

MINUTES
August 7, 2001
7:00 p.m.

Members Present

John Gillis, Chair
Director
Clifton McNeill, Vice-Chair
David Averette
Dallas Byrd
Charles Morris
Joe W. Mullinax
Marion Gillis-Olion

Members Absent

Jerry Olsen

Others Present

Barry Warren,

Thomas Lloyd
Donna McFayden
Barbara Swilley
Grainger Barrett,
County Attorney
John Henley, County
Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Mullinax delivered the invocation, and Chair Gillis led those present in the Pledge of Allegiance.

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

A motion was made by Mr. McNeill and seconded by Dr. Olion to approve the Agenda as presented. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

Case No. P01-51 was deferred until September 4, 2001 because a site plan was not received.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

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

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JULY 17, 2001

A motion was made by Dr. Olion and seconded by Mr. Morris to approve the Minutes of July 17, 2001 as written. The motion passed unanimously.

B. P01-58. REZONING OF 2.75 ACRES FROM R6A TO M(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 176 AND 180 AIRPORT ROAD, OWNED BY VICKIE H. LUCK.

The Planning staff recommended approval of the M(P) Planned Industrial District based on the following:

1. The 2010 Land Use Plan calls for industrial use at this location; and
2. The uses allowed in the M(P) District are consistent with the development in the area.

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

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

A motion was made by Dr. Olion and seconded by Mr. Morris to follow the staff recommendations and approve the M(P) Planned Industrial District. The motion passed unanimously.

PUBLIC HEARING ITEMS

- A. P01-50: REZONING OF 2.78 ACRES FROM R5A TO C1, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 6340 APPECROSS ROAD, OWNED BY 1ST SPANISH BAPTIST CHURCH

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended denial of the C1 District and approval of the O&I Office and Institutional District based on the following:

1. All of the uses allowed in the CI District are not appropriate for the site;
2. The O&I District offers a good transition between the residential and commercial uses in the area; and
3. The uses allowed in the O&I District are more consistent with the character of the surrounding area.

The Planning staff found that the subject property is also suitable for the R5 District.

Mr. Julio Santana appeared before the Board and said that the rezoning was requested in order to expand the church's ministry. He said that the value of the property would be increased, and they would like to build another church building and provide resources to pay for it.

Mr. McNeill asked Mr. Santana if the O&I would work for him. Mr. Santana said if there was no other recourse, the O&I would be acceptable.

Mr. David Rivera appeared before the Board and said that he would prefer having commercial zoning on the corner. He assured the Board that the church would maintain control of how the area was developed and make sure that it followed their beliefs—God's word.

Mr. Jonathan Elliot appeared before the Board in opposition. He said that the current R5A District assures the best use of the property. He said that he owns property nearby that is zoned for office and retail, and he plans to quadruple the development, but he has not because of lack of demand. He said that there is a lot of commercially zoned

property in the area with no demand for commercial use. He noted that the Board recently denied a request for commercial rezoning nearby. Mr. Elliot said that the church can do whatever they want related to church activities under the current zoning. He said that the only reason to rezone is to lease or sell some of the property. Mr. Elliot said that the subject property was a dairy farm where he was raised, and his family still owns a large quadrant to the north and across the road.

Mr. Byrd asked for a clearer picture of the property owned by Mr. Elliot's family. Mr. Elliot pointed out the property on the map and also indicated a large C1P parcel inside the City limits owned by the Riddle Corporation.

Mr. Santana spoke in rebuttal and explained that the reason for the rezoning request is so that the church can be of service to the community and for future resources for the church.

Mr. Averette asked if religious worship is allowed in R5A. Mr. Lloyd said that it is. Mr. Averette asked why rezoning is necessary, and Mr. Lloyd said that the specific use could not be discussed.

Mr. Lloyd further explained that offices as an accessory use are also allowed under the current zoning, as well as day care for church parishioners. Mr. McNeill asked if day care facilities are allowed in the O&I District. Mr. Lloyd said that they are, and they require Board of Adjustment approval in both districts.

Mr. Barrett said that the R5A would generally allow day care for church parishioners, whereas the O&I would allow it for community use. Mr. Warren explained that the O&I would allow more flexibility with the property for office and institutional uses, and it is a good transition district.

Mr. Morris asked Mr. Elliot if he agreed to the O&I District. Mr. Elliot again stated that the church can do anything that is church related with the current zoning, and the O&I would allow them to lease it out or sell it. He said if it is leased or sold, the church loses control.

Mr. Barrett disagreed with Mr. Elliot and noted that certain types of uses are allowed in the O&I that are not allowed in the R5A—credit union, book store, home for the aged, etc. that could be used by the Spanish speaking community.

Mr. McNeill said that there is already an excess of commercial property in the area, and no demand, so it's not likely to be used if it is rezoned to commercial. He said that the O&I would be a good transition district.

A motion was made by Mr. McNeill and seconded by Mr. Byrd to follow the staff recommendations and deny the C1 Local Business District and approve O&I Office and Institutional District. The motion passed unanimously.

B. P01-51. CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW MINI-WAREHOUSING IN A PND DISTRICT AT 1815 BINGHAM DRIVE, THE PROPERTY OF IRIS LEE DRAUGHON.

Consideration of this case was deferred until September 4, 2001.

VII. PLATS AND PLANS

A. 01-179. CONSIDERATION OF AN M(P) SITE PLAN REVIEW FOR AAA—ALL AMERICAN SELF STORAGE, LLC PHASE THREE IN AN M(P) DISTRICT FOR ALTERNATE YARD REQUIREMENTS IN A PLANNED DISTRICT, SECTION 12.45, CUMBERLAND COUNTY ZONING ORDINANCE, ON THE SOUTHWEST SIDE OF MID PINE ROAD AND THE SOUTHEAST SIDE OF CAMDEN ROAD.

Mr. Lloyd explained that the case is a request for alternate yard requirements.

Mr. Jeff Allen appeared before the Board and said that his engineer was unable to attend the meeting. He gave the history of the property and said that the front yard setbacks on either side of the property are about 50 feet. He said that his options were to request rezoning to M1 or M2 or ask for the adjustment in the setbacks. He said that he thought the Board would prefer to Keep the M(P) District zoning because it requires site plan approval. Mr. Allen showed the Board photographs of self-storage facilities he has built. He said that they are the best built facilities in the State—bricked, fenced, paved, controlled access, climate controlled storage, landscaping and individual theft alarms.

Mr. Allen asked that the Board approve 30-foot side yard and 45-foot front yard setbacks for the subject property. He said that this would be about the same as the C(P) that adjoins the property.

Mr. Averette said that the Board would lose control if they opted to rezone the property to M1 or M2, and he'd prefer approving the alternate setbacks.

Mr. Barrett said that the Board should also look to the legal authority contained in Section 1245 of the Zoning Ordinance which states that the Board may approve an adjustment to "provide a more logically planned development."

Vice-Chair McNeill complimented Mr. Allen on his presentation. He asked about the setback being measured from the right-of-way. Mr. Barrett said that Mr. Allen agreed to begin the setback based on the expanded right-of-way. Mr. McNeill said that he agreed with Mr. Averett that it would be wise to keep the site plan approval.

Mr. Lloyd said that the Board should make it clear that this does not establish a precedence of 45-foot setbacks on Mid Pine Road. Mr. Barrett said that it is important legally that a basis for granting a particular adjustment be consistent—not arbitrary. He said that this would be a very limited precedent because much of the property is already developed. He cautioned the Board to word their motion properly so that it cannot be interpreted as a precedent. Mr. Lloyd noted that the double front yard in this situation would keep this action from setting a precedent.

Mr. Morris if the adjusted setbacks would fall in line with the C1 District setbacks, and Mr. Lloyd said that they would.

Chair Gillis asked if the tract is combined it would make Mid-Pine a front or rear yard. Mr. Lloyd said that it would probably be considered two front yards, but the decision would be made by the Inspections Department. Mr. Barrett said that it could be

considered a rear yard, and Chair Gillis noted that this would be closer to the desired setback.

A motion was made by Mr. Averette and seconded by Mr. McNeill to grant the setback adjustments with the condition that the two lots will be combined, and the 45-foot setback on Mid-Pine Road be measured from the expanded right-of-way after finding that the consensus of the Board is that the adjustments will provide for a more logically planned development. The motion passed unanimously.

VIII. DISCUSSION

ACCESSORY STRUCTURE IN UNZONED AREAS—TOM LLOYD

Mr. Lloyd said that the Ordinance is written in such a way that accessory structures are to be 25 feet from the property line, and the intent is that they can be within five feet of the property line. He said that he is preparing an amendment that will be taken before the Board in about a month.

ANNUAL REPORT—BARB SWILLEY

Ms. Swilley asked if the Board's Annual Report that was handed out at the last meeting could be sent to the governing bodies if there were no corrections. She was directed to send the reports to the governing bodies.

CONDITIONAL USE OVERLAY DISTRICT—BARRY WARREN

Mr. Warren did a brief training session on Conditional Use Overlay Districts that included a clarification of spot and contract zoning. A question/answer session followed. He said that he would continue the sessions after the Planning Board meetings for the next few months.

IX. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

Mr. Warren called the Board's attention to a memo in the packets explaining the staff findings regarding whether the NC Hwy 24/Maxwell Road area should reflect a commercial node in the 2010 Land Use Plan. He said that due to the number of people in the area, the staff recommended the change, and it would require a short study of trends and offer projections for the Board's consideration. Mr. Morris asked if the staff would also look at screening, etc. Mr. Warren said that berm and vegetation as well as signage will be reviewed and recommendations made.

A motion was made by Vice-Chair McNeill and seconded by Mr. Mullinax to add the study to this year's work program. The motion passed unanimously.

LETTER FROM JOHN TYSON—CHAIR GILLIS

Chair Gillis read a letter from previous Board Chair, John Tyson, thanking the Board for recognizing his service to the Board. Judge Tyson said that it had been an honor serving, and he appreciated the friendship of the members and cooperative spirit.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:35 p.m.