

Charles C. Morris
Chair
Town of Linden

Donovan McLaurin
Vice-Chair
Wade, Falcon & Godwin
Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES APRIL 18, 2006

Thomas J. Lloyd,
Director

Clifton McNeill, Jr.,
Roy Turner,
Lori Epler,
Sara E. Piland,
Cumberland County

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mrs. Lori Epler
Mr. Garland Hostetter
Mr. Roy Turner
Mr. Clifton McNeill, Jr.
Mrs. Sara Piland

Others Present

Mr. Tom Lloyd, Director
Mr. Shane Parsons
Ms. Patricia Speicher
Mrs. Annette Nunnery
Ms. Donna McFayden

- I. INVOCATION AND PLEDGE OF ALLEGIANCE – Mr. McLaurin delivered the invocation and led those present in the Pledge of Allegiance.
- II. ADJUSTMENTS TO AGENDA – **Mr. McNeill made a motion, seconded by Mr. McLaurin to move cases P05-69, P06-25, and P06-07 from Consent to Public Hearing. Unanimous.**
- III. PUBLIC HEARING DEFERRALS - **Ms. Epler made a motion, seconded by Mr. McLaurin, to accept the staff deferral of cases P06-19 and P06-21 to the May 16 Planning Board meeting. Unanimous.** Ms. Speicher stated that the cases were pulled by staff due to last minute changes in the applications and site plans.
- IV. ABSTENTIONS BY BOARD MEMBERS – No abstentions
- V. POLICY STATEMENT – Ms. Speicher read the Public Hearing policy statement.
- VI. CONSENT ITEMS
 - A. APPROVAL OF THE MINUTES OF APRIL 4, 2006 - **A motion was made by Mr. Turner, seconded by Mrs. Epler, to approve the minutes as written. Unanimous.**

REZONING CASES

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- D. **P06-22:** REZONING OF .48 ACRES FROM CD TO RR OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3434 SAVANNAH DRIVE, OWNED BY PATRICK AND PATRICIA SNYDER.
- E. **P06-23:** REZONING OF A 1.29 ACRE PORTION OF A 90.17 ACRE TRACT FROM R40A TO A1 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 8280 CEDAR CREEK ROAD, SUBMITTED BY MICHAEL TATE, PLS, OWNED BY BILLY D. HORNE.
- F. **P06-24:** REZONING OF 2.96 ACRES FROM A1 TO A1A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 5884 AND 5892 GOLDSBORO ROAD, OWNED BY PHYLLIS & RONNIE LUCK.
- H. **P06-26:** REZONING OF .86 ACRES FROM R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3954 CAMDEN ROAD, OWNED BY HENRY G. AND BONNIE T. JOYNER.
- I. **P06-28:** INITIAL ZONING OF 76.64 ACRES TO R40A, LOCATED EAST OF SHERRILL BAGGETT RD, SOUTH OF BEND OF RIVER ROAD, SUBMITTED BY THE TOWN OF FALCON, OWNED BY FALCON CHILDREN'S HOME. (FALCON)

A motion was made by Mr. McNeill, seconded by Ms. Epler, to accept the Staff recommendations and approve Cases P06-22, P06-23, P06-24, P06-26, and P06-28. Unanimous approval.

VII. PUBLIC HEARING ITEMS

- B. **P05-69:** A CONDITIONAL USE PERMIT TO ALLOW AN OFFICE IN A C1(P)/CUD, ON .23 ACRES, AT 4310 CUMBERLAND ROAD, OWNED BY DREW AND KATHRENE BOXWELL.

Ms. Speicher presented the case information and stated that the staff recommended approval of the Conditional Use Permit based on the facts that: the Conditional Use District was approved by the County Commissioners on October 17, 2005, the permit complies with the agreed upon condition that the property be used only for "office" purposes, and the request is reasonable and compatible with the existing development in the area. She further stated that the applicant had been provided a copy of the ordinance-related conditions. The Public Hearing was opened.

Drew Boxwell, owner, was sworn in. He stated that he was currently renovating the property and that rezoning from residential rental property to allow the operation of a real estate office would benefit the residents, increase the tax base, and expand the usability of the property.

Kenneth Carter was sworn in and spoke in opposition. He stated that the rezoning notice received by residents stated that Mr. Boxwell would be operating a store, not a real estate office as he had stated. Residents were concerned with increased traffic and misleading information. Ms. Speicher advised the Board that the rezoning notice did refer to the operation of a store, but that use was included in the allowable uses under the general description of the C1(P) District. She further stated that the applicant's Conditional Use Permit would limit the use to that which was specifically approved. The Public Hearing closed.

A motion was made by Mr. Turner, seconded by Mr. McNeill, to find that the Conditional Use District Permit application, if developed as proposed and voluntarily agreed to, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be harmony with the area in which it is to be located, will be in conformity with the Land Use Plan, Highway Plan or other plan officially adopted by the Board of Commissioners, and that it be approved according to the conditions listed. Unanimous approval.

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G. **P06-25:** REZONING OF .30+/- ACRES FROM R10 TO C1(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3210 PELLIGRINI AVENUE, OWNED BY EDWIN J. AND WINIFRED B. MILLER.

Ms. Speicher presented the case information and stated that the staff recommended denial of the request based on the facts that the request is not consistent with the 2010 Land Use Plan and that the approval of the request would initiate the encroachment of non-residential zoning and uses within this residential area.

Edwin Miller, owner, spoke in favor of the request stating that the site is an ideal location for a business. He stated he would not push for the rezoning if the area residents were strongly against it. He further stated that the neighborhood is already changing and his intention is to further improve the area and increase the tax base.

Diane Hardwick, neighbor, spoke in opposition. She states that development in the area has already changed the neighborhood from a quiet residential area to a heavily traveled business district and that children can no longer safely play in the neighborhood.

Mavis Pritchett, neighbor, spoke in opposition and stated she does not want a business beside her. She doesn't see that a business would improve the area.

Gary Pritchett, neighbor, spoke in opposition and presented the Board with a petition signed by area residents who were in opposition to the rezoning.

Willis McNeill, neighbor, stated that he opposed the rezoning because the current traffic situation at this intersection is already a dangerous problem. Increased traffic would compound the situation.

Mattie McNeill, neighbor, opposed the request stating that there was no need for more businesses in the area.

Mr. Miller declined the opportunity to speak in rebuttal. The Public Hearing closed.

Mr. McLaurin made a motion, seconded by Mr. McNeill, to accept the staff recommendation and deny the request for rezoning. Unanimous approval.

C. **P06-07:** REZONING OF .50 ACRES FROM C1(P)/CU TO C(P)/CUD TO ALLOW PERMITTED USES WITH EXCLUSIONS AT 4436 CUMBERLAND ROAD, OWNED BY VICTOR M. GURGANIOUS.

Ms. Speicher presented the case information and stated that the staff recommended approval of the C(P)/Conditional Use District and Permit, with exceptions, even though the request is not consistent with the Land Use Plan, based on the facts that: the applicant has eliminated the undesirable uses otherwise allowed in the C(P) district; the subject property is located on a major thoroughfare; and the request is reasonable and compatible with the existing development in the area. She further stated that "Wholesale Sales" and "Taxicab Stand Operations" were not suitable uses for this area and should be excluded from the permitted uses.

David Hinson, representing Victor Gurganious, owner, stated that Mr. Gurganious has received a copy of the conditions and permitted uses and that he had already agreed to accept the additional excluded uses.

Oland Little opposed additional permitted uses on the property: Kennel Operation, Motor Vehicle Repair and Body Work, Service Station Operation, Motor Vehicle Washing, and Tower. Mr. Little stated that the property behind this area is strictly residential.

Mr. McNeill asked Mr. Little if he would be agreeable to the approval of the rezoning if his objected uses were included on the list of exclusions. Mr. Little answered affirmatively.

Mr. Hinson stated that he was sure that Mr. Gurganious would approve and accept the additional excluded uses on the property. Public Hearing closed.

Ms. Epler expressed her concern that the approval of the rezoning would also approve a non-conforming structure on the property. Ms. Speicher confirmed that the structure would be approximately 14 feet too close to the property line. Ms. Epler requested that the applicant explore a zero lot line agreement or variance with staff. Mr. McNeill expressed his reluctance to approve a non-conforming status but acknowledged that the applicant had been more than agreeable in working with Staff to address concerns. Ms. Speicher stated that the applicant has been made aware of the non-conforming structure and that he had explored zero lot line with Staff. She further stated that Mr. Gurganious had been very cooperative in working to exclude undesirable uses on the property. Mr. Hinson confirmed that Mr. Gurganious was well aware of the restrictions regarding rebuilding a non-conforming structure and that he was agreeable to accepting that risk.

Mr. McNeill made a motion, seconded by Mr. McLaurin to find that the Conditional Use District application is neither arbitrary nor unduly discriminatory, in the public interest and that the Conditional Use District application, with submitted conditions and additional exclusions, be approved. Motion carried 7 to 1, with Ms. Epler in opposition.

Mr. McNeill made a motion, seconded by Mr. McLaurin, to find that the Conditional Use District Permit application, if developed as proposed and voluntarily agreed to, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be harmony with the area in which it is to be located, will be in conformity with the Land Use Plan, Highway Plan or other plan officially adopted by the Board of Commissioners, and that it be approved according to the conditions listed, with the additional excluded permitted uses of Taxi Stand Operations, Wholesale Sales, Kennel Operations, Motor Vehicle Repair and/or Body Work, Motor Vehicle Service Station Operations, Motor Vehicle Washing, and Tower . Motion carried 7 to 1, with Ms. Epler in opposition.

The Board recessed for 10 minutes.

- A. **P06-04: REZONING OF A 155.80 ACRE PORTION OF TWO PARCELS TOTALING 159.80 ACRES, FROM A1 TO R10 AND CD OR TO A MORE RESTRICTIVE ZONING DISTRICT, NORTH OF TOM STARLING ROAD, WEST OF NC HIGHWAY 87 SOUTH, SUBMITTED BY CHALMERS MCCOMBS, OWNED BY TOMMY WOODSELL, ET AL.**

Ms. Speicher presented the case information and stated that the Staff recommended approval of the R10 District only for that portion located outside a 250-foot buffer area from the bank of the creek (also the property line) and CD District for the land area within the 250-foot buffer area based on the following: Rockfish Creek has been established as an environmental corridor for protection and preservation in the Land Use Plan; the staff recommended CD zoning to create a 250-foot riparian buffer or the 100-year flood line, whichever provides the greatest distance from the creek and is based on the size of the subject property and the possible number of lots, which could be developed if the request is approved; and the recommendation is consistent with the Land Use Plan which calls for "Open Space and Low Density Residential" at this location. She further noted that this case had previously been deferred for 60 days to give the applicants time to meet with residents and discuss their concerns and to allow time to meet with staff about the possibility of a Conditional Use District and Permit. The applicants had willingly complied with those requests.

Chalmers McCombs, sworn in, spoke in favor of the request as the developer. He introduced the development engineer, Robert Balland, duly sworn, who spoke on behalf of Bill Clark Homes. He stated that the developer had met with area residents on April 6th to address their concerns. He stated that the developer was at this time amending their application to request

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a Conditional Use District and Permit with R10 zoning. He stated they would meet all staff requirements and were proposing a CD district line greater than previously submitted. The developer agreed to adhere to any DOT requirements, to dedicate approximately 30% of the property to the CD District, to construct a buffer along Tom Starling Road, and to research the community request of building a gated, secured development.

Boyd Parsons, duly sworn, stated he was in favor of the request and that the development was in the best interests of the community. He approved of the low-density use and the sufficient buffer for the creek. He urged the Board to consider the request based on the merits and facts and not on the emotions of the opponents.

Max Carter, duly sworn, spoke in opposition and advised the Board that a portion of the property submitted for rezoning was currently in a land dispute with attorneys. Several acres of his property is included in the development site and he has been working with attorneys and surveyors to resolve the issue. He has had no cooperation with Bill Clark Homes and requests that the Board not act on the rezoning request until the land dispute has been resolved. Ms. Speicher circulated a copy of Mr. Carter's recorded plat showing his property line and the proposed development.

Fran Primeaux, duly sworn, requested that the area remain residential. She stated that R10 was too dense for this area and was concerned with increases in traffic, crime, and taxes, and requested R15 zoning. She presented a petition containing 111 neighboring resident signatures supporting R15.

Ms. Epler stated that she was not comfortable hearing this case and requested abstention. The case directly involved her employer, who is involved in the land/survey dispute with Mr. Carter. Ms. Epler left the room at 8:35 p.m.

Rodney Ward, duly sworn, requested R20 zoning and a 250-foot buffer. He asked that the audience stand in a show of opposition.

Tom Pollitt, duly sworn, opposed the density and not the development. He noted that the proposed Hope Mills Bypass will drastically increase traffic in the area and the density proposed for this development would only add to the problem.

Public Hearing time limit expired. At the discretion of the Chair, additional registered speakers were allowed two minutes each to state their opposition.

Pat Nunnaly, duly sworn, advised the Board of a 2004 DOT survey showing a daily traffic count on Tom Starling Road of 2100 vehicles. Her concern was that recent major new businesses in the area have already increased that count and the proposed development will add to that number. She requested a minimum of 1 acre per home.

Tim Evans, duly sworn, addressed the need to protect Rockfish Creek by limiting development along the banks.

David Bowen, duly sworn, requested that the Board consider R20 zoning.

Bill Brown, duly sworn, shared Sheriff's Department statistics of 22 accidents in this area during the past year.

Mickey Jackson, duly sworn, was concerned with decreasing property values caused by additional high-density development in the area.

In rebuttal, Mr. McCombs addressed the previously held community meeting and noted that many of those in opposition did not attend that meeting. He stated that the property line dispute was being researched and would be resolved prior to any development. He addressed the documented traffic accidents and stated they were caused by speed and alcohol, not road congestion. He agreed to the need to protect Rockfish Creek with buffer

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requirements. He stated his development would add to the property value in the area by proposing ¼ acre lots and approximately \$170,000 to \$200,000.00 dwellings. The Public Hearing was closed.

Discussion followed on buffer requirements and property lines at the bank of Rockfish Creek.

Mr. McLaurin questioned density and number of lots. Discussion followed on square footage needed to attract buyers to higher valued homes, and number of proposed homes needed to protect the developer's interest.

Mr. McNeill stated that the widening of Tom Starling Road was already set as "Priority 1" for DOT and that traffic issues would change anyway. He stated that he felt R15 would be more appropriate in this area. He further commended the developer for addressing the citizen's concerns and exploring solutions with Staff.

Mr. Morris expressed his concern with the preservation of Rockfish Creek. He stated that he could not recall a developer ever volunteering to offer a 250-foot buffer. He assured the residents in attendance that a Conditional Use Permit would bind the developer to the approved conditions. He stated that less density would be desirable but that the developer's cooperation and willingness to work with the residents and their concerns made the request more acceptable.

Ms. Piland stated her approval of the 250-foot buffer and her concern with the proposed density. Ms. Speicher clarified for the Board that the 250-foot buffer recommendation was from Staff, not the developer. On average, the developer's site plan recommended a 205-foot buffer. She further stated that all areas within the 205-foot buffer exceeded the 100-year flood plain.

Discussion followed on lot size and number of units per zoning district. Mr. McNeill asked if a minimum lot size could be required as a condition of approval. Mr. Lloyd stated that it had been done in the past and could be set as a condition of approval with this case. Mr. McCombs was asked if a minimum of 375 units, or a zoning of R15, would be enough to keep this as a viable development. Mr. McCombs stated that he had not researched that possibility and would prefer that the Board set a number of units, as opposed to a minimum lot size, to clarify what he would be working with.

Mr. McLaurin stated that he was more concerned with the effect of storm water runoff and water quality. He stated that the density was not as important as the buffer and directed the Board to several slides depicting the banks, erosion, and detrimental development along Rockfish Creek.

Mr. Morris stated that he felt like 400 total units would be more compatible with the area.

A motion was made by Ms. Piland, seconded by Mr. Turner, to defer this case until May 2nd. Unanimous approval.

The Board recessed for 5 minutes. Ms. Epler rejoined the meeting.

B. P06-18: REZONING OF A .55 AC PORTION OF A 2.97 ACRE TRACT FROM A1 TO M(P)/CONDITIONAL USE DISTRICT & PERMIT TO ALLOW STORAGE OF EXPLOSIVE MATERIALS AT 317 MAGNOLIA CHURCH ROAD, SUBMITTED BY LARRY W. HALL, OWNED BY DENNIS H. COSTER SR.

Ms. Speicher presented information for case P06-18. The Staff recommended denial based on the facts that the request is not consistent with the 2010 Land Use Plan and the area is prone to development due to its proximity to the Town of Stedman and with future public water and sewer extension; thus the request would be extremely detrimental to any possible future development.

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Mary Ann Grasso, duly sworn, represented the fireworks company storing the explosives. She advised that the container of explosives had been on-site for three years and that the company had only recently been made aware of permit requirements.

Julia Hall, duly sworn, supported the explosives storage, as the property owner, and stated that she had no problems or concerns with the storage on her property.

Stedman Mayor Billy Horne, duly sworn, stated that that the explosives were not a concern for the Town of Stedman and that they were stored there only a few days a year. The storage is not an inconvenience for anyone.

Larry Hall, duly sworn, stated that as the property owner he had no problems with the current storage. The Public Hearing was closed.

The petitioner stated that they are aware of and voluntarily accept all conditions.

Mr. McNeill made a motion, seconded by Mr. Cain, to approve the rezoning and find that the Conditional Use District application is neither arbitrary nor unduly discriminatory, in the public interest and that the Conditional Use District application, with submitted conditions, be approved. Unanimous approval.

Mr. McNeill made a motion, seconded by Mr. Cain, to find that the Conditional Use District Permit application, if developed as proposed and voluntarily agreed to, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be harmony with the area in which it is to be located, will be in conformity with the Land Use Plan, Highway Plan or other plan officially adopted by the Board of Commissioners, and that it be approved according to the conditions listed. Unanimous approval.

- C. **P06-27: REVISIONS AND AMENDMENTS TO THE STEDMAN ZONING ORDINANCE, ARTICLE III, SECTION 3.1. "TABULATION OF PERMITTED USES", TABLE 1-E, PERMITTED AND CONDITIONAL USES, M2 HEAVY INDUSTRIAL DISTRICT, BY INSERTING UNDER THE PERMITTED USES SECTION IN ALPHABETICAL ORDER: "AUCTION HOUSE" AND "SECOND HAND, PAWN, THRIFT SHOP AND SWAP SHOP SALES"; AND AMEND ARTICLE X, "DEFINITION OF TERMS", SECTION 10.2 "DEFINITIONS OF SPECIFIC TERMS AND WORDS BY INSERTING IN ALPHABETICAL ORDER: "AUCTION HOUSE". (STEDMAN)**

Mr. Lloyd presented the case information and advised that the staff recommended denial to allow for review and amendment of the purpose and intent statement of the zoning classifications, and to allow for a study to determine the mix of appropriate retail uses compatible with uses in industrial districts.

Mayor Billy Horne stated that the Board was asked to approve the amendment as the Town Board was in favor of it and would approve it at the next town meeting regardless of the Board's action. Mr. Lloyd advised the Board that their approval of the revision and amendment would not prohibit further study and revision between Staff and the Town of Stedman.

A motion was made by Mr. Cain and seconded by Ms. Piland, to approve the Revision and Amendment to the Stedman zoning ordinance. Unanimous approval.

VIII. DISCUSSION

Mr. Lloyd advised the Board of the need for a joint City/County meeting regarding comprehensive planning, the 2030 Plan, and small town input. He was directed by the Board to schedule a meeting with consultant Glen Harbeck and that Mr. Morris, Mr. McLaurin, and Mr. McNeill would represent the Board.

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Ms. Piland updated the Board on the cases heard at the County Commissioners meeting.

IX. FOR YOUR INFORMATION

B. DIRECTOR'S UPDATE

Mr. Lloyd advised the Board of a request for a 5th Tuesday meeting with the County Joint Planning Board, the City of Fayetteville Planning Board, and the Sustainable Sandhills Committee. He would schedule that meeting and advise the Board of the details.

Mr. Lloyd advised the Board to be considering the reentry of Hope Mills into the planning process and how to address their representation on the Board.

Mr. Lloyd informed the Board that his staff was considering the possibility of eliminating the paper process by emailing meeting packets. He stated that email of packets would be added to the mailing of packets to allow time for the Boards input on the process.

The Board was informed that a new contact list of County staff and commissioners had been placed in their notebooks.

X. ADJOURNMENT

Ms. Piland made a motion, seconded by Ms. Epler, to adjourn the meeting at 10:40 p.m.