

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

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



CUMBERLAND
COUNTY
NORTH CAROLINA

Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MINUTES

July 16, 2013

Members Present

Ms. Patricia Hall, Acting Chair
Mrs. Diane Wheatley
Mr. Benny Pearce
Mr. Carl Manning
Mr. Harvey Cain, Jr.
Mr. Charles Morris
Dr. Vikki Andrews

Members Absent

Mr. Walter Clark
Mr. Donovan McLaurin
Mr. Garland Hostetter

Others Present

Mr. Thomas Lloyd
Ms. Patricia Speicher
Ms. Donna McFayden
Mrs. Laverne Howard
Mr. Rob Hasty
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

There were no adjustments.

Mr. Morris made a motion, seconded by Mr. Pearce to approve the agenda. Unanimous approval.

III. PUBLIC HEARING DEFERRAL /WITHDRAWAL

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

Ms. Hall disclosed that she had communication with Mr. Tim Evans in reference to Case No. 13-018, but would be able to make an impartial decision on her vote.

V. APPROVAL OF THE MINUTES OF JUNE 18, 2013

Mr. Pearce made a motion to accept the minutes, seconded by Mr. Morris. Unanimous approval.

VI. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENTS

- A. **P13-17:** REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE CODE OF ORDINANCES, CHAPTER 42 ZONING; AMENDING ARTICLE XI. SIGN REGULATIONS, SECTION 42-289. DEFINITIONS, BY INSERTING IN ALPHABETICAL ORDER THE TERM AND DEFINITION FOR *NONPROFIT, NONCOMMERCIAL ENTITY*; AMENDING SECTION 42-291. SIGNS PERMITTED IN ANY DISTRICT, BY INSERTING SUB-SECTION (6) ENTITLED *NONPROFIT, NONCOMMERCIAL ENTITY SIGNS*; AND AMENDING SECTION 42-295. PROHIBITED SIGNS. SUB-SECTION (2) SIGNS ERECTED ON PUBLIC STREETS, EXCLUDING THE APPLICABILITY OF THIS SUB-SECTION TO NONPROFIT NONCOMMERCIAL ENTITY SIGNS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (SPRING LAKE)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. If approved, this amendment will enable certain nonprofits to better serve their community by ensuring that citizens are aware of the location of their facility; and
2. The proposed amendment was requested by the town staff.

Mr. Pearce made a motion, to recommend the adoption and approval of the Text Amendment as submitted by the Planning & Inspections staff, seconded by Dr. Andrews. The motion passed with a unanimous vote.

- B. **P13-27.** REVISION AND AMENDMENT TO THE TOWN OF FALCON ZONING ORDINANCE AMENDING ARTICLE III. PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF USES, TABLE 1-G, PERMITTED AND SPECIAL USES C(P) PLANNED COMMERCIAL AND C-3 HEAVY COMMERCIAL DISTRICTS AND TABLE 1-H, PERMITTED AND SPECIAL USES M INDUSTRIAL DISTRICT, BY INSERTING THE TERM *BILLBOARD* IN ALPHABETICAL ORDER IN THE PERMITTED USE AREA OF EACH TABLE;; AMENDING ARTICLE IX. SIGN REGULATIONS, SECTION 9.1. GENERAL PROVISIONS, SUB-SECTION 9.14. SIGNS FACING RESIDENTIAL DISTRICTS; SECTION 9.4. SIGNS PERMITTED BY DISTRICT, SUB-SECTION 9.42. C(P) DISTRICT, PARAGRAPH 9.421. SIGNS PERMITTED; SUB-SECTION 9.43. C-3 DISTRICTS, PARAGRAPHS: 9.431. SIGNS PERMITTED, 9.432. SIGN AREA, 9.434. HEIGHT, AND 9.435. LOCATION; SUB-SECTION 9.45. M DISTRICT; CREATING SECTION 9.5., ENTITLED: *BILLBOARDS (OFF-PREMISES SIGNS)* AND SUB-SECTIONS 9.51. GENERAL PROVISIONS. (A) THROUGH (F) AND 9.52. DIMENSIONAL CRITERIA;; AMENDING ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, SPECIFICALLY *BILLBOARD*; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

The Planning & Inspections Staff recommends approval of the above referenced text amendment based on the following:

1. If approved, this amendment will generally allow for consistency with the county standards for billboard location and approval of plans; and
2. The amendment, if adopted, will ensure that all billboards constructed inside the corporate limits of the town will require Falcon Board of Commissioners' approval prior to issuance of any permits.

Mr. Pearce made a motion, to recommend the adoption and approval of the Text Amendment as submitted by the Planning & Inspections staff, seconded by Dr. Andrews. The motion passed with a unanimous vote.

REZONING CASES

- C. **P13-25.** INITIAL ZONING OF .34+/- ACRE TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 130 NEW STREET, OWNED BY WDCDC, INC. (SPRING LAKE)

The County Planning Staff recommends approval of the initial zoning to the C(P) Planned Commercial district of the subject property as shown on the attached sketch map, based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "urban" at this location, as well as meeting the location criteria for "heavy commercial" development as listed in the Land Use Policies Plan; the request is also consistent with the Spring Lake Area Detailed Land Use Plan which calls for "planned commercial" development at this location;
2. The district requested is reasonable as public utilities are available to the subject property; and
3. The request was submitted by the Town of Spring Lake.

The effective date of annexation was July 1, 2013. There are no other suitable districts to be considered for this request.

Mr. Pearce made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial district, seconded by Dr. Andrews. The motion passed with a unanimous vote.

- D. **P13-26.** INITIAL ZONING OF 6.40+/- ACRES TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHEAST SIDE OF SR 1860 (GORDON WILLIAMS ROAD), NORTHWEST OF SR 1806 (SHERRILL BAGGETT ROAD); OWNED BY MYERS GRIFFIN AND CLARA GAYLE M. BRAXTON. (FALCON)

The Planning & Inspections Staff recommends approval of the initial zoning to the C(P) Planned Commercial district of the subject property as shown on the attached sketch map, based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “community growth area” at this location, as well as meeting the location criteria for “heavy commercial” development as listed in the Land Use Policies Plan; the request is also consistent with the Vision Northeast Land Use Plan which calls for “commercial” at this location; and
2. The request was submitted by the Town of Falcon.

The effective date of annexation was July 1, 2013. There are no other districts to be considered for this request.

Mr. Pearce made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial district, seconded by Dr. Andrews. The motion passed with a unanimous vote.

- E. **P13-28.** INITIAL ZONING OF 74.87+/- ACRES TO R6 RESIDENTIAL AND CD CONSERVANCY OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED EAST OF NC HWY 210 (LILLINGTON HIGHWAY), SOUTHWEST OF SR 1600 (MCCORMICK BRIDGE ROAD); OWNED BY GOODSON PROPERTIES MANAGEMENT, LLC. (SPRING LAKE)

The County Planning Staff recommends approval of the initial zoning to the R6 Residential district of the subject property and CD Conservancy District for that portion located within the *Special Flood Hazard Area* as shown on the attached sketch map, based on the following:

1. The districts requested are consistent with the 2030 Growth Vision Plan, which calls for “urban” and “conservation area” at this location, as well as meeting the location criteria for “medium density” development as listed in the Land Use Policies Plan; the request is also consistent with the Spring Lake Area Detailed Land Use Plan which calls for “suburban” development and “open space” at this location;
2. The districts requested are reasonable as public utilities are available to the subject property; and
3. The request was submitted by the Town of Spring Lake.

The effective date of annexation was July 1, 2013. There are no other suitable districts to be considered for this request.

Mr. Pearce made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R6 Residential district of the subject property and CD Conservancy District for that portion located within the *Special Flood Hazard Area*, seconded by Dr. Andrews. The motion passed with a unanimous vote.

- F. **P13-31.** REZONING OF 7.49+/- ACRES FROM A1 AGRICULTURAL TO R30 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3377 NORTH FORK LANE, SUBMITTED BY CHRISTINE M. SMITH ON BEHALF OF WILLIE B. SMITH JR. (OWNER) AND TIMOTHY B. EVANS.

The Planning and Inspections Staff recommends denial of the request for the R30 Residential district but approval of the R40 Residential district based on the following:

1. The subject property location is not consistent with the criteria listed in the Land Use Policies Plan for "suburban density residential" as the R30 Residential district is classified; however, the recommended district of R40 Residential is consistent with the 2030 Growth Vision Plan, as well as meeting the location criteria for "rural density residential" development as listed in the Land Use Policies Plan; and
2. The recommendation for the R40 Residential district is reasonable due to similar and recent rezonings in the general vicinity and would be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

The applicant has verbally agreed to the recommendation for the R40 Residential district.

Mr. Pearce made a motion to recommend denial of R30 Residential and the adoption and approval of the consistency and reasonableness statements to approve R40 Residential district, seconded by Dr. Andrews. The motion passed with a unanimous vote.

CONDITIONAL ZONING DISTRICT

- G. **P13-32.** REZONING OF 1.00+/- ACRE FROM RR RURAL RESIDENTIAL TO A1/CZ AGRICULTURAL/CONDITIONAL ZONING DISTRICT FOR A KENNEL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHEAST SIDE OF SR 1118 (PARKTON ROAD), NORTHWEST OF SR 1120 (NATURAL VIEW DRIVE); SUBMITTED BY JERRY L. AND MARY E. KING (OWNERS).

The Planning & Inspections Staff recommends approval of the requested rezoning to A1 Agricultural /CZ Conditional Zoning district for a kennel operation based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for "rural density" development as listed in the Land Use Policies Plan; the request is also consistent with the proposed Southwest Cumberland Land Use Plan, which calls for "farmland" and "open space" at this location;
2. The requested use of a kennel operation is logical as an equestrian facility exists on adjacent property under the same ownership; and
3. The location and character of the use, if developed according to the plan as submitted and the recommended Ordinance Related Conditions, are reasonable as they will be in harmony with the area in which they are to be located.

There are no other zoning districts suitable as related to this request. The applicant has verbally agreed to all Ordinance Related Conditions.

Mr. Pearce made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve A1 Agricultural/CZ Conditional Zoning district for a kennel operation, seconded by Dr. Andrews. The motion passed with a unanimous vote.

VII. PUBLIC HEARING WAIVER REQUEST

CASE NO. 13-018. CONSIDERATION OF THE TRACE HOMES, INC PROPERTY; ZERO LOT LINE SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC SEWER; COUNTY SUBDIVISION ORDINANCE, SECTION 2306.A.1.B UTILITIES; ZONED: R10; TOTAL ACREAGE: 2.00+/-; LOCATED ON NORTH SIDE OF SR 2996 (CHURCH STREET), EAST OF BAFFLE CIRCLE; SUBMITTED BY GREGORY MCLEAN ON BEHALF OF TRACE HOMES INC. (OWNER) AND TIM EVANS. (COUNTY JURISDICTION/HOPE MILLS MIA)

Mr. Lloyd reminded the Board that there was an MIA agreement that was signed in 2009 where the Commissioner's agreed with the municipalities to honor their Municipal Influence Areas as designated in the 2030 Plan. This is a quasi judicial public hearing, which the attorney's decided needed to be held, but the agreement has been made to honor the development standards of the Town within the designated areas of the MIA, which means that the Board is expected to rubber stamp what the Commissioners have already agreed upon.

Acting Chair Hall swore in Ms. Speicher.

Ms. Speicher presented the case information and stated that the applicant was requesting a waiver from the requirements to connect to the public sewer system.

Mr. Lloyd stated that if the Town of Hope Mills had recommended approval that would be okay, because Hope Mills has the final say.

Acting Chair Hall swore in all speakers.

Mr. Tim Evans spoke in favor. Mr. Evans stated that he didn't have a chance to speak when this case went to the Town Board of Hope Mills. Mr. Evans said that on a previous case on Cumberland Road he asked for a waiver from connecting to the public sewer system and that was approved. Mr. Evans stated that Hattie Grey is not a street, the Town of Hope Mills looks at a certain portion of it up to the manhole, but it is not a street it is a right of way. The manhole is very shallow and will almost be out of the ground. Mr. Evans said that if they have to connect to sewer nobody else will be able to tie into it, it's not gravity fed. Each lot will have to have a grinder pump, which means that every house will have to pump its sewer. If the builder was tying into a line that other people could tie into Mr. Evans wouldn't be here tonight. Mr. Evans said that the policy of not being able to speak at a public hearing is not fair and that should be changed.

Chair Hall stated for clarification purposes that the Town Board meeting at Hope Mills was not a public hearing, but Mr. Evans could have signed up to speak during the public comment period.

Mr. Lloyd asked why the Hope Mills Board doesn't allow the petitioner to speak at the meeting, if there is more information to provide. They should have the opportunity to speak.

Mr. Mike Adams with MAPS Survey spoke in favor. Mr. Adams stated that his company did the surveying for the subject property and he also spoke with Mr. Joe Glass from PWC and they ran the numbers and the manhole that Mr. Evans was talking about is only 3' deep and only serves the house that it is in front of after running the numbers they are running out of the ground before getting to the corner of the property. Mr. Adams said that a soil scientist did go out and evaluate the property and said this will sustain five lots.

Mr. Richard Dalrymple spoke in opposition. Mr. Dalrymple stated that he has lived on Church Street since 1995. Mr. Dalrymple encourages the five homes but is opposed to five septic tanks on what is barely two acres of land. He stated that he sees no need to use city water if he doesn't need to, he enjoys his well water.

Ms. Speicher noted that in the Town of Hope Mills connection to public sewer is required when you have 2 to 20 lots within 500' of the subject property.

Mike Bailey, Chief Building Inspector for the Town of Hope Mills, spoke in opposition. Mr. Bailey confirmed the requirement for connection to public sewer as written in their ordinance. Mr. Bailey stated that sewer is extended as far as you can so that there is a safe distance away from the street and the sewer line that would be PWC's call. Mr. Bailey said he was there to answer any questions that the board may have.

Mr. Morris asked Mr. Bailey how many homes were on Hattie Grey Ave.

Mr. Bailey said there were 2 or 3 homes.

Mr. Morris asked if it was a public street.

Ms. Speicher said that they have treated it as a public unimproved street.

Mr. Evans stated that he went to the mapping office and they said that Hattie Grey is not a street; it is a 30' easement that Hope Mills has maintained a portion of for years; it is not a dedicated street.

Ms. Speicher stated that the previous surveyor who did the original two lot split in November and the current surveyor that has proposed the 5 lot split, both have Hattie Grey labeled as a public street; however, other than running the sewer Hattie Grey doesn't affect this property. They would have to negotiate the easement or to cross, with the property owner that created the subdivision to start with.

Mr. Lloyd reminded the board that this was a quasi-judicial hearing and any statements from other sources could not be heard if there is no evidence of those statements.

Public hearing closed.

After further discussion, Mr. Morris made a motion, seconded by Mr. Manning that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider the waiver request for Case No. 13-018 requesting to not be required to connect to the public sewer system, using private septic tanks for each individual lot, developing the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and arguments presented, I move that the board makes the following findings of fact and draws the following conclusions:

- 1. It is the Planning Board's conclusion that, *Because of the size of the tract to be subdivided* strict compliance with the provisions of the County Subdivision Ordinance would not cause a special hardship to the property owner and be inequitable; this finding is based on the following conditions: The condition requiring public sewer connection was imposed on the previous subdivision recorded on January 8, 2013 in Plat Book 131, page 190 creating the two acre subject lot. It is not unreasonable to require public sewer connections to serve the re-division of the subject lot into five lots in an urban area within close proximity to the Town of Hope Mills.**
- 2. It is the Board's conclusion that the public purposes of the County Subdivision & Development and Zoning Ordinances would not be served to an equal or greater degree; this finding is based on the following conditions:**

The primary public purpose of the ordinances as related to this matter is to promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development – the public sewer system is built to withstand heavier use than private septic systems and should be a pre-requisite when developing at a density of 2.5 units per acre. In addition to the ordinances, the adopted Land Use Policies of the 2030 Growth Vision Plan also specifies that development proposed at a density of 2.5 units per acre is required to have public sewer service (when available); and

- 3. It is the Board's conclusion that the property owner would be afforded a special privilege denied to others; this finding is based on the following conditions:**

All development of properties proposed for two to twenty lots located within the Hope Mills Municipal Influence Area (MIA) and within 500 feet of a public sewer line are required to connect to the public system. All developments in this area having a similar set of facts and circumstances have been conditioned for approval with the requirement for connection to public sewer. Because of the foregoing, I move that the request for waiver be denied. Unanimous approval

VI. DISCUSSION

DIRECTOR'S UPDATE

- Mr. Lloyd advised the board about the Welcome and Information session coming up and that they would be contacted with date, time and location.

VII. ADJOURMENT

There being no further business, the meeting adjourned at 8:13 p.m.