

Roy Turner,
Chair
Cumberland County

Walter Clark,
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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

May 15, 2012

Members Present

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

Members Absent

Mrs. Patricia Hall
Mrs. Sara Piland

Others Present

Mr. Thomas Lloyd
Ms. Patricia Speicher
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

P12-24: REZONING OF .95+/- ACRE FROM RR RURAL RESIDENTIAL AND C1(P)/CU PLANNED LOCAL BUSINESS/ CONDITIONAL USE OVERLAY FOR A CONVENIENCE RETAIL STORE AND RESTAURANT TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 6576, 6580 AND 6586 US HWY 301 SOUTH, SUBMITTED BY IBRAHIM AHMED ALSAIDI ON BEHALF OF PIT STOP 301 EXPRESS, LLC. (OWNER).

The board approved the withdrawal.

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 APRIL 17, 2012

Mrs. Epler made a motion to accept the minutes as submitted, seconded by Mr. McLaurin. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P12-32:** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, CREATING STANDARDS FOR RIPARIAN BUFFERS BY AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS; AMENDING ARTICLE IX INDIVIDUAL USES, SECTION 901. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES, SUB-SECTION D; AMENDING ARTICLE XI LOT AND YARD REGULATIONS, SECTION 1102. YARD REGULATIONS, SUB-SECTION G. BUFFER REQUIREMENTS AND SUB-SECTION H. RESERVED FOR FUTURE USE; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

The Land Use Codes Committee has considered the above referenced text amendment to the County Zoning Ordinance and recommends approval of the proposed amendment as attached.

The proposed amendment will help in protecting the water resources of the Cape Fear and South rivers, and Rockfish, Little Rockfish, Little and Lower Little creeks. This proposed amendment intends to protect the rivers and creeks from nonpoint source pollution by ensuring adequate area for sufficient filtering of stormwater runoff prior to the runoff reaching the surface water. Leaving the trees and other vegetation undisturbed along the water's edge will provide for bank stabilization thus preventing erosion, and also allow for regulation of water temperature and light control preserving the aquatic and wildlife habitat.

The two-tiered buffer as proposed is consistent with the minimum standard recommended by the NC Department of Environment and Natural Resources for certain river basins in North Carolina, specifically the Neuse and Tar-Pamlico. This buffer consists of two zones: Zone One is proposed to be 30 feet in width and in this zone, the existing vegetation cannot be disturbed; Zone Two is proposed to be 20 feet in width where vegetation can be cleared, but the area must remain grassed. The amendment proposes to exempt pre-existing lots of two acres or less in size.

AMEND Article II Interpretations, Calculations, and Definitions, Section 203. Definitions of Specific Terms and Words, by INSERTING in alphabetical order the term BUFFER, RIPARIAN with the definition as follows:

[Buffer, Riparian: A strip of land adjacent to and extending parallel with certain rivers or creeks in Cumberland County consisting of vegetation or woodlands or a combination thereof for purposes of filtering stormwater and providing wildlife habitat. \(Section 1102.H\)](#)

AMEND Article II Interpretations, Calculations, and Definitions, Section 203. Definitions of Specific Terms and Words, by AMENDING the term BUFFER as indicated below:

[Buffer, Screening:](#) An opaque fence, wall, berm, hedge or other natural planting, or a combination thereof, which will restrict the view from adjoining streets and/or abutting properties. (Section 1102.G)

AMEND Article IX Individual Uses, Section 901. Development Standards for Individual Uses, sub-section D. as indicated below:

D. When any non-residential use is adjacent to residentially property zoned properties for residential uses, a screening buffer shall be provided in accordance with Section 1102.G of this ordinance;

AMEND the title of Article XI Lot and Yard Regulations, Section 1102. Yard Regulations, sub-section G. Buffer Requirements as indicated below:

G. Screening Buffer Requirements.

AMEND Article XI Lot and Yard Regulations, Section 1102. Yard Regulations, sub-section H. *Reserved for future use* as indicated below:

H. Riparian Buffer. ~~*Reserved for future use.*~~ For purposes of protecting the aquatic and wildlife habitat and to ensure bank stabilization, the Cape Fear River, Little River, Lower Little River, Rockfish Creek, Little Rockfish Creek and South River shall be protected from development by means of riparian buffer. The riparian buffer shall consist of two zones, a combined width of 50 feet, as follows:

1. Zone One.

a. Zone One shall include the existing vegetated area that is undisturbed except for minimal encroachment for purposes of river or creek access, provided that residential developments shall have no more than one such access point. Where Zone One has been or is to be disturbed for purposes of utility installation, the area disturbed shall count as the access point.

b. The location of Zone One shall begin at the common property line with the river or creek, or at the top of the bank and where the top of the bank is not easily discernable Zone One shall begin at the root growth area closest to the surface water, and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank or the root growth area closest to the surface water.

2. Zone Two.

a. Zone Two shall consist of a stable, vegetated area that is preferably left undisturbed; however, grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised.

b. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water.

Developments proposed and adjacent to the aforementioned rivers and creeks shall have the riparian buffer designated as "common area" with maintenance and upkeep by the owners' association in the same manner as required for common areas in zero lot line developments – see Section 2402, County Subdivision Ordinance. Each zone shall be demarcated on the ground, shown on the preliminary plan and final plat, in addition to the declaration of covenants addressing the purpose of the riparian buffer zones and maintenance requirements.

The provisions of this sub-section are not intended to supersede or minimize the buffer areas required for high density developments – see Section 31A-23,

[County Water Supply Watershed Management and Protection Ordinance. In addition, lots with single-family dwelling units consisting of two acres or less in area that pre-exist the adoption date of this amendment \(<add date>\) shall be exempt from these riparian buffer provisions.](#)

Mr. McLaurin made a motion to recommend the adoption and approval of the Text Amendment as submitted and recommended by the Land Use Codes Committee, seconded by Mr. Pearce. The motion passed with a unanimous vote.

REZONING CASES

- B. **P12-23:** REZONING OF 10.75+/- ACRES FROM R10 RESIDENTIAL TO C3 HEAVY COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 6678 CLINTON ROAD, SUBMITTED BY BRUCE J. AND WANDA L. TEETS ON BEHALF OF MAGNOLIA ROAD PROPERTIES, LLC. (OWNER).

The Planning and Inspections Staff recommends denial of the request for the C3 Heavy Commercial district but approval of the C(P) Planned Commercial district based on the following:

1. The request and the recommendation for the C3 zoning district are generally consistent with the location criteria for "heavy commercial," as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan and the Stedman Area Detailed Land Use Plan; however, the recommended C(P) district will require site plan approval ensuring that development of the site is appropriate along an entrance corridor to the Town of Stedman; and
2. Although the request is not consistent with the Stedman Detailed Land Use Plan which calls for "low density residential, the request is reasonable because the area has significantly transitioned to commercial since the plan's adoption and this can be attributed to the imminent improvements of NC Hwy 24.

The C1(P) & C2(P) districts could also be considered suitable for this request.

The applicant agreed to the recommendation for the C(P) Planned Commercial district after the Planning Board packet was published.

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

- C. **P12-31** REZONING OF 7.06+/- ACRES FROM A1 AGRICULTURAL TO O&I(P) PLANNED OFFICE AND INSTITUTIONAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2736 CEDAR CREEK ROAD, SUBMITTED BY CUMBERLAND COUNTY (OWNER) AND FAYETTEVILLE-CUMBERLAND COUNTY CHAMBER OF COMMERCE.

The Planning & Inspections Staff recommends approval of the O&I(P) Planned Commercial district for this request 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 Office & Institutional development as listed in the Land Use Policies Plan;

2. The request is reasonable because the location and character of the use will serve as a buffer between industrial and residential development; and
3. Public water and sewer is available to the subject property.

There are no other districts considered suitable for this request.

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

CONDITIONAL ZONING DISTRICT

- D. **P12-16:** REZONING OF 1.00+/- ACRE FROM A1 AGRICULTURAL AND A1/CU AGRICULTURAL/CONDITIONAL USE OVERLAY FOR A RESTAURANT AND CATERING BUSINESS TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 10785 DUNN ROAD, SUBMITTED BY DAVID AND SUSAN WALL (OWNERS).

On April 20, 2012 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for an A1 Agricultural/CZ Conditional Zoning District [A1/CZ] for **assemblies, bed and breakfast, outdoor recreation (for profit) and religious worship** on the subject property. The Planning and Inspections Staff recommends approval of the requested rezoning to A1 Agricultural/CZ Conditional Zoning for assemblies, outdoor recreation (for profit) and religious worship but denial of the bed and breakfast use based on the following:

1. Although the request is not consistent with the 2030 Growth Vision Plan or the Northeast Cumberland Plan, which calls for conservation area/open space at this location, the request is consistent with an objective of the Land Use Policies Plan for agricultural areas in that the A1 zoning district is designed to preserve the rural character of the County;
2. The requested use of bed and breakfast is not consistent with Article IX Individual Uses of the county zoning code, section 903 which states "the use must be located in a structure originally constructed for use as a residence"; and
3. The request is reasonable because the uses conditionally approved (restaurant/catering) are no longer in operation at this location and rezoning to the A1 Agricultural/CZ Conditional Zoning district for assemblies, outdoor recreation and religious worship uses will ensure appropriate uses for the surrounding area.

There are no other zoning districts suitable as related to this request and the property owner/developer has verbally agreed to all attached Ordinance Related Conditions and this staff recommendation.

Mr. McLaurin made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve A1 Agricultural/CZ Conditional Zoning for assemblies, outdoor recreation (for profit) and religious worship but denial of the bed and breakfast use, seconded by Mr. Pearce. The motion passed with a unanimous vote.

VIII. PUBLIC HEARING CONTESTED ITEMS

REZONING CASE

- E. **P12-15:** REZONING OF 1.05+/- ACRES FROM R10 RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE SOUTHWEST QUADRANT OF SR 1003 (CAMDEN ROAD) AND SR 1113 (WALDOS BEACH ROAD), SUBMITTED BY RUTH MASON CURL (OWNER).

Mr. Lloyd stated the Planning and Inspections Staff recommends denial of the request for C2(P) Planned Service and Retail district based on the following:

1. The district requested is inconsistent with the location criteria for "light commercial" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as it would not serve as a transition between heavy commercial, office and institutional or residential development;
2. The request, if approved, would be "spot zoning" initiating the encroachment of commercial into a residential area without a legitimate public interest and would benefit one owner at the expense of the community; and
3. The request is not reasonable as it is not in character with immediate surrounding land uses.

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

There was one person to speak in favor and one person to speak in opposition.

Mark Candler spoke in favor. Mr. Candler stated that he was the realtor for the property owner. Mr. Candler stated that they were seeking the highest and best use for the sale of the property. The CVS Drug Store and Harris Teeter was also residential around that zone, prior to zoning; and the Food Lion is seeking C2(P) which is noted on the map. Ultimately, the best zoning and best use Mr. Candler and the applicant feel is C2(P).

Mr. James Betz spoke in opposition. Mr. Betz stated that he was a board member of the Camden Woods Homeowners Association (HOA) and had a protest petition signed by seventy percent of all of the homeowners. Mr. Betz stated that the concerns were not knowing what type of business would be going in, how property values would be effected, and traffic being increased.

Mr. Morris asked if the subject property is part of the homeowners association.

Mr. Betz stated no, the subject property is not in the Estates of Camden HOA, most of the signatures are from the residents of the Estates of Camden.

Mr. Candler spoke in rebuttal. Mr. Candler stated that he respected the concerns of the residents. Mr. Candler stated that he believed Camden Road would be widened sometime in the future. Mr. Candler stated that commercial was nonexistent a year ago and growth has happened in the area. What they are looking at doing is looking for something in the convenience realm, retail space, businesses that can offer a service.

Mr. McLaurin made a motion to recommend to adopt and approve the inconsistency and unreasonableness statements agreeing that the request is not reasonable and will not be in harmony with the surrounding area, seconded by Mr. Morris to deny the request for rezoning. The motion passed with a unanimous vote.

CONDITIONAL ZONING DISTRICT

- F. **P12-26:** REZONING OF 1.75+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS AND A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL/ CZ CONDITIONAL ZONING DISTRICT FOR A CONVENIENCE STORE, RESTAURANT AND FOR PROFIT INDOOR RECREATION/AMUSEMENT OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3634 CHICKEN FOOT ROAD, SUBMITTED BY DHARMESH PATEL ON BEHALF OF GRAYS CREEK GROCERIES, LLC. (OWNER).

Mr. Lloyd stated the Planning & Inspections Staff recommends denial of the requested rezoning to C(P) Planned Commercial /CZ Conditional Zoning district [C(P)/CZ] for a convenience store, restaurant and indoor recreation for profit at this location based on the following:

1. The request is not consistent with the location criteria for heavy commercial as listed in the Land Use Policies of the 2030 Growth Vision Plan, specifically, public water and sewer is not available in this area;
2. The request is not reasonable because the proposed additional use of “for profit indoor recreation” can be used to permit internet café/video gaming which the Codes Committee is currently proposing an amendment to regulate; and
3. Consideration of this request for this location is arbitrary and would not serve a viable public purpose – the non-residential structure on the subject property is currently an existing convenience store and restaurant that are permitted uses in the C1(P) zoning district.

There are no other zoning districts suitable as related to this request.

The applicant was present to speak in favor.

Mr. Dharmesh Patel spoke in favor and stated that he would have no more than six machines in his store. In the store across the street from him, about one thousand feet, there are thirty-five sweepstakes machines and they have been approved for them. The only reason for applying for the rezoning is because it is an existing convenience store and can only use the site for what it was permitted for. Mr. Patel stated that he wanted to be in compliance.

Mrs. Epler asked Mr. Patel how many machines he had now and how long had he had them.

Mr. Patel said he has six machines and has had them for about a year and a half.

Mr. Morris asked if he had received any citations for the sweepstakes machines.

Mr. Patel said someone from the County told him he needed to apply for a conditional zoning district.

Mr. Lloyd clarified that Mr. Patel was not in violation and that there is no permit for the sweepstakes machines.

Mr. McLaurin made a motion to recommend to adopt and approve the inconsistency and unreasonableness statements agreeing that the request is not reasonable and will not be in harmony with the surrounding area, seconded by Mr. Morris to deny the request for rezoning. The motion passed with a unanimous vote.

IX. DISCUSSION

DIRECTOR'S UPDATE

- Mr. Lloyd reminded the Board that their respective towns need to turn in their work programs by the end of the month.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:36 p.m.