



Patricia Hall,  
Chair  
Town of Hope Mills

Charles Morris,  
Vice-Chair  
Town of Linden

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin,  
Wade, Falcon & Godwin

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Diane Wheatley,  
Carl Manning,  
Walter Clark,  
Cumberland County

Benny Pearce,  
Town of Eastover



*Planning & Inspections Department*

**MINUTES**

March 3, 2015

**Members Present**

Ms. Patricia Hall, Chair  
Mr. Charles Morris, Vice-Chair  
Mr. Benny Pearce  
Mr. Donovan McLaurin  
Mrs. Diane Wheatley  
Mr. Carl Manning  
Dr. Vikki Andrews  
Mr. Harvey Cain, Jr.  
Mr. Walter Clark  
Mrs. Jami McLaughlin

**Members Absent**

**Others Present**

Mr. Thomas Lloyd  
Ms. Donna McFayden  
Mrs. Laverne Howard  
Mr. Rick Moorefield  
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

There were none

III. PUBLIC HEARING DEFERRAL/ WITHDRAWAL

**P15-02.** REZONING OF 3.56+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2325 (VINELAND DRIVE), EAST OF US HWY 301; SUBMITTED BY MANILAL P. AND MANUBEN M. PATEL (OWNERS) AND W. LOCKETT TALLY, ATTORNEY.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF JANUARY 20, 2015

**Mr. Pearce made a motion to accept the minutes as submitted, seconded by Dr. Andrews Unanimous approval.**

VII. OATH OF OFFICE

Mr. Pearce swore in new Spring Lake Planning Board Representative Jami McLaughlin.

VIII. PUBLIC HEARING CONSENT ITEMS

REZONING CASE

- A. **P15-11.** REZONING OF 1.86+/- ACRES FROM C3 HEAVY COMMERCIAL/CU CONDITIONAL USE FOR OPEN STORAGE AND C3 HEAVY COMMERCIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF NC HWY 210 (MURCHISON ROAD), NORTHWEST OF SR 1444 CHARMAIN STREET; SUBMITTED BY ALBERT AND SHIRLEY R. NORTON (OWNERS) AND ANDY NICHOLS.

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-11 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban” at this location as the proposed district will allow for a wide variety of commercial businesses. The request is also consistent with the Shaw Heights Land Use Plan which calls for “commercial” at this location.

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required*, public water is available, however, due to topography PWC cannot extend sewer; *should have minimum direct access to a collector street*, Murchison Road is a principle arterial; *should not be in a predominantly residential, office & institutional, or light commercial area*; *must be located on a sufficient site that provides adequate area for buffering, screening, and landscaping and could be located in a designated Activity Node Area*.

**2<sup>nd</sup> MOTION**

The Planning and Inspections Staff recommends the board approve Case No. P15-11 for C(P) Planned Commercial district based on the above information and the following:

1. The C(P) Planned Commercial district will allow for land uses and lot sizes that exist in the general area; and
2. If approved, the rezoning would remove the conditional use overlay that allowed for open storage enabling the re-development of a commercial area, a stated goal in the plan.

There are no other districts considered suitable at this location.

**Mr. McLaurin made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.**

- B. **P15-12.** REZONING OF 2.52+/- ACRES FROM C3 HEAVY COMMERCIAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 11179 DUNN ROAD, SUBMITTED BY LOUIS A. IV AND DEANNA H. FULCHER (OWNERS).

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-12 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “rural” at this location as the proposed district would allow development at one or less unit per acre. The requested district is not consistent with the Vision Northeast Land Use Plan which calls for “commercial” at this location.

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *individual well and septic systems are allowed*, public water is available; the subject property is *not located in any defined critical area as*

defined by the Fort Bragg Small Study Area; desirable to be limited to 1 unit per acre in areas with hydric and severe septic tank limitations soils; desirable to not be located in an area that is a prime industrial site and may be outside the Sewer Service Area.

### **2<sup>nd</sup> MOTION**

The Planning and Inspections Staff recommends the board approve Case No. P15-12 for R40 Residential based on the above information and the following:

1. The R40 Residential district will allow for land uses and lot sizes that exist in the general area; and
2. The request is logical as the subject property was initially zoned C3 in 1980 in an area that was predominantly agricultural and residential for a non-residential use that has long since ceased operation.

The A1 and A1A districts could also be considered suitable at this location.

**Mr. McLaurin made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.**

- C. **P15-13. REZONING OF 6.58+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 303 AND 311 MAGNOLIA CHURCH ROAD AND SOUTHWEST OF SR 1843 (MAGNOLIA CHURCH ROAD), NORTH OF NC 24 (CLINTON ROAD); SUBMITTED BY KENNETH SHERRILL AND REBECCA HALL WOODCOCK (OWNERS) AND MICHAEL J. ADAMS.**

### **1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-13 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "community growth area" at this location as the proposed district would allow development at one or less units per acre. Although the requested district is not entirely consistent with the Stedman Land Use Plan, which calls for "suburban density residential" at this location, the request is reasonable as all adjacent properties are developed as "rural density residential".

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *individual well and septic systems are allowed; could be located in any defined critical area as defined by the Fort Bragg Small Study Area; desirable to be limited to 1 unit per acre in areas with hydric and severe septic tank limitations soils; desirable to not be located in an area that is a prime industrial site and may be outside the Sewer Service Area.*

### **2<sup>nd</sup> MOTION**

The Planning and Inspections Staff recommends the board approve Case No. P15-13 for R40 Residential district based on the above information and the following:

- The R40 Residential district will allow for land uses and lot sizes that exist in the general area.

The A1A district could also be considered suitable at this location.

**Mr. McLaurin made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.**

CONDITIONAL ZONING DISTRICT

- D. **P15-14.** REZONING OF 3.44+/- ACRES FROM A1 AGRICULTURAL TO R30 RESIDENTIAL/CZ CONDITIONAL ZONING FOR A ZERO LOT LINE DEVELOPMENT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2618, 2632, 2643 AND 2654 BEARD ROAD; SUBMITTED BY LARRY AND BARBARA FERRELL, RICHARD A. AND ELAINE H. MOUNTFORD ET AL (OWNERS) AND GEORGE LOTT, PLS. (EASTOVER)

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-14 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “community growth area” at this location as the proposed district would allow development at 2.2 units per acre and greater than one. Although the requested district is not entirely consistent with the Eastover Area Detailed Land Use Plan, which calls for “one acre residential lots” at this location, the request is reasonable because approval will ensure the pre-existing dwellings are conforming for density purposes.

The staff also recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *septic system allowed based on soil type, lot size, and distance from public sewer; must have direct access to a public street*, Beard Road is a local road and *must not be located in any defined critical area as defined by the Fort Bragg Small Area Study*.

**2<sup>nd</sup> MOTION**

The Planning and Inspections Staff recommends the board approve Case No. P15-14 for R30 Residential/CZ Conditional Zoning for a zero lot line development district based on the above information and the following:

1. If approved R30 will allow for lot sizes and uses that are consistent with the surrounding area; and
2. Public water is available to the subject properties.

There are no other districts considered suitable for this request. The property owner has voluntarily agreed to all “Ordinance Related Conditions”.

**Mr. McLaurin made both of the motions referenced above, seconded by Mrs. Wheatley, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.**

IX. PUBLIC HEARING CONTESTED ITEM

CONDITIONAL ZONING DISTRICT

- E. **P15-07.** REZONING OF 89.37+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHWEST SIDE OF SR 2253 (SWANS CREEK CHURCH ROAD), EAST OF SR 2252 (CHICKEN FOOT ROAD); SUBMITTED BY MICHAEL S. BRYANT AND CURTIS C. POWELL (OWNERS) AND TIMOTHY B. EVANS.

Mr. Lloyd presented the case information and photos.

On December 8, 2015 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for a R40 Residential/DD Density Development/CZ Conditional Zoning district for a 59 lot residential subdivision with a request of not having to install the required 40 foot wide buffer along the frontage right-of-way.

### **1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends that the board find that approval of the request for rezoning in Case No. P15-07 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “rural” at this location because the district requested will allow for one or less units per acre. The request is also consistent with the draft South Central Land Use Plan which calls for “farmland” at this location.

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *individual well and septic systems are allowed; could be located in any defined critical area as defined by the Fort Bragg Small Study Area; desirable to be limited to 1 unit per acre in areas with hydric and severe septic tank limitations soils; desirable to not be located in an area that is a prime industrial site and may be outside the Sewer Service Area.*

**2<sup>nd</sup> MOTION** The Planning and Inspections Staff recommends the board approve Case No. P15-07 for the R40 Residential/DD Density Development/ CZ Conditional Zoning district for a 59 lot residential subdivision but deny the requested front buffer variance based on the above information and the following:

1. The ordinance provisions for Density Developments provide a means of protecting and retaining the rural viewshed of the area by providing the 40 foot wide roadside buffer and a 20 foot wide perimeter buffer. Approving the request to forgo the front buffer would defeat a main goal in Density Development standards, specifically, protecting the rural viewshed.
2. Because there are several large tracts at the end of Swans Creek Church Road, the potential for the road extension and new development is highly likely; and
3. Allowing ten lots to have direct access to the state road as opposed to being served by an internal street system is in conflict with the basic principles of zoning in that public safety could be jeopardized and orderly development would not be accomplished.

There are no other districts suitable for this request at this location. The property owner has voluntarily agreed to all “Ordinance Related Conditions”. If the board is not inclined to recommend the approval of the plan as submitted, a condition could be added with the property owner’s agreement, for staff review and approval consistent with the ordinance requirement or the case can be deferred to give the property owner an opportunity to revise the plan.

Mr. Lloyd explained the front buffer variance for the board. Mr. Lloyd stated that staff wrote and the board approved the density development standards and the buffer is one of the standards provided in the ordinance. Staff is aware that things come out in the public hearing stage where there could be circumstances, but staff wants to be consistent, and feels that the Planning Board should be the ones to waive conditions.

Mr. Tim Evans spoke in favor of the request. Mr. Evans stated that the Department of Transportation (DOT) has approved ten lots facing the road, if the waiver is approved on Swans Creek Church Road, the open space that is already there will be a buffer for the church that is the only resident on the road. Mr. Evans stated that they have already agreed to the Density Development which leaves every tree on that property that would never be cut, and if we don’t go with that design, there is another layout to do a loop road, but we would lose a large portion of the open space. In this situation, if we’re after green and open space, thEn what we are presenting here is the best. We could choose to go A1 in the first section and have almost the same amount of lots, there would be no green space and trees could be cut. We are willing to leave the entire natural buffer with the R40 density and face ten houses towards the road. Mr. Evans said it was his opinion that the subject road will never be a road that goes into other tracts of road.

Mr. McLaurin asked about the width of the tree line between the church and subject property, and stated that the soils where the trees are at are not conducive to septic tanks; there was no purpose to cutting trees.

Mr. Morris asked if there was a no cut condition in the conditional uses.

Mr. Lloyd stated that he didn't believe there was, the condition sheet didn't address it and the ordinance only addresses vegetation around the perimeter. Mr. Lloyd also stated that all of the conditions were agreed upon by the developer with the exception of the buffer.

Mr. Morris asked Mr. Evans if the driveways for lots four and five were fronting the church (Mr. Evans stated they were) and if they were fronting the neighborhood entrance or fronting the road.

Mr. Evans said they were fronting the road and they could possibly put side driveways on those two lots. Mr. Evans said they were not cutting down any trees.

Mr. Morris said that when they worked on the density developments they looked at hydric soils as an enticement for developers to utilize the density development. We allowed them to use the hydric soils and the wetlands for that density. That's a plus for the developer and also gives the wetlands have value, the same value as good soil. It makes everything work on both sides. In this development he had room for eighty-nine lots and he's only making fifty-nine, so even though he had the ability to make more lots, he's making less. Mr. Morris stated that he personally feels that the buffering on the road has always been a big issue, at the same time we need to provide a little flexibility; this is a dead end street. But, we will see more and more of these and need to be more familiar with them.

Mr. McLaurin stated that the road is a dead end road today but we don't know about the future. Mr. McLaurin stated that he did not want to approve a waiver for a buffer because we will be setting a precedent. The buffer was very important for maintaining the rural character, aesthetics; you see that in city development. If the area did grow it would be safer not to have all these driveways. Mr. McLaurin stated that he could not support a change in the density development.

Mr. Evans gave his rebuttal and stated that they could go A1 now, but they were willing to work with the County.

Mr. Clark stated that he thought this plan was very reasonable. The road is a dead end road; there is no reason for anyone to go down that road. It doesn't lend itself to a thru fare; the solution keeps a lot of the natural vegetation, which would be the worst loss. Mr. Clark feels it's a positive way to develop this property.

Mr. McLaurin stated that he didn't have a problem approving R40, he has a problem when there are other things added in, and it ends up not being a density development. Mr. McLaurin asked Mr. Evans why he didn't want R40.

Mr. Evans stated that he was a tree hugger and wanted to do the density development, but they could just go ahead and do A1.

Dr. Andrews called the question so that the board could go ahead and vote on the case.

Mr. Moorefield explained that this case would not go to the Board of Commissioners' if denied as Mr. Evans never agreed to the conditions.

Mr. Lloyd stated that Mr. Evans would not have to wait a year to reapply.

**Mr. McLaurin made a motion to follow the staff recommendation and approve the 1<sup>st</sup> motion for the request for rezoning in Case No.P15-07, seconded by Dr. Andrews. The motion passed with Mr. Clark voting in opposition.**

**Mr. Morris made a motion, seconded by Dr. Andrews for the minutes to reflect that the petitioner is not in agreement with the staff's recommendations for the 2<sup>nd</sup> portion of this conditional zoning as presented to the board during this meeting. The motion passed unanimously.**

X. DISCUSSION

There was none.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:10 pm.