

M I N U T E S  
April 16, 2002  
7:00 p.m.

Members Present

Clifton McNeill, Vice-Chair  
Dallas Byrd  
Charles Morris  
Joe W. Mullinax  
Marion Gillis-Olson  
Jerry Olsen

Members Absent

John Gillis, Chair  
David Averette

Others Present

Thomas J. Lloyd, Interim Dir.  
Edward Byrne  
BJ Cashwell  
Donna McFayden  
Kathy McGuire  
Kenneth Edge, Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Byrd delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

Mr. Lloyd asked that Case P02-28 be moved from Consent to Public Hearing items following the Spring Lake Plan. A motion was made by Mr. Mullinax and seconded by Mr. Morris to approve the amended Agenda. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS/ABSTENTIONS BY BOARD MEMBERS

There were no public hearing deferrals or abstentions by Board members.

IV. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

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

V. CONSENT ITEM

A. APPROVAL OF THE MINUTES OF MARCH 19, AND MARCH 26, 2002

**Mr. Edge asked that his name be added as present at the March 19 meeting. A motion was made by Mr. Olsen and seconded by Mr. Byrd to approve the Minutes of March 19, 2002 with the correction. The motion passed unanimously.**

**A motion was made by Mr. Mullinax and seconded by Mr. Olsen to approve the Minutes of March 26, 2002 as written. The motion passed unanimously.**

B. P02-27: REZONING OF 4.7 ACRES FROM A1 TO R40A, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2838 DUCK POND ROAD, OWNED BY JUNNIE E. AND LILLIAN L. MASON.

The Planning staff recommended approval of the R40A Residential District based on the following:

1. The Planning Board's policy that the R40A District is appropriate for smaller tracts within farmland areas.

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

A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendation and approve the R40A Residential District. The motion passed unanimously.

- C. P02-35: REZONING OF .79 ACRES FROM RR TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 1420 ACACIA DRIVE, OWNED BY PATRICK T. AND KAREN J. O'BRIEN.

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

1. The 2010 Land Use Plan calls for low-density residential development at this location;
2. Utilities are in available to the site; and
3. The uses allowed in the R10 District are consistent with the current development of the area.

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 Mr. Olsen and seconded by Dr. Olion to follow the staff recommendation and approve the R10 Residential District. The motion passed unanimously.**

- D. P02-36: REZONING OF .47 ACRES FROM R10 TO R6A, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2730 AND 2732 BELHAVEN ROAD, OWNED BY ARLIE R. AND AGNES D. PIERCE.

The Planning staff recommended approval of the R6A Residential District based on the following:

1. The uses allowed in the R6A Residential District are consistent with the land use and development of the area.

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

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

**A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendation and approve the R6A Residential District. The motion passed unanimously.**

- E. P02-38: REZONING OF A .34 ACRE PORTION OF A .50 ACRE TRACT FROM C3 TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 174 EAST FIRST STREET, OWNED BY JAMES D. NUNNERY. (STEDMAN)

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

1. The Stedman Land Use Plan calls for medium-density residential development at this location.

The Planning staff found that the subject property is not suitable for the intervening districts.

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

**A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendation and approve the R10 Residential District. The motion passed unanimously.**

## VI. PUBLIC HEARING ITEMS

### A. SPRING LAKE LAND USE PLAN

Mr. Denning reported that the County in 1995 and Spring Lake in 1996 adopted the 2010 Land Use Plan. He said that staff was then directed to complete a Spring Lake Detailed Plan. He reviewed the study area, housing and population characteristics. He said in December of 1999 a visioning session was conducted with citizens in the area, and from the session a Planning Committee was established and created recommendations that were presented at a citizens meeting in October 2000. He said that the extended MIA was included in the study. He said the Comprehensive Planning Committee reviewed the plan and recommended approval.

Chair McNeill asked if anyone presented wanted to speak before the Board on this public hearing of the Plan. No one spoke.

After discussion, the Board voted unanimously to endorse the plan.

- B. P02-28: REZONING OF 1.05 ACRES FROM CD TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, ON SURREY ROAD, EAST OF SCOTHOLM ROAD, OWNED BY MARCH F. RIDDLE.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd said that the area was initially zoned in 1976 with the flood line plotted. He said at that time it was hard to see the contour on the map, and the current maps more accurately define the contour. Mr. Lloyd said the applicant had the land resurveyed, and it shows the contour at the 134 MSL, and the staff verified the information. Mr. Lloyd reported that the Planning staff recommended approval of the R10 Residential District based on the following:

1. The surveyed flood line has changed, and the majority of the subject property now lies outside of the Conservancy District as was intended;

2. The 2010 Land Use Plan calls for low-density residential development and open space at this location; and
3. The uses allowed in the R10 Residential District are consistent with the character of the area.

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

Chair McNeill asked if the applicant was present. Mr. Lloyd said he was not.

Ms. Myrtle Hurley appeared in opposition and said there is a creek 100 yards behind her house and after the hurricane, the water was at the fence. She said they did not want the land disturbed or any trees removed that help absorb the water.

Mr. Hurley appeared before the Board and said when they purchased the home, they understood there was a watershed area in the back. He said they live on Lakeway Drive and from Strickland Bridge Road to Surrey Drive and west toward the CD district, the area is being reduced in size. He said he was concerned that the reduction of trees that absorb the water will cause the next hurricane to flood his back yard.

Mr. Joe Riddle appeared before the Board and said his mother is the applicant, and Rockfish Creek had beaver dams up and down the creek. He said they had contacted Senator Helms to ask the Corps of Engineer to help clear the creek because it is clogged with limbs, stumps and beaver dams and does not flow freely, which causes property to flood. He said his mother could only develop two lots on Surrey Road and they shouldn't have an impact on Rockfish Creek.

The public hearing was closed.

Mr. Olsen said if they did not change the zoning, he felt it would not help the flooding. He said there was major flooding from the hurricanes in other areas of the County.

**A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow staff recommendations and approve the R10 District. The motion was passed unanimously.**

- C. P02-22: REZONING OF A 17.0 ACRE PORTION OF AN 82.03 ACRE TRACT FROM R40A TO R5, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE SOUTHEAST QUADRANT OF MCBRYDE STREET AND HAWKINS ROAD, OWNED BY TOM J. KEITH.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd said there were no utilities in the area. He reported that the Planning staff recommends denial of the R5 Residential District based on the following:

- a. The site does not meet the locational criteria for medium- and high-density residential use:
  - a. Within the Urban Services Area and served by public utilities; and
  - b. Within ¼ mile of an existing major arterial.
- b. The uses allowed in the R5 District are not consistent with the land use in the area; and
- c. The soils on the subject property have severe limitations for septic use.

Mr. Tom Keith, applicant, asked that this case be deferred to the next meeting. He said when the case was processed for initial zoning, he was not aware it was an open hearing and did not attend the meeting. He said when he had property initially zoned in Bladen and Robeson County, they did not have an open hearing and thought this procedure also applied in Cumberland County. He asked that Case Nos. P02-22, P02-23 and P02-24 be deferred until the next meeting.

Vice-Chair McNeill said that they would proceed with the hearing and hear from the people that have signed up since the hearing had already begun. He asked Mr. Keith if he wanted to make any additional comments.

Mr. Keith said this zoning would be a good buffer between the commercial, agricultural and low-density residential to the south and west. He said there is a garbage pick up site at the intersection with the railroad tracks to the west, and the highest and best use of the property would be a higher density zoning and provide a buffer to the adjoining properties.

Mr. Olsen asked how long Mr. Keith wanted to delay the hearing. Mr. Keith said he would like to delay it one month.

After Board and staff discussion, the hearing was continued.

Ms. Flora Dunham appeared before the Board in opposition and asked the density of the property. Vice-Chair McNeill said the zoning could accommodate 392 units, but there is no water and sewer available, and the Health Department would determine how many septic tanks would be allowed. Ms. Dunham said the road is a country highway and could not handle the additional traffic. She added that they obtain their water from Lillington, and the County does nothing for them.

Mr. Edge said that NC Department of Transportation maintains the road, not the County. Mr. Barrett said the state is constrained by the same budget problems as the County, and funds for major highways and secondary road are separate.

Ms. Becky Dow appeared before the Board in opposition and said four years ago they bought 50 acres of land to build their retirement home, and all their neighbors own that much land or more. She said they bought the land for solitude and peace and quiet, and if any commercial uses were allowed, it would impact their life style.

The public hearing was closed.

Mr. Morris said that a four-way intersection with high traffic counts and a commercial site across the street would naturally attract commercial development. He said no one wants to live next to a container site, and that is why the C(P) was allowed across the street. He noted that it was buffered with R40, which allows one house per acre.

**A motion was made by Mr. Morris and seconded by Ms. Olion to defer Case P02-22 until the June 4, 2002 meeting.**

Vice-Chair McNeill reiterated that Mr. Keith had asked that the case be deferred, and he indicated if there was opposition to the density, he had no problem with leaving it R40A.

Mr. Keith said he was looking out for the neighborhood to try and develop a quality development. He said he was not opposed to the R40A and that the Board had done a good job planning the area.

Vice-Chair McNeill said the motion on the floor was to defer this case, which would allow Mr. Keith time to reconsider other options, or the Board could vote on the case at the current meeting.

Mr. Barrett said another alternative would be to allow Mr. Keith to withdraw his case.

Vice-Chair McNeill asked Mr. Keith if he would like to withdraw or defer his case. Mr. Keith said he would like to defer the case for a couple of months and possibly withdraw it later.

**Upon a vote on the motion to defer the case until June 4, it passed unanimously.**

D. P02-23: REZONING OF 7.08 ACRES FROM A1 TO M2, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE NORTH SIDE OF HAWKINS ROAD, EAST OF MCBRYDE STREET, OWNED BY TOM J. KEITH.

**A motion was made by Mr. Morris and seconded by Dr. Olion to defer this case to the June 4, 2002 meeting. The motion passed unanimously.**

E. P02-24: REZONING OF 91.7 ACRES FROM A1 TO R30A AND R5A, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE NORTH AND SOUTH SIDES OF HAWKINS ROAD, EAST OF MCBRYDE STREET, OWNED BY BENJAMIN, JAMES AND ALEX KEITH.

**A motion was made by Mr. Morris and seconded by Dr. Olion to defer this case to the June 4, 2002 meeting. The motion passed unanimously.**

F. P02-29: REZONING OF 4.17 ACRES FROM A1 TO R40, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 4060 BILLY JOE LANE, OWNED BY MITCHELL A. AND STORMY P. GRIFFIN.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd reported that the Planning staff recommended denial of the R40 Residential District based on the following:

1. The subdivision conditions governing this property do not allow for more than one residential unit on each lot until Billy Joe Lane is upgraded; therefore, the rezoning would serve no purpose.

Mr. Lloyd said no one signed up for or against the case. Vice-Chair McNeill asked if the applicant was present. No one responded.

Vice-Chair McNeill said even if the rezoning was approved, only one residence would be allowed. Mr. Lloyd said that was correct, but the A1 does allow other nonresidential uses on one acre.

The public hearing was closed.

Mr. Byrd asked the condition of Billy Joe Lane. Mr. Lloyd said it was a bumpy dirt street and presented a picture of the road to the Board.

Mr. Byrd said the slides show manufactured homes, and R40 does not allow them. Mr. Lloyd said there was more concern about the highest value of the land, and the R40 would render the manufactured homes illegal nonconforming.

**A motion was made by Mr. Morris and seconded by Mr. Olsen to follow the staff recommendation and deny the R40 District. The motion passed unanimously.**

G. P02-30: REZONING OF 4.0 ACRES FROM A1 TO R40, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 7103 HONEYBEE DRIVE, OWNED BY ROBIN C. RUDD.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd reported that the Planning staff recommends denial of the R40 Residential District based on the following:

1. The subdivision conditions governing this property do not allow for more than one residential unit on each lot as there is no platted legal access; therefore, the rezoning would serve no purpose.

Mr. Lloyd said they do not allow group developments on occupied lots located on easements without platted access.

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

The public hearing was closed.

**A motion was made by Mr. Morris and seconded by Dr. Olion to follow the staff recommendation and deny the R40 District. The motion passed unanimously.**

H. P02-31: REZONING OF 1.15 ACRES FROM R6A TO C3, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 1274 LILLINGTON HWY, OWNED BY LILLIE M. THOMAS.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd reported that the Planning staff recommended denial of the C3 Heavy Commercial District based on the following:

1. The proposed Spring Lake Detailed Land Use Plan calls for low-density residential development at this location.

The Planning staff found that none of the intervening districts are suitable for the subject property.

Mr. Edward Thomas appeared before the Board and said there is no opposition from the community, and the lot Ms. Thomas owns is surrounded by commercial property. He said the section behind the mobile homes contains dilapidated mobile homes, and they are trying to upgrade the area. He said since the property was bought in 1992, more property is being zoned commercial. He reviewed the commercial businesses with the Board and said there is more commercial property around the lot than residential. He said the person who owns the

property next to Ms. Thomas sells buildings, boats and miscellaneous items on a residential lot. He said they propose to place a 50- by 100-foot building on the lot for a maintenance shop that would be similar to the shop across the street owned by Mr. Wellons. He said they would professionally landscape the area and install a privacy fence along the back and side.

No one appeared in opposition to the request.

The public hearing was closed.

Vice-Chair McNeill asked for a clarification on why this was considered low density. Mr. Lloyd said that the Spring Lake Plan designated it as low density. He said the property is in the MIA for Spring Lake, and they received no comments from the Town. He said C3 is the only zoning that would allow the repair shop.

Mr. Mullinax expressed concern regarding the uses allowed in the C3 District. Mr. Barrett said that the Board could decide to allow no more commercial zoning to the south, or it could reconsider the Spring Lake Plan as it applies to this area.

Mr. Lloyd based on this being a nodal corridor, commercial would be appropriate. He said the roadway is a major thoroughfare and an entrance corridor into the Town.

Mr. Olsen said commercial zoning surrounds the proposed property. Mr. Mullinax said the area is becoming commercial.

Mr. Thomas said the property from the Spring Lake Town Limit Line going north is becoming commercial. He said the adjoining lot is zoned residential, but the owner uses the site to sell merchandise.

**A motion was made by Mr. Mullinax and seconded by Dr. Olion to defer Case P02-31 until the May 7, 2002 meeting to allow the Planning staff time to reevaluate the Spring Lake Plan for the area. The motion passed unanimously.**

- I. P02-37: REZONING OF AN 18.70 ACRE PORTION OF A 28.74 ACRE TRACT FROM M(P) AND R5 TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE NORTHEAST QUADRANT OF GLENSFORD DRIVE AND CLIFFDALE ROAD, OWNED BY JOSEPH P. RIDDLE.

Maps were displayed indicating the zoning and land use in the area. Slides of the area were shown, and Mr. Lloyd reported that the Planning staff recommended approval of the C(P) Planned Commercial District for the tract currently zoned M(P) and denial of the C(P) District and approval of O&I Office and Institutional on the tract that is zoned R5 based on the following:

1. The changes made along Glensford Drive have made the tract suitable for commercial development;
2. The O&I District on the R5 tract will create a buffer of transition between commercial and residential uses; and
3. Planned commercial development would be more compatible with the surrounding residential character.

**Mr. Stacey Weaver appeared before the Board representing Joe Riddle and said that this property is located within two major thoroughfares. He said the traffic count for**



Cliffdale Road is 29,571 and was 24,512 in 2000; and Glensford Road is 13,477, up from 10,363 in 2000. He said the increase of traffic is due to the express ramps on Cliffdale Road. He said Glensford Road is a 120-foot wide right-of-way and is scheduled for extension south to Raeford Road. He said the traffic counts make the area less desirable for residential use. He said when Glensford Road was extended toward the mall, it was clear that more commercial businesses would be developed there. He said the staff felt the rezoning from M(P) to C(P) was appropriate, and this tract is not designed for heavy industrial use. Mr. Weaver said the R5 zoning allows apartments, and his client does not build apartments; however, there are apartments being built east of the New Castle Subdivision. He said the market is already flooded with apartments, and Fayetteville is over built for office space. He added if the commercial is allowed, the buildings would be less intrusive to the neighborhood.

Mr. David Crocker appeared before the Board and said he did not favor or oppose the request and asked for clarification of the R5 zoning change. Vice-Chair McNeill said the request is for C(P). Mr. Crocker asked what the commercial zoning would involve and what type of buffer would be provided to the area. Mr. Lloyd said site plan review is required for C(P) and not O&I. He said the C(P) would allow heavier uses and a buffer would be required from the residential area with a site plan review. Mr. Crocker said all residents knew that the property fronting Glensford Road would be developed as commercial and was glad they are willing to work together in developing the site.

The public hearing was closed.

Dr. Olion said the C(P) would give them more review than the O&I and there was no opposition to the request. She said that it has always been said when Glensford was extended that it would be developed commercial.

**A motion was made by Dr. Olion and seconded by Mr. Morris to approve C(P) for both tracts. The motion was passed unanimously.**

## VII. PLATS AND PLANS

- A. 02-89: MARY P. ROBINSON GROUP DEVELOPMENT REVIEW FOR A VARIANCE FROM SECTION 3.21.e, "GROUP DEVELOPMENTS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE, WEST OF BUTLER NURSERY ROAD OFF OF AN EASEMENT KNOW AS SHEM CREEK DRIVE.
- B. 02-93: J. L. MARSH SMITH FARMS GROUP DEVELOPMENT REVIEW FOR A VARIANCE FROM SECTION 3.21.e, "GROUP DEVELOPMENTS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE, WEST OF BUTLER NURSERY ROAD OFF OF AN EASEMENT KNOW AS SHEM CREEK DRIVE.

Mr. Lloyd said lots were deeded off this property and were not submitted for Planning staff review. He said when people buy lots like this, they are not aware whether they meet subdivision standards. He said a permit to add another structure is requested, it cannot be issued because there is no access. He said in 1996, a group development review was done in this area, and it required that Shem Creek Drive be paved. He said that the staff recommended denial on the two variance requests because Shem Creek Drive was not upgraded as required. He added that deeding off land in this manner is illegal, and when

people apply for permits, they are denied because the road has not been upgraded, and the applicants are unaware of the requirement.

Mr. Lloyd said Mr. and Mrs. Robinson were present to speak to the Board.

Vice-Chair McNeill asked when the property was purchased. Mrs. Robinson said she bought the property in December from Mary Hall McLaurin. Vice-Chair McNeill asked if there was a residence on the property, and Mrs. Robinson responded that there were two tracts of land, and the two-acre tract contained a mobile home. She said that the rear tract contains 2.73 acres. Mr. Lloyd said the tracts were not platted separately. Mrs. Robinson said they want to add another trailer to the two-acre tract, which already has a septic tank, for her son and daughter to live in. She said the back tract is used as a horse pasture.

Mr. Robinson said they have a mentally retarded grandchild, and they want to place a mobile home on the lot so that his family can live there.

Mr. Marsh appeared before the Board and said that Shem Creek Drive did not exist until two or three years ago and there was no easement there. He said the family has used the road since 1945. He said access should be changed to Hidden Oak where an easement is provided. He said there are two ways in to the property, and one is Shem Creek Drive with a 20-foot easement and an easement for Hidden Oak. He said they obtained the permits from NCDOT to improve Hidden Oak, but the easement was included with property when it was sold, and the owners refused to improve the road.

Vice-Chair McNeill said the map shows the property line runs to the center of the easement. Mr. Marsh said that was correct. Vice-Chair McNeill said the owners own the access easement. Vice-Chair McNeill asked if the lots were conveyed recently, and Mr. Marsh said his son did. Vice-Chair McNeill said the subdivision review in 1996 indicated that the street needed to be upgraded before any further development.

Mr. Morris said a Homeowners' Association was suppose to be established for maintenance of the Class B Street, and because this was not done, they cannot do what they planned for the lot. Mr. Barrett said there were limitations on the lot when they bought it. Mr. Marsh said they could not get the Class B Street completed because other property owners would not allow them on their properties. He said they did not set up a Homeowners' Association because they could not get the Class B Street constructed.

Mr. Morris asked if anyone lives on the other easement. Mr. Robinson said there is not. Mr. Lloyd said that it would be better to allow use on the horse pasture lot rather than allow another structure with the mobile home.

Mr. Barrett said the property was subdivided by deed, not through subdivision approval, and granting a variance should be the minimum necessary for a reasonable use of the lot. He said use of the lot with a residence would be the minimum necessary but not for the other lot.

**On Case No. 02-89, a motion was made by Mr. Olsen and seconded by Mr. Morris to allow the applicant to build a residence on what is considered the pasture lot, which would allow the minimum legal use of the property, and the pattern of development makes it impractical to provide a road that would comply with the subdivision ordinance provision. The motion passed unanimously.**

**On Case No. 02-93, a motion was made by Mr. Olsen and seconded by Dr. Olion to deny the variance. The motion passed unanimously.**

VIII. DISCUSSION

A. INTERIM DIRECTOR'S UPDATE – TOM LLOYD

Mr. Lloyd reported that the Manufactured Housing Study was submitted to the County Commissioners, and a team has been formed to implement some of the recommendations in the Study. He said he would inform the Board of the progress and present a report in May. Mr. Lloyd said that the Central Permitting Section is progressing well, and he would keep the Board updated.

B. COUNTY COMMISSIONERS' MEETING – VICE-CHAIR McNEILL

Vice-Chair McNeill reported that the County Commissioners agreed with the Board's recommendations on all the cases. He added that one of the cases located on Highway 13 was referred back to the Board for consideration of a Conditional Use Overlay District and Permit.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:55 p.m.