

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

November 15, 2011

Members Present

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

Members Absent

Mr. Charles Morris
Mr. Benny Pearce

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

Ms. Hall delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

There were none

III. PUBLIC HEARING DEFERRAL

- A. **P07-75:** MODIFICATION OF THE PERMIT FOR AN APPROVED C(P) PLANNED COMMERCIAL/CUD CONDITIONAL USE DISTRICT FOR A MINI-WAREHOUSING, RETAIL/OFFICE SPACE, SECOND FLOOR DWELLING AND CAR WASH, WITH THE PERMIT ALLOWING FOR THE OUTSIDE STORAGE OF MOTOR VEHICLES; CONSISTING OF 11.66+/- ACRES; LOCATED AT THE SOUTH QUADRANT OF SR 1003 (CAMDEN ROAD) AND SR 1112 (ROCKFISH ROAD); SUBMITTED BY MICHAEL G. AND BARBARA J. WAGUESPACK ON BEHALF OF USA STORAGE CENTER, LLC. (OWNER).

Mrs. Epler made a motion, seconded by Ms. Hall to approve the deferral of Case P07-75 until December 20, 2011. Unanimous approval.

- B. **P11-56:** REZONING OF 34.55+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CZ CONDITIONAL ZONING DISTRICT FOR A 56 LOT RESIDENTIAL SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED EAST OF SR 2252 (CHICKEN FOOT ROAD), SOUTHWEST OF SR 2233 (SCHOOL ROAD); SUBMITTED BY ROGER SHAH ON BEHALF OF OM NAMH SHIVAAY, LLC (OWNER).

Mrs. Epler made a motion, seconded by Ms. Hall to approve the deferral of Case P11-56 until January 17, 2012. Unanimous approval.

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 OCTOBER 18, 2011

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

VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- C. **P11-47:** REVISIONS, AMENDMENTS AND UPDATES TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE FOR THE CUMBERLAND COUNTY JOINT PLANNING BOARD'S REVIEW OF THE AUGUST 18, 2008 ORDINANCE – SEE COMPLETE TEXT AT <http://www.co.cumberland.nc.us/planning.aspx>.

Mr. Lloyd explained the adjustments made to Section 2306. Utilites. Paragraph b – Connection to public water and sanitary sewer required. The change was to the first sentence “When not predicated upon a prior mandatory annexation policy and” in other words, if you have to be annexed first and then request utilities, we’re not enforcing that. We’re only enforcing the way we always have been, if you’re doing it because you want, not because you’re being annexed. If you’re being annexed in order to get utilities, the County will not facilitate that, it will be up to the municipality.

Mrs. Piland made a motion, seconded by Mrs. Epler to approve Case P11-47 with the explanation of changes. Unanimous approval.

REZONING CASES

- D. **P11-54:** REZONING OF 1.50+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2527 GILLESPIE STREET, SUBMITTED BY RAJ PATEL ON BEHALF OF 301 INVESTMENTS, LLC. (OWNERS).

The Planning and Inspections Staff recommends approval of the C(P) Planned Commercial district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” at this location, as well as meeting the location criteria for “heavy commercial” development as listed in the Land Use Policies Plan;
2. The location and character of the use will be in harmony with the surrounding area; and
3. Public utilities are available to the subject property.

The C2(P) Planned Service and Retail district could also be considered suitable for this request.

Mrs. Piland made a motion, seconded by Mrs. Epler to follow the staff recommendation and approve Case P11-54 for C(P). Unanimous approval.

- E. **P11-55:** REZONING OF 4.90+/- ACRES FROM A1 AGRICULTURAL TO R30A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 1421, 1429 AND 1443 SEABROOK SCHOOL ROAD; SUBMITTED BY THOMAS G. AND DORIS P. COOPER (OWNERS).

The Planning & Inspections Staff recommends approval of the R30A Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban area” at this location, as well as meeting the location criteria for suburban density residential development as listed in the Land Use Policies Plan; and
2. The request is consistent with surrounding zoning and land uses.

The R40A and R40 Residential districts could also be considered suitable for this request.

Mrs. Piland made a motion, seconded by Mrs. Epler to follow the staff recommendation and approve Case P11-55 for R30A. Unanimous approval.

VIII. CONTESTED ITEMS

REZONING CASES

- F. **P11-53:** REZONING OF .70+/- ACRES FROM RR RURAL RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1271 SAND HILL ROAD, SUBMITTED BY ROGER D. AND SHIRLEY D. MCALLISTER (OWNERS).

Mr. Lloyd presented the case information and stated that the Planning and Inspections Staff recommends denial of the request for C2(P) Planned Service and Retail district based on the following:

1. The district requested is inconsistent with the location criteria for “light commercial” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan because public sewer is required but not readily available;
2. The request, if approved, would be “spot zoning” initiating the encroachment of “light commercial” into a residential area; and
3. The request is not in character with immediate surrounding land uses.

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

There was one person present to speak in favor.

Mr. Roger McCallister stated that the zoning he would need is for an upscale dealership would be M(P) or C2(P), if this isn't approved he wanted to know if he could apply for conditional zoning.

Mrs. Epler asked Mr. McCallister if he let staff know that he wanted to do a conditional zoning district.

Mr. McCallister stated that he did.

Mr. Lloyd stated that staff didn't feel that it was appropriate, but he could have applied for conditional zoning.

Mr. McLaurin made a motion, seconded by Mrs. Epler to follow the staff recommendation and deny case P11-53 for C2(P). Unanimous approval.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 11-082: CONSIDERATION OF THE CAROL A. WILTCHER PROPERTY; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC WATER; COUNTY SUBDIVISION ORDINANCE, SECTION 2306.A.1.B UTILITIES; ZONED: A1; TOTAL ACREAGE: 4.80+/-; LOCATED AT 8978 & 8988 COATS ROAD; SUBMITTED BY CAROL A. WILTCHER (OWNER).

Mr. Lloyd presented the case information and stated that the applicant was requesting a waiver from the requirement to connect to public water.

The applicant was present to speak in favor.

Ms. Carol Wiltcher was sworn in by Chair Turner. Ms. Wiltcher asked if the board had read the letter she submitted (they stated they had read it). Ms. Wiltcher stated that she has tried everything possible, and is aware that she is applying as a group development because that is what is required, but she is just putting one single home on her property. The problem with blue streaming is, after speaking with engineers that actually work with the Town of Linden and did the work, and one of the reasons that Linden stopped where they stopped, was Linden states it's ten feet but when measured it's thirty eight feet over, and it would cost thousands of dollars to go under that blue line stream. Ms. Wiltcher stated that she went to the town meeting and asked for a waiver hoping they would realize this is a hardship, but they didn't approve it. Ms. Wiltcher stated this is a hardship and has already invested \$1500 for the meter and tap. That doesn't include the plumbing for three hundred feet for the new house. The Planning Department and Patti Speicher have been very helpful, the one reason never applied for the waiver is because she had been told that a lot of waivers have been turned down, and that's very scary.

Mrs. Piland stated that she read the information provided in the packet and feels that the applicant has made extensive efforts and she is in the situation where she has no place to turn without spending thousands of dollars.

Mrs. Piland made a motion to approve the request, seconded by Mrs. Hall that the Joint Planning Board for the County of Cumberland having held a public hearing to consider the waiver request for Case No. 11-082 requesting a waiver from the requirement to connect to public water, County Subdivision Ordinance and having heard all of the evidence and arguments presented, the board makes the following findings of fact and draws the following conclusions (1) it is the Planning Board's conclusion that the requirement would cause a special and unnecessary hardship

to the property owner. This finding is based on the following conditions: (1) There is no change in development on the property that should render requirements for connection to public water and would not cause any hardship to others, (2) it is the board's conclusion that the purpose of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, (3) The property owner is not being afforded a special privilege denied to others. Because of the foregoing I move that the request for the waiver be approved. Unanimous approval.

X. DISCUSSION

DIRECTOR'S UPDATE

- TERMINATION OF THE MIA AGREEMENT

The agreement says you have to give six months notice before termination and the way the city's policy works is the City of Fayetteville wants all development that comes into the City that they annex be developed to their new Unified Development Ordinance (UDO). In a discussion with the Assistant City Manager, Kristoff Bauer, he was told why that wouldn't happen in the MIA, one of the main reasons is County inspectors are not going to learn over 500 pages of the UDO and going to enforce that in the County on people that are in the County. It makes development a lot more expensive, administratively it would not be practical, our inspectors can't go out and enforce the City's UDO. So the City had to come up with a way that everything coming into the City would be developed according to the new UDO. Thus, new development that needs utilities they will annex first and then they will extend utilities. That way they will be subject to the UDO that also bypasses the new annexation statutes where sixty percent of residents would have to agree to annexation. Kristoff knew that the County would not agree to enforce the new UDO, a representative of the City administration voiced the opinion that there is no more need for the MIA which really only enforces streets and sidewalks, which is nothing compared to what the UDO covers. There is just no need for the MIA, not with this new policy. Mr. Lloyd feels that the recommendation should come from the Planning Board everybody should be involved, and feels that it is appropriate to ask the commissioners to give six months notice to terminate the MIA agreement.

Mrs. Epler made a motion, seconded by Mr. Hostetter directing Mr. Lloyd to write a memo to the Board of Commissioners recommending termination of the MIA Agreement to be presented to the Planning Board first for their approval. Unanimous approval.

- LINDEN WATER DISTRICT

Mr. Lloyd reminded the board that the Grays Creek Water & Sewer district was not approved. After talking to Betsy Smalls from Linden and Charles Morris, Linden's Planning Board representative, it may be a good idea to talk to some of the representatives on the Linden Town Board as to the possibility of pursuing a district in the Linden area, who are experiencing the same pressures as the Grays Creek area.

- FT. BRAGG REGIONAL ALLIANCE

The usefulness of the original BRAC is finished now that they're in the construction phase. Mr. Lloyd stated that he didn't have a problem with Ft. Bragg regional Alliance pursuing grant money for small town studies, but does have a problem when they ask for a ten percent match from the County, without consulting the Joint Planning Board staff. Before the County gives any match towards planning funds it should go through the

Planning Department since we have been targeted as the planning staff, agency and planning board. The next thing they want to do is a corridor study from 87 between Spring Lake and Spout Springs or Linden Oaks area. We could do that study with the Harnett County planners. Mr. Lloyd asked the board members to ask their Town Managers and policy makers, when Ft. Bragg Regional Alliance approaches their community, which they will, to work through the planning agency that you pay. Because that's what we have been tasked to do, and this way we won't be bypassed.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:40 p.m.