

Walter Clark,  
Chair  
Cumberland County

Patricia Hall,  
Vice-Chair  
Town of Hope Mills

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



**CUMBERLAND**  
★ **COUNTY** ★  
NORTH CAROLINA

*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Lori Epler,  
Sara E. Piland,  
Vikki Andrews,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin,  
Wade, Falcon & Godwin

**MINUTES**

May 21, 2013

**Members Present**

Mr. Walter Clark, Chair  
Ms. Patricia Hall, Vice Chair  
Mr. Charles Morris  
Mrs. Lori Epler  
Ms. Vikki Andrews  
Mr. Donovan McLaurin  
Mr. Garland Hostetter  
Mr. Benny Pearce

**Members Absent**

Mrs. Sara Piland  
Mr. Harvey Cain, Jr.

**Others Present**

Mr. Thomas Lloyd  
Ms. Donna McFayden  
Mrs. Laverne Howard  
Mr. Rick Moorefield,  
County Attorney

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 cases P13-14 and P14-18 were pulled from consent items and moved to contested items.

III. PUBLIC HEARING WITHDRAWAL

**P12-48:** REZONING OF 86.22+/- ACRES FROM CD CONSERVANCY AND RR RURAL RESIDENTIAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE EAST SIDE OF MCKINNON FARM ROAD AND SOUTH OF SR 1107 (FISHER ROAD); SUBMITTED BY LORRAINE MOHLER ON BEHALF OF MWH GROUP, LLC. (OWNER) AND 4D SITE SOLUTIONS, INC

**Mr. McLaurin made a motion, seconded by Mr. Morris to approve the withdrawal. 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 APRIL 16, 2013

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

VII. PUBLIC HEARING CONSENT ITEMS

## TEXT AMENDMENT

- A. P13-20.** REVISION AND AMENDMENT TO THE TOWN OF FALCON ZONING ORDINANCE AMENDING ARTICLE II. GENERAL ZONING DISTRICT CLASSIFICATIONS, SECTION 2.1. STATEMENT OF INTENT, PURPOSE AND ZONE CHARACTERISTICS, SUB-SECTION 2.18. CONDITIONAL USE DISTRICTS; ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, TITLE AND SECTION 3.1 TABULATION OF PERMITTED USES; ARTICLE IV. COMPANION DISTRICTS – CONDITIONAL USE DISTRICTS IN ITS ENTIRETY, INCLUDING THE TITLE; ARTICLE IX. SIGN REGULATIONS, SECTION 9.3. SIGNS PERMITTED IN ANY DISTRICT; ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, SPECIFICALLY *CONDITIONAL USE & SPECIAL INFORMATION SIGNS*; ARTICLE XII. ADMINISTRATIVE PROVISIONS, SECTION 12.4. ADMINISTRATIVE PROCEDURES, SUB-SECTION 12.43. VARIANCE AND SECTION 12.5. AMENDMENTS, IN ITS ENTIRETY; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

The Planning & Inspections Staff recommends approval of the above referenced text amendment based on the following:

1. If approved, this amendment will allow for rezoning with conditions as a legislative matter and since quasi-judicial hearings would no longer be required for this type of application, the two part motion requirement would also be eliminated; and
2. The amendment, if adopted, will enable board members to converse with citizens and affected property owners concerning a proposed conditional zoning application without comprising the rezoning process thus affording the Town's elected officials the opportunity to make well-informed decisions.

**Mrs. Epler made a motion, to recommend the adoption and approval of the Text Amendment as submitted by the Planning & Inspections staff, seconded by Mr. McLaurin. The motion passed with a unanimous vote.**

## REZONING CASES

- B. P13-13.** REZONING OF 2.78+/- ACRES FROM M(P) PLANNED INDUSTRIAL TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2276 CLARK WEST ROAD AND ON THE SOUTHWEST SIDE OF SR 2217 (CLARK WEST ROAD), EAST OF SR 2216 (EVANS DAIRY ROAD); SUBMITTED BY STEPHEN M. & ELIZABETH CRUMPLER CLARK AND HENRY E. & MILDRED M. CLARK (OWNERS).

The Planning and Inspections Staff recommends approval of the A1 Agricultural district for this request based on the following:

The subject properties' current zoning classification of M(P) Planned Industrial District is the result of a mapping error related to the approval and digitizing of case P99-63 [(A1 and CD to M(P) approved on 09/20/1999)]. This request is reasonable and consistent as it is simply a correction returning the subject properties to their original zoning classification of A1 Agricultural.

There are no other districts considered suitable for this request.

**Mrs. Epler made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve A1 Agricultural district, seconded by Mr. McLaurin. The motion passed with a unanimous vote.**

## CONDITIONAL ZONING DISTRICT

- C. P13-05.** REZONING OF 2.51+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1348 BAINBRIDGE ROAD, SUBMITTED BY WALTER SCOTT AND SYLVIA DELORIS MANNING (OWNERS) AND ROBERT M. BENNETT.

On April 17, 2013 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for a R40 Residential/CZ Conditional Zoning district (R40/CZ) for two residential lots. The Planning & Inspections Staff recommends approval of the requested rezoning to R40 Residential/CZ Conditional Zoning district for two residential lots based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for "rural density residential" development as listed in the Land Use Policies Plan;
2. The request is reasonable as the subject property is entirely surrounded by A1 Agricultural and R40 Residential and approval of this request would allow for comparable lot sizes which would most likely enhance or maintain the value of adjoining residential properties; and
3. The location and character of the use, if developed according to the plan as submitted and the recommended Ordinance Related Conditions, are reasonable as they will be in harmony with the area in which they are to be located.

There are no other zoning districts suitable as related to this request. The applicant has verbally agreed to all Ordinance Related Conditions.

**Mrs. Epler made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R40 Residential /CZ Conditional Zoning district for two residential lots, seconded by Mr. McLaurin. The motion passed with a unanimous vote.**

- D. P13-19.** REZONING OF 8.00+/- ACRES FROM R40A RESIDENTIAL TO R20/CZ RESIDENTIAL/CONDITIONAL ZONING DISTRICT FOR GROUP QUARTERS OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHEAST SIDE OF NC HWY 82 (N WEST STREET), SOUTHEAST OF SR 1806 (SHERRILL BAGGETT ROAD); SUBMITTED BY JOSEPH T. LEGGETT ON BEHALF OF FALON CHILDREN'S HOME (OWNER) AND MATTHEW HALEY, PE. (FALCON)

The Planning & Inspections Staff recommends approval of the requested rezoning to R20 Residential/CZ Conditional Zoning district for group quarters based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "community growth area" at this location, as well as meeting the location criteria for "suburban density residential" development as listed in the Land Use Policies Plan; the request is also consistent with the Vision Northeast Land Use Plan which calls for "office and institutional" at this location;
2. The requested use of group quarters is reasonable as it is a logical extension of the Falcon Children's Home located on the same property and under the same ownership;
3. The location and character of the use, if developed according to the plan as submitted and the recommended Ordinance Related Conditions, are reasonable as they will be in harmony with the area in which they are to be located.

There are no other zoning districts suitable as related to this request. The applicant has verbally agreed to all Ordinance Related Conditions.

**Mrs. Epler made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R20 Residential/CZ Conditional Zoning district for group quarters, seconded by Mr. McLaurin. The motion passed with a unanimous vote.**

VIII. PUBLIC HEARING CONTESTED ITEMS

- E. P13-14. REZONING OF 23.78+/- ACRES FROM R40 RESIDENTIAL TO R20 RESIDENTIAL 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. Lloyd presented the site information and stated the Planning and Inspections Staff recommends approval of the R20 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “rural” at this location, as well as meeting the location criteria for “suburban density residential” development as listed in the Land Use Policies Plan; the request is also consistent with the North Central Land Use Plan which calls for suburban density at this location;
2. Consideration of the R20 Residential district for the subject property is reasonable because the request is comparable to development and rezonings approved within the general area in the recent past; and
3. Public water is available to the subject property.

The R30 Residential district could also be considered suitable for this request.

There were people present to speak in favor and in opposition of the request.

Mr. William Stan Taylor spoke in favor. Mr. Taylor stated that he was present representing himself and his siblings and the family trust. Their plans are to develop the property and need a more dense zoning to make it feasible.

Mr. Nick Angelone spoke in opposition. Mr. Angelone stated that his concerns are with the density because the area is on septic tanks. Mr. Angelone is also concerned with the increase in traffic, overcrowded schools, and also concerned with more development that could come if this request is approved. Mr. Angelone would like to keep the area with two houses per acre. Mr. Angelone stated he wanted to see the plan followed and kept two units per acre.

Ms. Ellen Farr spoke in opposition. Ms. Farr stated that she had the same concerns as the previous speaker. Ms. Farr would like to keep the area rural and country and would like to see the zoning kept at R40.

Mr. Taylor spoke in rebuttal. Mr. Taylor stated that the family is looking at putting in a first class development and thinks this will bring people and jobs to the community.

Public hearing closed.

Mrs. Epler stated that this request is two units per acre and at two lots per acre this development could be forty six lots, its twenty three acres of property; at R20 they would only be allowed forty four lots. The Town of Linden has supplied water to this neighborhood, and they need some return on that infrastructure that they have put in and it's time for them to get that return back. The soils map show that this is a good area for septic tanks; it's a high area one of the few in that area. Obviously the health department is not going to let them put septic tanks in an area that is not suitable. Ramsey Street is going to be developed, whether we like it or not there is a demand for houses out there. Mrs. Epler stated that she supports the request for R20.

Mr. Morris stated that as the Linden representative he knows the area well. The Castlebrook development had the same issues and the soil is very similar to the subject property's soil, and that was rezoned to R15. Mr. Morris stated that this is not a good area to put a sewer line when there is good soil that will support a septic tank and repair area, and that this is the highest area around. Mr. Morris feels that the request for R20 is appropriate and supports the request for R20.

Ms. Hall asked if there were plans for sewer in the area.

Mr. Morris stated that there are other areas that need sewer where the septic tanks are failing. There is no need for sewer in this area.

Mrs. Epler said that this development is too far away from available sewer to have this development tie into.

Ms. Hall stated that her concern was more septic tanks in another part of the County, because they have seen septic tanks fail that were there for years.

Mr. Morris stated there have been no plans for sewer right now to the area.

**Mrs. Epler made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R20 Residential district, seconded by Mr. Morris. The motion passed with Mr. Pearce and Ms. Hall voting in opposition.**

- F. **P13-18.** REZONING OF 2.56+/- ACRES FROM A1 AGRICULTURAL TO R40 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF SR 2245 (THROWER ROAD) AND ON THE EAST SIDE OF SR 2372 (NORTH FORK LANE), SUBMITTED BY ELLA M. MCNAIR (OWNER) AND TIMOTHY B. EVANS.

Mr. Lloyd presented the site information and stated the Planning and Inspections Staff recommends approval of the R40 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for "rural density residential" development as listed in the Land Use Policies Plan; and
2. The location and character of the district is reasonable and will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

There were people present to speak in favor and in opposition of the request.

Mr. Tim Evans spoke in favor. Mr. Evans stated that he was present representing the owner. Mr. Evans stated that a soil scientist has evaluated the subject property and said the property is suitable for a septic tank, and a well digger has said that there is good water in the area. The family has realized that it was in their best interest to cut this property into two tracts and sell it that way.

Mr. Ron Crosby spoke in opposition. Mr. Crosby stated that he grew up on Thrower Road and owns property in the area. Mr. Crosby said that he was not against development, but is against anything that changes the complexion of the neighborhood. Mr. Crosby said that he would like to see the property maintain its current zoning classification, because they don't want to see problems with water and sewer due to it being over developed.

Ms. Bertha Crosby spoke in opposition. Ms. Crosby stated that she would like the subject property maintain the same zoning.

Ms. Florence Malloy spoke in opposition. Ms. Malloy stated that she would like for the zoning to stay the same.

Mr. Edward Smith spoke in opposition. Mr. Smith stated that he would like for the zoning to stay the same because of the water and septic problems.

Mr. Evans spoke in rebuttal. Mr. Evans stated that he understands the speakers concerns, but Grays Creek is changing, if we look at how the lots are cut up, they can be built on now. Septic tanks have changed they work totally different now, than they did forty years ago. For the owner to want to split a 2.56 acre lot into two lots is not asking for that much. What's one more house? It's going to change, we can't stop it. It's the nature of the County and how it's growing. He also pointed out seven lots in the immediate area that were all one acre or less.

Mrs. Epler stated that there are seven tracts of land that are either adjacent to or directly across the street from this property, out of those seven tracts, four of them are smaller than the 1.2 acres that each of these two lots are going to average. Splitting this lot will not change the character of the neighborhood.

**Mr. Morris made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R40 Residential district, seconded by Mrs. Epler. The motion passed with Ms. Andrews voting in opposition.**

- G. P11-20.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS BY INSERTING IN ALPHABETICAL ORDER THE TERM AND DEFINITION FOR "FIRING RANGE, OUTDOOR;" AMENDING ARTICLE IV PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403. USE MATRIX BY INSERTING IN ALPHABETICAL ORDER A NEW ROW ENTITLED "FIRING RANGE, OUTDOOR (SEC. 907.1)" IN THE LAND USE COLUMN AND ALLOWING THIS USE AS CONDITIONAL ZONING BY INSERTING A "Z" IN THE CD, A1, A1A, O&I(P), C1(P), C2(P), C(P), M1(P) AND M(P) ZONING DISTRICT COLUMNS ON THIS SAME ROW; AMENDING ARTICLE IX INDIVIDUAL USES BY CREATING AND INSERTING IN NUMERICAL ORDER A NEW SECTION ENTITLED: SECTION 907.1 FIRING RANGE, OUTDOOR, WITH SUB-SECTIONS "A" THROUGH "J;" AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (NOTE: ORIGINAL HEADING HAS CHANGED TO REFLECT THE CURRENT PROPOSED AMENDMENT.)

Mr. Morris, Chair of the Land Use Codes Committee explained the changes that were made to the amendment and how the committee addressed the changes that were made.

Mr. Lloyd stated that there was an important comment from a citizen referencing Sec. 907.1 addressing Firing Range, Outdoor: Section 4 (c) 7 referencing "or administrative controls", we don't really know what administrative controls are, we don't have a problem with "other engineering controls". We are just requesting that "or administrative" be removed so that if there's any deviation it still has to be approved by an engineer.

Mr. Lloyd stated that there were people present to speak in favor and in opposition.

Public hearing opened.

Mr. Rick Smith spoke in favor. Mr. Smith stated that he had concerns with the following issues that could affect future ranges and smaller ranges, \$3 million insurance requirement, where engineer would come from, grandfather clause, fencing, and EPA regulations on lead abatement. Mr. Smith asked that the board look into these things before making a decision.

Mrs. Epler asked Mr. Smith if paying for insurance based on membership was typical for liability insurance policies for shooting ranges.

Mr. Smith said if you go through the NRA insurance program. But Mr. Smith couldn't say how much his premium would go up if he had to raise his liability to \$3 million.

Mr. Jack Kelley spoke in favor. Mr. Kelley had concerns on safety; the proposed document doesn't address safe use. Mr. Kelley would like a simple understanding published.

Ernest J. Darden spoke in opposition. Mr. Darden was present representing the Cumberland County Wildlife Club and we do recognize that there will be a firing range ordinance enacted. Mr. Darden said that he had not seen a distinction between commercial ranges and private ranges. They will request an exemption from a future ordinance based on State Statute Chapter 14 Article 53c Sport Shooting Range Protection Act of 1997. Mr. Darden expressed concern with the insurance liability and feels that it is excessive and will be a burden on shooting clubs and feels that the fencing requirement will be a problem.

Mr. Ron Ross spoke in opposition. Mr. Ross stated that his concern is from the research that he has done on shooting ranges and the danger of ground contamination from the stray bullets.

Ms. Pat Davis spoke in opposition. Ms. Davis stated that her concerns are with small ranges popping up in neighborhoods, safety, noise level, health, environmental issues, and lead poisoning. Ms. Davis feels that the public nuisance of the shooting ranges will reduce property values and the quality of life will be reduced with shooting ranges in a community.

Mr. Phil Edge spoke in opposition. Mr. Edge stated that he agreed with the regulations but would like to see a five hundred acre minimum for shooting ranges.

Nancy Mellet spoke in opposition. Ms. Mellet stated that Ms. Davis said everything that she wanted to say, but someone needs to think about the children in the communities and their safety.

Public hearing closed.

Mr. McLaurin asked about the districts the firing ranges would be allowed in and asked about the process for conditional zoning to be issued.

Mr. Lloyd stated that staff would amend the ordinance and put language in for conditional zoning cases.

Mr. McLaurin stated that he feels the M1(P) district is the best suited district for an outdoor firing range.

Ms. Hall said that safety has always been an issue and it seems as though the standards have been lowered. Ms. Hall asked about the minimum acreage and the fact that there didn't seem to be anything in the amendment about the noise.

Mr. Lloyd said that there was minimum acreage in the original amendment and that was changed, but the Department of Energy standards don't put a minimum acreage. If you have the appropriate provisions in place there doesn't have to be a minimum size for safety standards, but for noise, than there would need to be a minimum size.

Ms. Hall stated that if the acreage is big enough the noise is not an issue because it's not as close.

Mr. Lloyd said that the size issue could be addressed in the motion. Anyone on the board could make any changes or additions that they feel appropriate.

After further discussion the board decided to vote on each of the changes they wanted to make separately.

**Mr. McLaurin made a motion, seconded by Mr. Pearce to place a "z" in the M1(P), because M1(P) is the only zoning that does not include residential or commercial use and take the "s"**

off of columns. Restrict the use to M1(P) only. The motion passed with Mr. Morris voting in opposition.

**Paragraph 1 –**

**Mr. McLaurin made a motion, seconded by Mr. Morris to remove the last sentence after the semicolon “or any activities conducted by a club or lodge as defined in this ordinance.” The motion passed. Unanimous approval.**

**Mr. McLaurin made a motion, seconded by Ms. Hall to change “individual” to “individuals”. The motion passed. Unanimous approval.**

**Paragraph 3 – Section 907.1**

**Mr. Morris made a motion, seconded by Mrs. Epler to remove “or administrative”. The motion passed. Unanimous approval.**

**Ms. Hall made a motion, seconded by Mr. Morris to add back to the amendment a requirement of a minimum acreage of 30. The motion passed. Unanimous approval.**

Mr. Moorefield recommended adopting a grandfather provision. The reason for this is having people establish a record that they were in existence prior to this amendment being adopted.

**Mr. Morris made a motion, seconded by Mr. McLaurin to accept the reinsertion of paragraph “K” in its entirety to the amendment. The motion passed. Unanimous approval.**

**Mr. Morris made a motion, seconded by Mr. McLaurin a recommendation that the Board of Commissioners review the Noise Ordinance as it relates to the firing ranges. The motion passed. Unanimous approval.**

**Mr. Morris made a motion, seconded by Mrs. Epler, to recommend approval of P11-20 with changes and move forward to the Board of Commissioners for their vote. The motion passed. Unanimous approval.**

**IX. DISCUSSION**

**DIRECTOR’S UPDATE**

There was none.

**X. ADJOURMENT**

There being no further business, the meeting adjourned at 10:05 p.m.