

Clifton McNeill, Jr.
Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
Dr. Marion Gillis-Olion
Roy Turner,
Cumberland County



COUNTY of CUMBERLAND

Planning and Inspections Department

Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Harvey Cain, Jr.
Town of Stedman

MINUTES MAY 17, 2005

Members Present

Mr. Clifton McNeill, Chair
Mr. Charles Morris, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Donovan McLaurin
Mr. Joe W. Mullinax
Mr. Roy Turner

Members Absent

Dr. Marion Gillis-Olion

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Dep. Dir.
Ms. Donna McFayden
Ms. Barbara Swilley
Mr. Grainger Barrett,
County Attorney
Ms. Diane Wheatley,
County Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd asked that Cases P04-26, P05-27 and P05-30 be moved from Consent Items to Public Hearing Items and that Case P05-29 be moved from Public Hearing Items to Consent Items. A motion was made by Mr. Turner and seconded by Mr. McLaurin to approve the Agenda with the above changes. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF MAY 3, 2005

A motion was made by Mr. Mullinax and seconded by Mr. Turner to approve the Minutes of May 3, 2005 as written. The motion passed unanimously.

- B. P05-29: REZONING OF 1.52 ACRES FROM R10 TO R6A OR A MORE RESTRICTIVE ZONING DISTRICT AT 2309 DIXIE TRAIL, SUBMITTED BY NEIL YARBOROUGH, OWNED BY DANCAROL REAL ESTATE LP.

The Planning staff recommended denial of the R6A Residential District and approval of the R6 Residential District based on the finding that the uses allowed in the R6 Residential District are compatible with the surrounding neighborhood. The applicant had agreed to the R6 zoning prior to the meeting.

Note: Development review will require the property owner to connect to PWC sewer.

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

A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to follow the staff recommendation and deny the R6A and approve the R6 District. The motion passed unanimously.

- C. P05-31: REZONING OF 2.0 ACRES FROM A1 TO R40A OR A MORE RESTRICTIVE ZONING DISTRICT AT 6641 FAIRCLOTH BRIDGE ROAD, OWNED BY RUBIN W. MCLAURIN.

The Planning staff recommended approval of the R40A District based on the finding that the uses allowed in the R40A District are consistent with the character of the neighborhood.

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

A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to follow the staff recommendation and approve the R40A District. The motion passed unanimously.

- D. P05-33: REZONING OF 87.40 ACRES FROM RR TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT AT 204 TOM STARLING ROAD, SUBMITTED BY PASCHAL STEWART, OWNED BY W.P. STEWART HEIRS.

The Planning staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan calls for medium-density residential use at this location, which would allow for higher density; and
2. Public utilities are available to serve the site. .

The Planning staff found that the subject property is also suitable for the R20 and R15 Residential Districts.

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

A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to follow the staff recommendation and approve the R10 District. The motion passed unanimously.

- E. P05-34: REZONING OF 10.55 ACRES FROM RR TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, WEST OF GRIMES ROAD, NORTH OF STONEY POINT ROAD, OWNED BY WARD P. BELLOMY.

The Planning staff recommended approval of the R10 Residential District based on the finding that the 2010 Land Use Plan calls for low-density residential development at this location.

The Planning staff found that the subject property is also suitable for the R15 Residential District.

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

A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to follow the staff recommendation and approve the R10 District. The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

- A. P05-26: REZONING OF AN 8.04-ACRE PORTION OF A 46.82-ACRE TRACT FROM A1 TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE SOUTH SIDE OF BRAXTON ROAD, WEST OF CHICKEN FOOT ROAD, OWNED BY BRAXTON DEVELOPERS, LLC.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan recommends low-density residential development at this location; and
2. The uses allowed in the R10 District are consistent with those in the surrounding neighborhood.

The Planning staff found that the subject property is also suitable for the R40, R30, R20 and R15 Residential Districts.

The public hearing was opened.

Chair McNeill said that he asked that the case be pulled from the Consent Items because of questions that he had. He said that there have been a tremendous number of rezoning approvals in the area, and most have not yet been developed. He noted that the elementary school is already over capacity and expressed concern that the addition of another 3,000 or more units to the area could cause the schools to face some serious overcrowding problems. He added that there might not be money or room to expand the current elementary school. Mr. Lloyd said that the issues with schools would be addressed in the 2030 Land Use Plan process. Chair McNeill said that he was concerned about the overall density of the area, not this particular rezoning case. Mr. Lloyd expressed concern about storm water runoff.

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

The public hearing was closed.

A motion was made by Mr. McLaurin and seconded by Mr. Mullinax to defer action on this case until June 21, 2005. The motion passed unanimously.

B. P05-27: REZONING OF TWO PARCELS TOTALING 15.0 ACRES FROM RR TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, SOUTHWEST OF FISHER ROAD, WEST OF LAKEWOOD DRIVE, SUBMITTED BY JULIAN T. MANN, JR., OWNED BY JEANNE A.S. RILEY.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd said that there are many potential zoning and junk vehicle violations on the property. He said that the petitioner is going to clean up the tract prior to any development. Mr. Lloyd reported that the staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan recommends low-density residential development at this location; and
2. The uses allowed in the R10 District are consistent with those in the surrounding neighborhood.

The Planning staff found that the subject property is also suitable for the R15 Residential District.

The public hearing was opened.

Mr. Joey Williams appeared before the Board on behalf of Mr. Julian Mann and said that Mr. Mann was also available to answer questions. He said that Mr. Mann is currently developing a subdivision that joins this tract. He said that PWC sewer and water are available, and construction has begun. He said that Mr. Mann would like to build similar homes on this tract in the \$200,000 price range. He said that approximately 45 homes could be built that would generate \$9 to \$10 million in the tax base for Cumberland County. He said that the site will be cleaned up before building, and it will be a nice development.

Mr. McLaurin asked how many homes would be built. Mr. Williams said 45 2,000-square foot homes would be built with an average road frontage of 75 to 85 feet.

Chair McNeill noted that there is a lot of R10 zoning in the area. He asked about school capacity. Mr. Barrett said that the schools are currently at capacity. It was noted that other homes are currently being developed in the area, and Mr. Williams pointed out 28 new lots and seven homes presently under construction.

Mr. Richard West appeared before the Board in opposition and said that he lives on Carula Lane on property his family has owned since 1949. He said he has quietly watched the country being destroyed by developers and pointed out a recently rezoned area where trees have all been cut, and it holds standing water after rains. He said he keeps hoping that someone will step in and decide that the area can't take more density. He said that the traffic on Fisher Road is already impossible, and this proposal will bring in another 80 to 100 cars to the road. He said that the quality of life gets a hard hit every time this type rezoning is approved.

Mr. Steve Riley appeared before the Board in opposition and said that he has lived where he now resides since he was two years old, and his land borders the subject property. He said that the traffic is already bad, and the noise is getting worse. He said if PWC provides water and sewer, then the City will annex the land. He pointed out his land on the map, and Chair McNeill said it looks like the City is approaching the area.

Mr. Williams appeared before the Board in rebuttal and said that he recognized Messrs. West and Riley's concerns. He said that enough land has been purchased that a state-maintained road will be provided and an entrance to the subdivision and access for Mr. West. He said that they don't have a choice about annexation.

Chair McNeill asked if they intended to develop the property using Zero Lot Line and noted that it may give Mr. West more privacy if they do. Mr. Mann said that they weren't planning to use Zero Lot Line and would build at R10 standards and spread the homes out a bit—not packed in as they would be in an elderly community.

Mr. McLaurin asked the width of the lots, and Mr. Mann said that they would be 75 to 85 feet wide. Mr. McLaurin asked where the children would play, and Mr. Mann said that the site is close to a park at the school. Mr. Lloyd said when a subdivision request is submitted, land can be dedicated or a fee paid in lieu of land to be used for parks. He said Joint Parks and Recreation isn't set up to provide unplanned, small acreage parks, so money is usually paid. He said that the Subdivision Ordinance might need to be revised to accomplish Mr. McLaurin's desire for play areas for the children. He said that this is another issue to be addressed during the 2030 Land Use Plan process. Mr. McLaurin said that the children will end up playing in their yards.

Mr. Barrett said that Mr. Lloyd talked about land dedicated for parks, and the new proposal in the Zoning Ordinance is to set aside open space. He said that land for parks can be extremely inefficient in terms of labor and resources to maintain. He said that an alternative is open space with assessments to be used by property owners' associations.

Chair McNeill asked if the applicant had considered R15. Mr. Mann said that he wanted R10 because of the average price of homes in the County today.

Commissioner Wheatley asked if the students would walk to school, and Mr. Mann said he didn't know, and it may depend upon annexation. He added that he hoped the tract would not be annexed.

The public hearing was closed.

Mr. West was recognized and said in response to Mr. McLaurin's concerns, the children will be playing in the hay fields contained on his and his family's land because there is no place else for them to play.

Mr. Turner said that the schools are at capacity, and he was concerned because the area looks “R10ed to death.” He said that he understood Mr. West’s concern and agreed that something has to slow the R10 zoning in the western part of the County.

Mr. McLaurin said that Mr. Mann builds quality neighborhoods, and this will be an area for families with children and not much yard room. He agreed that there must be a point where everyone looks beyond the price of homes and at the quality of life for the children.

A motion was made by Mr. McLaurin and seconded by Mr. Turner to deny the R10 request and approve the R15 District.

Vice-Chair Morris said that he lived in an R10 community on a 100-foot by 100-foot lot when he was growing up, and there is some room to play. He said that schools won’t be built without development, and tax revenues from the homes are used to build the schools. He said he wasn’t against the motion, but wanted to note that the R10 District does provide lots large enough for some room for the children to play.

Mr. Mann said that it’s all about money. He said if the R15 District is approved, larger lots would have to be built and run up the price. He said that R10 zoning costs about \$33,000 per lot, and the larger R15 lots would cost about \$45,000 each and raise the cost of the homes to \$250,000. He said this would not lessen the number of children because more bedrooms will be built in the larger homes. He added that the property is not in a \$250,000 neighborhood.

Chair McNeill asked Mr. Mann if he could live with the R15 zoning. Mr. Mann said that he hasn’t run the numbers, but it will run the cost of the homes up. He said he didn’t want to price himself out of the market.

Chair McNeill said he sympathized with Messrs. West and Riley, but noted that there is R10 zoning throughout the area. He said he wasn’t sure that this rezoning would make any difference in annexation. He said that the R15 District would reduce the density and doesn’t necessarily limit the lot size because Zero Lot Line could be used. He said that there appears to be a lot of high-density development in the area, and it may be good to put the brakes on.

Mr. McLaurin said if Fort Bragg realigns the way it is proposed, it will provide a higher bracket of income, and the developers are already considering this.

Upon a vote on the motion, it passed unanimously.

C. P05-30: REZONING OF 2.12 ACRES FROM R10 TO R6A OR A MORE RESTRICTIVE ZONING DISTRICT AT 2270 CARBINE STREET, SUBMITTED BY NEIL YARBOROUGH, OWNED BY DANCAROL REAL ESTATE LP.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the R6A

Residential District based on the finding that the uses allowed in the R6A District are consistent with the character of the neighborhood.

The Planning staff found that the subject property is also suitable for the R6 Residential District.

The public hearing was opened.

Mr. Lloyd said that one person had signed up in opposition, but Mr. Yarborough spoke with him, and his objection was the use of mobile homes on the site. He said that he was no longer in the audience and agreed with an R6 request.

Mr. Yarborough appeared before the Board and said that he spoke with the owner, and he agreed to accept the R6 District that will not allow mobile homes, and the person who opposed the rezoning agreed to the R6 District. He asked that the request be changed to R6.

No one appeared in opposition to the request.

The public hearing was closed.

A motion was made by Vice-Chair Morris and seconded by Mr. Mullinax to deny the R6A request and approve the R6 District. The motion passed unanimously.

D. P05-32: REZONING OF 76.0 +/- ACRES FROM A1 TO R40 ON THE EAST AND WEST SIDES OF THROWER ROAD, SOUTH OF JOHN MCMILLAN ROAD, SUBMITTED BY JAMES C. HASTY, OWNED BY R.L. CASHWELL, JR. AND REBECCA C. JOHNSON.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd said that the staff's recommendation was based on some of the parcel already having been used to provide the land necessary to create the smaller lots and maintain the allowed density in a Zero Lot Line development. He showed a map indicating which land was used in the calculations.

Mr. Lloyd reported that the Planning staff recommended denial of the R40 Residential District based on the following:

1. The 2010 Land Use Plan calls for farmland at this location;
2. The area is zoned as it was when initially zoned with very few changes; and
3. This land is part of a Zero Lot Line Subdivision that has allowed the creation of less than two-acre lots.

Vice-Chair Morris asked if the entire tract was used for the Zero Lot Line development. Mr. Lloyd said that it was, and all the land was accounted for.

The public hearing was opened.

Mr. Neil Yarborough appeared before the Board representing Rebecca Johnson and R.L. Cashwell. He said that the land has been family owned since the 1800s.

He said that he was not involved in the original rezoning or development. He said that the area above the subject property is all developed in approximately one-acre lots—all R40 development. He said that the owners are asking for R40 rezoning because it is needed to balance out the wetlands, not because they want to double the density. He said that the owners want to put in 10 additional lots. He said that they are asking for R40 in order to develop the portion of the tract that can be developed in one-acre lots that will actually mean increasing the lots by 10 over what the A1 District allows. He said that the area is suitable for the R40 development into one-acre lots. He said that the Johnsons inherited the land, recognize that it can no longer be farmed and want to put in a nice development.

Mr. Barrett said that there are circumstances where doing this could be an attempt to double dip. He said that the Board should look at the size of the Zero Lot Line lots and decide if approving the rezoning would create nonconformity. He added that they should give some weight to harmony of the neighborhood. He said that the Board should determine if the tract is suitable for the R40 zoning. Vice-Chair Morris asked if all of the property used for the Zero Lot Line density calculations would be nonconforming if the Board approved the request. Mr. Barrett said it would not necessarily make them nonconforming. He said that under the R40 zoning, 76 acres would allow 76 or less lots, and size isn't a legal issue.

Mr. Lloyd said that the issue is whether or not the tract is appropriate for R40 zoning.

Mr. Barrett said if some of the lots were smaller, then it would be considered double dipping, but the lots under the Zero Lot Line development were created at one acre, so it would become a policy issue. He said if the lots were developed smaller, then the harmony of the area and density calculation would have to be considered.

Vice-Chair Morris asked if approval would circumvent the zoning in the previous case. Mr. Barrett said the Board would have to look at whether the acreage meets the density under the A1 District. Vice-Chair Morris said that they had basically used up their density.

Ms. Bertha Crosby appeared before the Board in opposition and said that she had moved back to the area 28 years ago, and her family has owned the land for over 100 years. She expressed concern about the number of homes being built when two-acre lots were required on most of the land. She said that the owners don't live in Grays Creek. She said that she wanted peace and quiet, but she also wasn't against development of nice homes. She asked that the Board consider the residents who have lived in the area for many years.

Mr. Tom Curle appeared before the Board in opposition and showed on the map where his property is located. He said that the neighborhood is developed nicely, and the owners appear to have the community in mind. He said when the case came before the Board before, it was determined that the tract would hold 64 lots because of wetlands. He said that the Planning staff recommended A1, and there is A1 zoning all around the tract. He said that people move out there to be in the

country, and he'd prefer less lots than more. He added that the decision was made when the first request went before the Board, and he wasn't sure why they were again discussing the matter. He said if the tract is zoned R40, and water is brought in, then the land will perk, and this would allow an additional 54 lots. He said it would be in the best interest of the community to leave the land zoned A1. He added that his main concern is the more houses on the land, the more problems that the residents will have, and also considering schools, less is better.

Chair McNeill said that the land originally allowed 64 lots, and 41 lots are already in. Mr. Lloyd said his plat showed 64 lots.

Mr. Yarborough suggested deferring the case to allow him to make some technical adjustments.

Mr. Yarborough appeared before the Board in rebuttal and said if the case could be deferred until June, he could address the concerns expressed and his clients' needs. He said that the owners want an additional 10 lots, so they may need to apply for a Conditional Use District or some type plan that will address all of the concerns expressed.

Ms. Roy mentioned that the Commissioners would not meet in July, so cases heard in June will go before the Commissioners in August. Mr. Yarborough said that would be fine.

Chair McNeill asked Ms. Crosby and Mr. Curle if they'd agree to deferral of the case. They both agreed.

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to defer action on Case P05-32 until June 21, 2005 and continue the public hearing at that time.

Vice-Chair Morris asked if the residents of Country Place were notified of the public hearing. Mr. Barrett said if additional notice were required, he'd notify the staff.

Upon a vote on the motion, it passed unanimously.

VIII. DISCUSSION

A. A1A DISTRICT—GRAINGER BARRETT

Mr. Barrett said when he met with Ms. Roy and Mr. Lloyd, there was some confusion about the Board's intent in reducing the required lot size to one acre in the A1A District. He asked if the Board wanted to create the one-acre lots in order to provide a safety valve for children or caretakers, or if it was to be used for large-scale development. He said in looking at potential consequences that the Board's intent became necessary.

Chair McNeill said that he suggested the one-acre lots because changing the A1 District to one-acre lots would mean changing 211,000 acres. He said that there is

a lot less A1A zoning, and noted that it allows only stick built and Class A manufactured homes, whereas the A1 allows both Class A and B manufactured homes.

Mr. McLaurin said his intent was when a paved road allows only limited access; it would be helpful to his constituents to have one-acre lots. He said requiring two-acre lots asks the farmers to give up too much land along the frontage roads when giving parcels to family members. He said that he expected the use to be on a small scale.

Mr. Lloyd said that limiting the size complicates the staff's job because a policy leaves room for discrepancies. Mr. Barrett said that the staff's decisions should be based on what they want to accomplish.

Chair McNeill said one-acre lots are big enough for a dwelling and still maintaining a rural setting. He said if the A1 District was changed to one-acre lots, massive mobile home subdivisions could be created. He said because the A1A allows only Class A manufactured homes, these mobile home subdivisions wouldn't occur. Ms. Roy asked if the Board then didn't want to limit the size of the tracts for the A1A requests. Chair McNeill said if requests to rezone from A1 to A1A are submitted, it would be obvious that the owners want to develop and continue to farm and sell off one-acre lots.

Mr. Lloyd said that two different philosophies were expressed by the Board. Some members voted for the one-acre minimum to allow farmers to cut off smaller parcels for friends and family; other members felt that one acre was sufficient to preserve the rural nature of areas. He said that the staff needed to know what the Board's intent was as far as the A1A Districts.

Chair McNeill said that the idea was conceived in order to remedy the staff's problems with so many A1 to R40 rezoning requests. Mr. Lloyd said that the Density Development CUD was created to remedy this situation.

Ms. Roy said that she was under the impression that the Board wanted the A1A used on a limited basis, and if so, she asked that a number be placed on the acreage to allow the A1A Districts. Chair McNeill suggested a 10-acre limit be placed on the district. Mr. Lloyd said that it could be difficult to monitor the adjoining 10-acre requests.

Chair McNeill said it has been wrong to treat farm families as if they're putting in a subdivision when they submit a rezoning request. Mr. Barrett said limiting the rezoning to families can also create problems because of divorce or other factors. He said legally it is best to figure out a way to accommodate without specifically linking it to family ties. He said that the A1A Districts could be used on a smaller scale. He said from a land analysis point of view, it would be hard for staff to recommend denial of the A1A requests. He said that the Ordinance could limit the use if treated as a minor subdivision. He said he just wanted to make sure that the Planning Board and Commissioners are aware of any intent or concerns from the beginning. He said citizens complain to the Commissioners where larger tracts might be approved for A1A next to a large A1 tract.

Mr. Lloyd again said that staff needed guidance from the Board. Ms. Roy said that the staff also needs to know how to advise applicants.

Ms. Roy asked if it would be too simplistic to consider R40 requests for development purposes and A1A requests for smaller numbers of lots to accommodate families.

Vice-Chair Morris said that there might be a few ghosts that will come up with the new Ordinance, and that's why the review process was created. Mr. Barrett said that was fine for the Planning Board, but the Commissioners get the heat from the residents.

Mr. Lloyd said once the A1A becomes one-acre lots, it might be difficult to go back to two-acre lots.

Vice-Chair Morris said he thought the A1A would be for minimal tracts, and R40 for development.

Mr. Lloyd said that there are minimum acreages for the PND, C(P) and M(P) Districts in the Ordinance. He said he'd feel more comfortable if the Ordinance was specific on the limitations for the A1A District. He said that policies are too nebulous. Mr. Barrett said that the Ordinance could legally limit the acreage.

A motion was made by Mr. Mullinax and seconded by Mr. McLaurin to limit in the Ordinance the size of the A1A Districts to 10-acre parcels.

Chair McNeill agreed that the intent is for small isolated instances.

Upon a vote on the motion, it passed unanimously.

Mr. Lloyd briefly clarified the Density CUD.

B. ELECTION OF OFFICERS

Mr. Mullinax said that four of the Board members are up for reappointment, and this could be a problem when the Nominations Committee meets to determine their recommendation for next year's officers. Ms. Roy said that the Committee could probably assume that all members eligible would be reappointed. Chair McNeill asked Ms. Roy to let the Board know who is reappointed as soon as she finds out. Mr. Mullinax said that the Committee could meet as late as just prior to the second meeting in June to give the recommendations to the Board at their second meeting in June.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:35 p.m.