

Lori Epler,
Chair
Cumberland County

Roy Turner,
Vice-Chair
Cumberland County

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



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

MINUTES September 15, 2009

Members Present

Mrs. Lori Epler, Chair
Mr. Roy Turner, Vice-Chair
Mr. Donovan McLaurin
Mr. Benny Pearce
Ms. Patricia Hall
Mrs. Sara Piland
Mr. Charles Morris
Mr. Harvey Cain, Jr.
Mr. Walter Clark
Mr. Garland Hostetter

Members Absent

Others Present

Mr. Tom Lloyd, Director
Mr. Harvey Raynor
Ms. Patricia Speicher
Mrs. Laverne Howard
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Vice-Chair Turner made a motion to approve the agenda, seconded by Mrs. Piland. Unanimous approval

II. PUBLIC HEARING DEFFERAL / WITHDRAWAL

There were none.

III. ABSTENTIONS BY BOARD MEMBERS

There were none.

IV. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

V. APPROVAL OF THE MINUTES OF AUGUST 18, 2009

Ms. Hall made a motion to accept the minutes as submitted, seconded by Mr. Hostetter. Unanimous approval

VI. PUBLIC HEARING CONSENT ITEMS

ORDINANCE ADOPTION

- A. **P09-44:** CONSIDERATION OF THE ADOPTION AND ENACTMENT OF THE TOWN OF LINDEN SUBDIVISION ORDINANCE, ESTABLISHING MINIMUM STANDARDS FOR THE SUBDIVISION AND DEVELOPMENT OF PROPERTIES WITHIN THE TOWN AND ENFORCEMENT OF THE SAME.

Early this year, the Town of Linden created a committee to review a draft subdivision ordinance. The committee completed their review and at the August 18, 2009 Linden Commissioners' meeting, the commissioners requested this document be set for public hearing.

The primary difference between the Town's proposed ordinance and the current County Subdivision Ordinance is concerning construction of new streets inside the Town limits. This proposed ordinance contains provisions that require all new streets inside the Town to be constructed as paved private streets with an owners' association established and made responsible for maintenance. New public streets outside the corporate limits but within the Town's *Municipal Influence Area* (MIA) will be constructed to the NC Department of Transportation (NCDOT) standards with application made to the NCDOT for acceptance to the state system for maintenance purposes.

The Planning and Inspections Staff recommends approval of the Linden Subdivision Ordinance as proposed, based on the following:

1. Adoption of this ordinance will establish minimum standards for the subdivision and development of properties within the corporate limits of the Town and within the Town's designated *Municipal Influence Area* (MIA);
2. The proposed standards will aid in preserving the character of the area in and immediately surrounding the Town, protect the property values and is intended to create conditions that substantially promote the public health, safety and general welfare; and
3. The ordinance was requested by the Town of Linden Board of Commissioners.

A motion was made by Vice-Chair Turner, seconded by Mrs. Piland, to follow the staff recommendation and approve case P09-44. Unanimous approval.

ORDINANCE REWRITE

- B. **P09-46:** REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS CODE OF ORDINANCES, CHAPTER 86, SUBDIVISIONS (*CIRCA* 1985), INCLUDING AMENDMENTS TO SAID CHAPTER, WITH THE ENTIRE CHAPTER BEING RE-WRITTEN AND RE-ADOPTED AS A SEPARATE STAND ALONE TECHNICAL ORDINANCE; ALSO AMENDING AND ADDITION OF APPENDIXES INCLUDING APPLICATIONS, MAPS, MEETING AND FEE SCHEDULES.

In January of this year, the Town of Hope Mills' Ordinance Review Committee began a review of the Town's subdivision regulations. The terminology of the ordinance has been updated and where possible the proposed ordinance is consistent with the County's Subdivision Ordinance. The major differences between the Town and the County ordinances are listed on an attached page. This proposal is intended to be adopted as a separate stand alone technical ordinance with the County Planning Staff responsible for keeping the document current.

The Planning and Inspections Staff recommends approval of the complete re-write of the Hope Mills Subdivision Ordinance as proposed, based on the following:

1. The proposed standards will aid in preserving the character of the area in and immediately surrounding the Town, protect the property values and is intended to create conditions that substantially promote the public health, safety and general welfare;
2. The provisions in the ordinance are consistent with the recently adopted Land Use Policies Plan and the 2030 Growth Vision Plan; and
3. The ordinance was requested by the Town of Hope Mills.

A motion was made by Vice-Chair Turner, seconded by Mrs. Piland, to follow the staff recommendation and approve case P09-46. Unanimous approval.

REZONING CASES

- C. **P09-39:** REZONING OF .39+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE WEST SIDE OF SR 1149 (BOONE TRAIL), SOUTH SIDE OF SR 1145 (PIEDMONT AVENUE) SUBMITTED AND OWNED BY GLADYS A. BLANTON.

The Planning & Inspections Staff recommends denial of the C(P) Planned Commercial but approval of C2(P) Planned Service and Retail district for this request, based on the following:

1. The recommendation for C2(P) for the subject property is consistent with the location criteria for light commercial as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan while the subject property does not meet the location criteria of the Policies Plan for the C(P) district (defined as heavy commercial);
2. Boone Trail is designated as a Limited Business Street, acknowledging that this segment of the street serves properties that are in transition from residential to non-residential uses thus C2(P) is appropriate; and
3. Public water and sewer is available to the subject property.

There are no other districts to be considered suitable regarding this request.

The property owner/applicant has verbally agreed with this staff recommendation.

A motion was made by Vice-Chair Turner, seconded by Mrs. Piland, to follow the staff recommendation and approve case P09-39. Unanimous approval.

- D. **P09-42:** REZONING OF 13.53 +/- ACRES FROM RR RURAL RESIDENTIAL AND CD CONSERVACY DISTRICT TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF SR 1003 (CAMDEN ROAD) AND THE EAST SIDE OF THE HOKE COUNTY LINE, SUBMITTED AND OWNED BY JOHNNY BEASLEY AND BILLY E. DEES.

The Planning & Inspections Staff recommends approval of the R7.5 Residential district but only for that portion of the subject property located outside the *Special Flood Hazard Area* (SFHA), with the land area inside the SFHA being zoned CD Conservancy, based on the following:

1. The requested district for the subject property is consistent with the location criteria for low density residential as adopted in the Land Use Policies Plan of the 2030 Growth Vision Plan with the exception of the stated goal of the district not being located within the SFHA;
2. The 2030 Growth Strategy Map has designated the portion of the subject property within the SFHA as a conservation area; and
3. Public utilities are available to this site.

The R20 and R15 residential districts could also be found suitable for this site.

The property owners/applicants have verbally agreed with this staff recommendation.

A motion was made by Vice-Chair Turner, seconded by Mrs. Piland, to follow the staff recommendation and approve case P09-42. Unanimous approval.

VIII. CONSENT PLATS AND PLANS

- E. **CASE NO. 09-103:** CONSIDERATION OF THE HAROLD R. BURANDT PROPERTY, ZERO LOT LINE SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM SECTION 2303.C, STREET FRONTAGE, COUNTY SUBDIVISION ORDINANCE; ZONING: A1 & CD; TOTAL ACREAGE: 10.10 +/-; LOCATED NORTHEAST OF SR 1609 (COLLIERS CHAPEL CHURCH ROAD) AND NORTH OF A DIRT TRAIL (RECORDED EASEMENT) KNOWN AS VAULT FIELD ROAD.

The developer is requesting a waiver from the requirement to have 20 feet of road frontage off of either a public or approved private road for the placement of a second dwelling. The property is an 10.10 acre tract, which uses a 50 foot recorded ingress-egress easement for access (Plat Bk. 119, Pg. 102). The majority of the easement is located along the path of the existing dirt trail named "Vault Field Road" by the Streets & Addressing Section. The proposed second dwelling is a singlewide manufactured home.

The existing deeded lot is an exempt lot from the definition of subdivision and would not typically be subject to the requirement for road frontage under the terms of Subdivision Ordinance; however, the second dwelling unit proposed qualifies the request as a group development and the standards for actual road frontage for the lot is required.

The Planning and Inspections Staff recommends approval of the waiver request from Section 2401.D based on the following:

- a. Because of the size of the existing lot of record, 10.10 +/- acres, it would be inequitable not to allow a second unit on such a large tract, and strict compliance with the provisions of the ordinances would cause a special and unnecessary hardship if the developer were required to upgrade the ingress/egress easement to "street" status given that the majority of the land area in which the easement crosses is not under the current property owners' control;
- b. The purposes of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, in that there is an existing deeded ingress/egress easement, assigned a street name for emergency services purposes that assures access to this lot and adjacent lots within the area;
- c. The property owner is not being afforded a special privilege denied to others since the Planning Board has approved similar requests when there has been comparable facts and circumstances.

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to follow the staff recommendation and approve the waiver request. Unanimous approval.

IX. PUBLIC HEARING CONTESTED ITEMS

REZONING CASES

- F. **P09-36:** REZONING OF .49+/- ACRES FROM R6A RESIDENTIAL TO C2(P)/CUD PLANNED SERVICE AND RETAIL/CONDITIONAL USE DISTRICT (RESTAURANT; RECREATION/AMUSEMENT, INDOOR; RETAIL; AND OTHER PERMITTED USES) AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3876 DUNN ROAD, SUBMITTED AND OWNED BY JOHNNIE L. AND LINDA M. SANDERSON.

Mr. Lloyd reminded the board that this case was heard at the August 18, 2009 meeting. The applicant was asked to go back and work with staff to go over the requested uses. The uses have been adjusted to eliminate all requested uses except the ice cream shop and grill (restaurant).

Mr. Lloyd stated that this did go back to staff and staff felt that based on the original reasons that were given they did not change their recommendation. The applicant did what she was supposed to do and scaled back some of the uses. The problem with the staff recommendation was not with the uses, it was with the location.

The Planning & Inspections Staff recommends denial of the C2(P) Planned Service and Retail/ Conditional Use District [C2(P)/CUD] for the restaurant (ice cream shop and grill) based on the following:

1. The district requested is inconsistent with the Eastover Area Detailed Land Use Plan, which calls for medium density residential at this location;

2. The district requested is inconsistent with some of the location criteria for light commercial as listed in the 2030 Comprehensive Plan, specifically the request if approved would not serve as a transition between residential and non-residential, and the subject property is not located within an activity node or designated commercial area;
3. Consideration of the C2(P) district for this area is arbitrary and would not serve a viable public interest; and
4. The degree of difference in uses allowed between the existing surrounding zoning and the proposed zoning and uses requested, qualify this request as being unreasonable.

The Planning & Inspections Staff also recommends denial of the Conditional Use Permit based on the following:

1. This development could endanger the public safety if located according to plan submitted especially concerning the motor vehicle traffic on Dunn Road, since the drive is only approximately 200 feet from a fairly congested intersection;
2. The request does not comply with the specifications of the Zoning Ordinance, which require 30 foot side yard setbacks; the existing structure is located 26.8 feet from the southern property line and 20 feet from the northern line;
3. The degree of difference in this specific request and the site layout requested as related to the existing surrounding uses makes this request unreasonable and most likely will not enhance or maintain the value of the adjoining residential properties and is not a public necessity; and
4. The location and character of the use is not in harmony with the area in which it is located and would be in contradiction to the proposed Land Use Policies Plan's location criteria for light commercial since the subject property is surrounded by residentially-zoned properties;

There are no other suitable districts to be considered for this request.

There were two people present to speak in favor. No one present to speak in opposition.

Chair Epler swore in all speakers.

Mrs. Linda Sanderson, the applicant spoke in favor. Mrs. Sanderson stated that the application had been revised asking for an ice cream store and grill. Mrs. Sanderson stated that she didn't understand how the application was considered dangerous to public safety. Surveyors, builders, general contractors, the fire marshal, and the health department have been out to the subject property. All of them have said that this structure could be, with the right amount of money, suitable for what they are looking for. Mrs. Sanderson presented a notarized statement from all adjoining property owners stating that they support the application. Mrs. Sanderson stated that they are trying to give the community what they are asking for if the application is considered for approval, Mrs. Sanderson asked that the sidewalk requirement be removed. Mrs. Sanderson has driven through Eastover and stated that there are no sidewalks in Eastover.

Mr. Johnny Lee Sanderson spoke in favor. Mr. Sanderson stated that since the last meeting, there have been plenty of people in the Eastover area that would really like to see something in the community for children and for the elderly. Mr. Sanderson had all the people in the audience stand if they were in favor of the application (approximately 20 people stood). Mr. Sanderson stated that he didn't agree with the danger to public safety concerning motor vehicle traffic when there is a store, grill, and town hall all in the same area. Mr. Sanderson stated that he checked with the Department of Transportation (DOT) and they don't have a problem with a 20 foot entrance as long as it's graded for the intended use. Mr. Sanderson stated that they were just trying to do something for the community.

Public Hearing closed.

Mr. McLaurin asked Mrs. Sanderson if she was given copies of the Eastover Land Use Plan, that stated that the Eastover Land Use Plan calls for any new or additional commercial to go from Baywood Road to the 301 I-95 Interchange. Mr. McLaurin asked if she was given a copy of the Land Use Policies Plan that was recently approved by the Planning Board and the County Commissioners.

Mrs. Sanderson stated that she had.

Mr. Morris asked to see the adjacent properties to the subject property. Mr. Morris asked what the density was for Class A trailers in R6A.

Mr. Lloyd stated that if it was a manufactured home park it would be 8 manufactured homes per acre. If there were individual lots, the density could be much greater.

Mr. Morris stated that there could be as many as 4 manufactured homes on the subject property and they wouldn't need anything from this board.

Ms. Speicher stated that they would need approval by the Town Board.

Mr. Lloyd stated that the Town Board would have to approve the subdivision. It would have to meet the standards of the Subdivision Ordinance.

Mr. Morris stated that he drives through Eastover all the time and it is a transitional community and doesn't understand why a grill and an ice cream parlor would not be an asset, not to mention the uses that could go on that property. As well as what's going on across the street from it. Mr. Morris stated that he had no objections to the application.

Chair Epler stated that she didn't see the requirement for the sidewalk.

Mr. Lloyd pointed out that it was listed under Plat-Related Condition #23.

Mr. Lloyd stated that the staff had been instructed to follow the plans. The plan can be deviated from by this board or the Town Board, but staff has been instructed to follow the plans with respect to the Eastover Detailed Land Use Plan. That is why the staff made the recommendation.

Mr. Morris stated that he understood, but that was why there is a board.

Chair Epler stated that she respected that, but there are already existing pieces of property within 300 feet of this site that don't comply with the Land Use Plan. As we've stated before we have voted contrary to Land Use Plans when extenuating circumstances exist. We have 25-30 people who are here to support this application. In all honesty, I don't know how many of those people live in Eastover.

Mrs. Piland stated that she appreciated the applicant's interest, and certainly had no objection to it in the Town of Eastover, also appreciates the staff's consideration of the guidelines and their obligation to follow those guidelines. The key here is, and we have eluded to this in some of the discussion that has occurred, about the way Eastover is, was, and has been, but we need to remember that a Land Use Policy has been set and it is for future growth and it is for the way that we would like to mold development for the future. What the staff has done is try to follow those plans that are now in place. They are not looking backwards, they are looking forward. Mrs. Piland stated that she appreciated the staff for that, and also apologized for the fact that some of the policies and standards do not allow what the applicant is asking for, and feels that what is being requested would be good for Eastover and the commercial area. Unfortunately, as Mr. Lloyd pointed out, the location and the policies do not allow that.

Mr. Morris stated that he felt this was an opportunity for the town and sometimes we get too caught up in the bureaucracy. Mr. Morris stated that he would support the petition.

Mr. McLaurin stated he knows there is strip commercial throughout Eastover and most of it was constructed before the Land Use Policies Plan were developed and approved. Those are forward looking plans. Mr. McLaurin stated that he had more of a problem going back and forth between commercial and residential. Mr. McLaurin stated that some of the board members sat on the committees and oversaw the development of these plans, this is exactly what those plans are trying to eliminate. We all voted in the affirmative for the plans.

Mr. McLaurin made a motion, seconded by Mrs. Piland, that the Joint Planning Board fails to find that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it therefore be denied. The motion died with four voting in favor and six opposed.

Chair Epler called for more discussion.

Ms. Hall stated that she understood the need for the Land Use Plan and they are for future growth. But that house is just sitting there now; there will either be a remodeled house or a deserted house. That is one of the reasons why Ms. Hall feels the application should be approved. Secondly, Mrs. Sanderson indicated that the lot beside her may be asking for commercial zoning, Ms. Hall asked Mr. Lloyd if the two could request rezoning together.

Mr. Lloyd responded if they came back.

Ms. Hall asked if it would join the commercial.

Chair Epler indicated to Ms. Hall that it was another lot that was possibly going to be submitted for commercial rezoning.

Mr. Morris reminded the board that at the last meeting one of the other speakers on the other side of the subject property was going to ask for commercial.

Mr. Lloyd reminded the board that no recommendation would go on to the Town Board as a favorable recommendation.

The applicant voluntarily agreed to condition #23 under Plat-related conditions.

Mr. Morris made a motion, seconded by Vice-Chair Turner that the Joint Planning board finds that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that the conditional uses as submitted and agreed to by the applicant be approved. The motion carried with Chair Epler, Vice-Chair Turner, Mr. Morris, Mr. Cain, Ms. Hall, and Mr. Hostetter voting in favor and Mr. Clark, Mr. Pearce, Mrs. Piland, and Mr. McLaurin voting in opposition.

A motion was made by Mr. Morris and seconded by Vice-Chair Turner to approve the Conditional Use Permit as recommended by the staff after finding that when completed, the proposal: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 3) will be in harmony with the area in which it is to be located; and 4) although inconsistent in that the property is located outside of the commercial zoned Land Use Plan but find that it is adjacent to that zoned in relatively close proximity to the surrounding uses to the area. The motion carried with Chair Epler, Vice-Chair Turner, Mr. Morris, Mr. Cain, Ms. Hall, and Mr. Hostetter voting in favor and Mr. Clark, Mr. Pearce, Mrs. Piland, and Mr. McLaurin voting in opposition.

IX. DISCUSSION

Mr. Lloyd asked the Board if they wanted to have the joint meeting with the City. After discussion a tentative meeting date was set for September 29, 2009. It will be an educational meeting on Phase II Stormwater.

Ms. Hall thanked Ms. Speicher and Ed Byrne for the hard work that was put into the rewrite of the Hope Mills Subdivision Ordinance.

X. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

None

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:50 p.m.