

Roy Turner,
Chair
Cumberland County

Walter Clark,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

August 16, 2011

Members Present

Mr. Roy Turner, Chair
Mr. Walter Clark, Vice-Chair
Mr. Garland Hostetter
Mr. Benny Pearce
Mr. Donovan McLaurin
Mr. Harvey Cain, Jr.
Mrs. Sara Piland
Ms. Patricia Hall
Mrs. Lori Epler

Members Absent

Mr. Charles Morris

Others Present

Mr. Tom Lloyd
Mrs. Laverne Howard
Ms. Patricia Speicher
Mr. Rick Moorefield,
County Attorney
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that the applicant for Case P11-37 requested a deferral until the September 20, 2011 Planning Board meeting.

Mrs. Piland made a motion, seconded by Mr. McLaurin to approve the deferral of Case P11-37 until September 20, 2011. Unanimous approval.

Mr. McLaurin requested that Case P11-22 be pulled from Consent Items and moved to Contested Items.

Ms. Piland made a motion, seconded by Vice-Chair Clark to approve the agenda as amended. 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 JULY 19, 2011

Ms. Hall made a motion to accept the minutes as submitted, seconded by Mrs. Epler Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P11-38:** REZONING OF .60+/- ACRES FROM C(P) PLANNED COMMERCIAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1882 DUNN ROAD, SUBMITTED BY EUNICE CARROL BAIN (OWNER).

The Planning & Inspections Staff recommends approval of the R20 Residential district for this request based on the following:

1. Although the request is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for one acre residential lots at this location, the request is consistent with the location criteria listed in the Land Use Policies of the 2030 Growth Vision Plan because the subject property has direct access to a public street, public water is provided, and septic systems are allowed dependent upon soil types where public sewer is not available; and
2. The request is reasonable since approval will cure the nonconformity of the existing use of the property.

There are no other districts considered suitable for this request.

Mrs. Piland made a motion, seconded by Mrs. Epler to follow the staff recommendation and approve case P11-38 for R20. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P11-22:** REZONING OF 23.78+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL/CZ CONDITIONAL ZONING DISTRICT FOR 33 LOT SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHWEST SIDE OF RAMSEY STREET NORTHEAST W REEVES BRIDGE ROAD; SUBMITTED BY W. STAN TAYLOR (TRUSTEE) ON BEHALF OF KM TAYLOR FAMILY TRUST (OWNER).

Mr. McLaurin stated that his understanding of Section 1505 of the Cumberland County Zoning Ordinance was that this case could not be brought back to the Planning Board, it would have to go to the Board of Commissioner's and they would have to send it back to the Planning Board. Mr. McLaurin stated that it's been that way for the 8 years that he has been on the Board.

Mrs. Piland asked when the Planning Board takes action on a case, that is the final action of the Planning Board, and if there is a change before it gets to the Commissioner doesn't that override what the Planning Board has done.

Mr. Lloyd stated not really, because technically what the Planning Board has done, is merely make a recommendation. The way the ordinance reads, it talks about the petition, it refers to a case as a petition, and we need to clarify the ordinance. The key is in the word petition, is this the same petition, or is it a modified petition from the original. At this point in time it was decided, in the attorney's presence, who was at the meeting, that this could be brought back as the same petition.

Mr. Lloyd stated that he feels there is a difference between what's been practiced and what is legal. According to David Owens at the Institute of Government you have up to the Commissioner's meeting to withdraw a case. But our ordinance is written so it could be interpreted two ways, traditionally, we have interpreted that to mean once it goes to Planning Board, if it's withdrawn after that, it's a different petition.

Mr. Moorefield stated that the petitioner can clearly withdraw his petition, any time before it's ruled on by the Commissioner's.

Mr. Lloyd stated that the reason its being done this way now was due to the interpretation of the previous County Attorney. Mr. Moorefield, the current County Attorney will have to interpret the ordinance, he is the one who ultimately allowed this to come back, so Mr. Moorefield is reading this now, and we can either take this forward as a denial per practice in the past and let the Commissioner's send it back or interpret this to hear it now.

Mrs. Epler asked if it was possible for the applicant to take the application as a density development to the County Commissioner's, since it is more restrictive than what this board recommended and voted on.

Mr. Lloyd responded yes, but it will show that he applied for R20, that was denied, and R40 was recommended by the Planning Board.

Mr. Moorefield asked if a written withdrawal petition was filed at anytime.

Ms. Speicher stated there was not one in the file.

Mr. Moorefield stated that the second part of the ordinance contemplates that there be a withdrawal, and there has not been a withdrawal. So in his opinion it would have to go to the Commissioner's to be withdrawn.

After further discussion about the language and the interpretation of the ordinance Mr. Moorefield stated that in his opinion since there has not been a withdrawal filed the Planning Board does not have the jurisdiction to hear this case again at this time.

Ms. Speicher asked at this point the original request should be on the Commissioner's agenda and leave it up to the applicant to address them with the conditional zoning.

Mr. Moorefield stated that he can modify the request at that time.

Ms. Speicher stated for clarification that Case P11-22 will be scheduled to be on the Commissioner's agenda for September with the request for R20.

Mr. Malcolm McFayden, who represents the applicant in P11-22, came forward to make a few statements. Mr. McFayden stated that he didn't remember being given the opportunity to withdraw or modify the application. They did everything that they were instructed to do, and they appreciate the opportunity to go before the Board of Commissioner's.

Public hearing closed.

IX. DISCUSSION

Mr. Lloyd stated that there was discussion with the County Attorney, Codes Committee, and some discussion with the Comprehensive Planning Committee on the effectiveness and intent of MIA's in light of the new annexation laws. At this point in time we don't need to have any Codes

Committee meetings until we can formalize what the MIA agreements are going to look like as they relate to the new annexation law and specifically we want to tie these into things like capital improvement programs to show realistically where you will be able to annex within a certain amount of time. It's felt that there needs to be a draft agreement and then meet on it.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:35 p.m.