

Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin,  
Wade, Falcon & Godwin



Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Stan Crumpler,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

*Planning & Inspections Department*

**MINUTES**

January 16, 2018

**Members Present**

Mr. Charles Morris, Chairman  
Mrs. Diane Wheatley, Vice-Chair  
Ms. Patricia Hall  
Mr. Harvey Cain, Jr.  
Mr. Stan Crumpler  
Dr. Vikki Andrews  
Mrs. Jamie McLaughlin  
Mrs. Lori Epler

**Members Absent**

Mr. Carl Manning  
Mr. Donovan McLaurin

**Others Present**

Mr. Thomas Lloyd  
Ms. Patricia Speicher  
Mr. Mark Blackwell  
Mrs. Laverne Howard

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

There were no adjustments to the agenda.

**Dr. Andrews made a motion, seconded by Mr. Crumpler to approve the agenda as submitted. Unanimous approval.**

III. PUBLIC HEARING WITHDRAWALS / DEFERRALS

**P17-46.** REZONING OF 645.52+/- ACRES FROM A1 AGRICULTURAL, RR RURAL RESIDENTIAL, PND PLANNED NEIGHBORHOOD DEVELOPMENT & CD CONSERVANCY DISTRICT TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED NORTH OF THE CAPE FEAR RIVER, BOUNDED BY SR 1700 (MCBRYDE STREET) & SR 1609 (LANE ROAD); SUBMITTED BY T.L. BROOKS IV ON BEHALF OF MCCORMICK FARMS L.P. (OWNER). **WITHDRAWN**

**P18-03.** REZONING OF .93+/- ACRE FROM R10 RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3496 GILLESPIE STREET, SUBMITTED BY PHILIP & SHARON KROPP (OWNERS). **STAFF REQUESTED DEFERRAL UNTIL FEBRUARY 20, 2018**

**Mrs. Wheatley made a motion, seconded by Mrs. Epler to approve the deferral. Unanimous approval.**

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

The Policy Statement was not needed.

VI. APPROVAL OF THE MINUTES OF DECEMBER 19, 2017

**Ms. Hall made a motion, seconded by Mrs. Wheatley to approve the minutes as submitted. Unanimous approval.**

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P18-01.** REZONING OF 1.01+/- ACRES FROM R40 RESIDENTIAL/CU CONDITIONAL USE OVERLAY FOR MOTOR VEHICLE SALES TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON SOUTH SIDE OF SR 2040 (BEAVER DAM CHURCH ROAD), WEST OF NC HWY 210 SOUTH; SUBMITTED BY WILLIAM JEFFREY SIMPSON ON BEHALF OF SIMPSON FARMS LLC (OWNER).

In Case P18-01, the Planning and Inspections Staff recommends approval of the rezoning to remove the Conditional Use Overlay for motor vehicle sales at the property owner's request and find the Southwest Cumberland Land Use Plan has been examined and does not address this particular situation; and further find approval of the request is reasonable and in the public interest because Conditional Use Overlays were approved prior to 2005 in order to allow land uses that were not permitted in the current zoning district in exceptional situations, later deemed as an improper use of zoning, and that the approved business is no longer in operation at this location.

**In Case P18-01, Mrs. Epler made a motion, seconded by Mr. Crumpler to approve the rezoning to remove the Conditional Use Overlay for motor vehicle sales at the property owner's request and find the Southwest Cumberland Land Use Plan has been examined and does not address this particular situation; and further find approval of the request is reasonable and in the public interest because Conditional Use Overlays were approved prior to 2005 in order to allow land uses that were not permitted in the current zoning district in exceptional situations, later deemed as an improper use of zoning, and that the approved business is no longer in operation at this location.**

- B. **P18-02.** REZONING OF 1.65+/- ACRES FROM R6 RESIDENTIAL TO C2(P) PLANNED SERVICE & RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1709 MCARTHUR ROAD, SUBMITTED BY MELVIN & MARGARET MOORE (OWNERS).

In Case P18-02, the Planning and Inspections Staff recommend to approve the rezoning from R6 Residential to C2(P) Planned Service and Retail and find:

- a. The approval is an amendment to the adopted North Fayetteville Land Use Plan (2003) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map;
- b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the requested district is consistent with the more recently adopted 2030 Growth Vision Plan (2009) which calls for "urban" development at this location;
- c. And, this rezoning approval is reasonable and in the public interest because the subject property is located in an area that is in transition from residential to non-residential through redevelopment and construction of the Fayetteville Outer Loop (I-295).

**In Case P18-02, Mrs. Epler made a motion, seconded by Mr. Crumpler to approve the rezoning from R6 Residential to C2(P) Planned Service and Retail and find: a. The approval is an amendment to the adopted North Fayetteville Land Use Plan (2003) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map; b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the requested district is consistent with the more recently adopted 2030 Growth Vision Plan (2009) which calls for "urban" development at this location; c. And, this rezoning approval is**

**reasonable and in the public interest because the subject property is located in an area that is in transition from residential to non-residential through redevelopment and construction of the Fayetteville Outer Loop (I-295).**

#### CONDITIONAL ZONING CASE

- C. **P17-55.** REZONING OF 41.30+/- ACRES FROM RR RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF DOWNING ROAD, EAST OF ACCORD ROAD; SUBMITTED BY JOHN S. HAIR, JR. (OWNER) AND GARRIS NEIL YARBOROUGH (ATTORNEY).

In Case P17-55, the Planning and Inspections Staff recommend to approve the rezoning from RR Rural Residential to M(P) Planned Industrial/CZ Conditional Zoning for open storage of construction materials and equipment along with ancillary work activities, office space and storage buildings and find:

- a. The approval is an amendment to the adopted Vander Area Land Use Plan (2017) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map;
- b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the requested district will allow the property to be developed in a manner that more closely fits the Vander Area Land Use Plan recommendation of "Light Industrial";
- c. And, this rezoning approval is reasonable and in the public interest if the property owner agrees to the attached conditions because the subject property is of a sufficient size to accommodate buffering, screening and landscaping; public water & sewer are available to the site; and NC Hwy 24 is classified as a freeway/expressway designed to handle industrial type traffic.

**In Case P17-55, Mrs. Epler made a motion, seconded by Mr. Crumpler to approve the rezoning from RR Rural Residential to M(P) Planned Industrial/CZ Conditional Zoning for open storage of construction materials and equipment along with ancillary work activities, office space and storage buildings and find: a. The approval is an amendment to the adopted Vander Area Land Use Plan (2017) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map; b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the requested district will allow the property to be developed in a manner that more closely fits the Vander Area Land Use Plan recommendation of "Light Industrial"; c. And, this rezoning approval is reasonable and in the public interest if the property owner agrees to the attached conditions because the subject property is of a sufficient size to accommodate buffering, screening and landscaping; public water & sewer are available to the site; and NC Hwy 24 is classified as a freeway/expressway designed to handle industrial type traffic.**

#### VIII. PUBLIC HEARING WAIVER CASE

**CASE NO. 17-006.** CONSIDERATION OF THE JASON AUTRY PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC WATER; COUNTY SUBDIVISION ORDINANCE, SECTIONS 2306.A.1.B, CONNECTION TO WATER AND SANITARY SEWER REQUIRED; ZONED: R15; TOTAL ACREAGE: 3.898 +/-; LOCATED AT 548 SUNNYSIDE SCHOOL ROAD; SUBMITTED BY JASON AUTRY (OWNER).

Ms. Speicher presented the case information and photos of the case.

Chair Morris swore in Ms. Speicher and Mr. Jason Autry, the owner of the subject property.

Mr. Autry spoke in favor. Mr. Autry stated that the subject property had been subdivided from a seventeen-acre tract which was owned by his mother who lives on another part of the property. He decided to clear some of the tract and put a home on it, the property was deeded to him by his mother. The dwelling is nine hundred feet from the PWC water line.

Mrs. Epler asked Mr. Autry when he had his review for the subdivision done if he had started the construction on his home.

Mr. Autry stated yes, that he was committed and spent money to have the land cleared then had the land surveyed.

Mrs. Epler asked if he was told at his subdivision review that he would have to obtain public water.

Mr. Autry stated that he was made aware of the requirement.

Mrs. Epler went on to ask, even after he was told about the requirement to connect, he started construction of his house.....

Mr. Autry said he was already committed.

Mrs. Epler said that she was sure, with the way that the County works, that he would not have been issued a temporary permit until after his subdivision review was completed.

Mr. Autry said there was no permit issued until he was granted the temporary waiver.

Mrs. Epler said that she wanted to make sure that before he started construction of that house in the location it's in that he was going to be required to connect to PWC water.

Mr. Autry said that was explained to him.

Mr. Morris asked if there was one house on the dirt road.

Ms. Speicher said there were two and the applicant removed an old residential dwelling. Ms. Speicher stated that you could have a dirt road with up to four but you cannot have any dirt road in the Fayetteville MIA and the subject property is in the MIA, it can only be paved street.

Mr. Morris stated that Mr. Autry got the temporary waiver, then the building permit and basically started building.

Ms. Hall asked Mr. Autry what his main objection was to hooking up to PWC.

Mr. Autry stated that he met all the requirements to be granted a waiver.

Mr. Morris asked where they were currently getting water from.

Mr. Autry said there were wells on the property from where the dwellings were removed.

Mrs. Epler said that as to the three findings that we need to approve this waiver, with the size of this tract, Mr. Autry is leaving the door open to where he can come back and ask for another subdivision on this property and it certainly would allow more lots or more structures. It would have to come back to Planning Board for another waiver for any additional units, but because of the size of the tract the more we should stand behind the ordinance and require them to tie in. Mrs. Epler doesn't believe the topography is a problem and as to whether it would serve the community, the Commissioners have made it clear that they want all of Cumberland County on public water, and there are reasons for that.

Mrs. Epler asked if the EPA was in that area for cleanup.

Ms. Speicher said yes, at the salvage yard where the Vander Civic Center is now located.

Mr. Epler stated right across the street from the subject property.

Ms. Speicher stated yes.

Mr. Autry stated that their well was tested by the Health Department and there were no issues with the water.

Mr. Morris said that the standard tests from the Health Department doesn't test for everything.

Public hearing closed.

After further discussion the board voted. Mrs. Epler made the following motion, seconded by Mr. Morris:

The Joint Planning Board for the County of Cumberland, having held a public hearing to consider **Case No. 17-006** in which the property owner is requesting a waiver of the ordinance to not be required to connect to the public water system and therefore, to develop the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and arguments presented, **I move as follows:**

**The Board finds the following facts:** (These should be a listing of facts relevant to making the decision, for example, the size and shape of the subject parcel, whether there is a recorded easement, the characteristics and use of the surrounding property, the characteristics of the subject property such as the location of wetlands or a lake or the topo, and any other relevant fact.) **1. The subject property is approximately 3.9 +/- acres , which received preliminary subdivision approval on January 18, 2017, final plat approval on January 23, 2017 and the plat was recorded with the County Register of Deeds on January 23, 2017 in Plat Book 138, page 174; 2. Condition No. 4 of the January 18, 2017 approval required connection to the Public Works Commission (PWC) public water system as is required by Section 2306 of the County Subdivision Ordinance; 3. The subject property has frontage on SR 2000 (Sunnyside School Rd) in which there is an existing PWC water line; 4. This area has had developments which could have a negative impact on the ground water within this general area; 5. Because of numerous known ground water contaminations in various areas of the County, the County Commissioners have expended considerable tax-payer money in ensuring safe drinking water is available and have a stated goal of County-wide public water being provided to all; and 6. Developments with a similar set of facts and circumstances are required by ordinance to connect to the public water system.**

**Based on the foregoing facts, the Board concludes: A. Because of the size and shape of the subject property and the condition or nature of adjoining areas, strict compliance with the provisions of the ordinance would not cause a special hardship to the property owner or be inequitable, and B. The public purposes of the County's subdivision and zoning ordinances would not be served to an equal or greater degree, and C. The property owner would be afforded a special privilege denied to others. Based on the foregoing conclusions, the Board deny the request for waiver and the subject property shall remain subject to the Conditions of Approval.**

**The motion passed with Ms. Hall voting in opposition of the denial and Dr. Andrews abstaining from the vote.**

#### IX. DISCUSSION

Mr. Lloyd updated the Board on how the Commissioner's voted on P17-52.

#### X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:55 pm.