C3 request.

A motion was made by Mr. Cain and seconded by Mr. McNeill to approve the C3 Heavy Commercial District. The motion passed unanimously.

IX. DISCUSSION

Chair Morris asked that the Nomination Committee Report be added to the July 18, 2006 Agenda.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:15 p.m.