

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



CUMBERLAND
COUNTY
NORTH CAROLINA

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

October 20, 2015

Members Present

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

Members Absent

Mr. Donovan McLaurin
Mrs. Diane Wheatley

Others Present

Mr. Thomas Lloyd
Ms. Donna McFayden
Mrs. Laverne Howard
Ms. Patricia Speicher
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.

Case P15-54 was pulled from the Consent Agenda and moved to Contested Items.

Mrs. McLaughlin made a motion to approve the adjustments to the agenda, seconded by Ms. Andrews. Unanimous approval.

III. PUBLIC HEARING DEFERRAL/ WITHDRAWAL

There were none.

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 SEPTEMBER 15, 2015

Mr. Morris made a motion to accept the minutes as submitted, seconded by Mr. Cain. Unanimous approval.

VII. JOINT PLANNING BOARD DEADLINE / MEETING SCHEDULE

Mr. Morris made a motion to approve the Joint Planning Board Deadline/Meeting Schedule, seconded by Ms. Andrews. Unanimous approval.

VIII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P15-51.** INITIAL ZONING OF 1.20+/- ACRES TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1543 N BRAGG BLVD, OWNED BY MARTHA R. HARKINS. (SPRING LAKE)

1st MOTION

The Planning and Inspections Staff recommends approval of the initial zoning Case No. P15-51 to C(P) Planned Commercial district and CD Conservancy (where the SFHA exists) based on the following:

1. If approved, the initial zoning would be consistent with the zoning and uses of properties in the general area; and
2. The request was submitted by the Town of Spring Lake.

There are no other districts considered suitable for this case.

2nd MOTION

The County Planning Staff recommends the board find that approval of the initial zoning to C(P) and CD for Case No. P15-51 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* because the Plan calls for “urban” and “conservation” at this location. The initial zoning of the subject property to C(P) is also consistent with the Spring Lake Area Detailed Land Use Plan which calls for “planned commercial” and “open space” at this location.

The staff recommends the board further find that approval of the initial zoning to C(P) and CD is reasonable and in the public interest because the location criteria as listed in the adopted Land Use Policies Plan will be met or exceeded: *public water and sewer are available, the property has minimum direct access to a collector street (N Bragg Blvd), and located on a sufficient site that provides adequate area for buffering, screening and landscaping.*

Mr. Cain made both of the motions referenced above, seconded by Mrs. McLaughlin, to follow the staff recommendations and approve the request. The motions passed unanimously.

- B. **P15-52.** REZONING OF 3.00+/- ACRES FROM C(P) PLANNED COMMERCIAL AND R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 110 AND 112 ALABAMA LANE, SUBMITTED BY BETTY H. STRICKLAND (OWNER) AND JOSEPH T. STRICKLAND.

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of C(P) Planned Commercial district for Case No. P15-52 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban” at this location. The recommended district is also consistent with the South Central 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 most of the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required, public water is available, however, sewer is not yet available; should have minimum direct access to a collector street; 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.*

2nd MOTION

The Planning and Inspections Staff recommends approval of Case No. P15-52 to C(P) Planned Commercial district based on the following:

1. If approved the C(P) district will allow for non-residential land uses and lot sizes that exist in the general area; and
2. Approval of the request is logical as 90% of the subject property is currently zoned C(P) Planned Commercial.

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

Mr. Cain made both of the motions referenced above, seconded by Mrs. McLaughlin, to follow the staff recommendations and approve the request. The motions passed unanimously.

- C. **P15-53.** REZONING OF 33.38+/- ACRES FROM A1 AGRICULTURAL AND RR RURAL RESIDENTIAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHWEST SIDE OF SR 1885 (HUMMINGBIRD PLACE), SOUTH OF SR 1864 (HUCKLEBERRY ROAD); SUBMITTED BY ALBERT O. MCCAULEY ON BEHALF OF AOM INVESTMENTS, LLC. (OWNER).

1st MOTION

The Planning and Inspections Staff recommends the board find that approval of the request for rezoning in Case No. P15-53 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban fringe” at this location as the proposed district would allow development at 2.2 units or less per acre. The request is not consistent with the Eastover Area Detailed Land Use Plan which calls for “one acre residential lots” at this location but is reasonable as approximately 80% of the subject property is currently zoned RR Rural Residential.

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: *use of septic allowed based on soil type, lot size and distance from public sewer; direct access to a public street is required*, Hummingbird Place is a Public Street, and *must not be located in any defined critical area as defined by the Fort Bragg Small Study Area*.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff also recommends the board approve Case No. P15-53 for RR Rural Residential district based on the following:

1. The RR Rural Residential district will allow for land uses and lot sizes allowed on the majority of the tract and of those that exist in the general area; and
2. Public water is available to the subject property.

Because of the lack of public sewer, there are no other districts considered suitable for this request.

Mr. Cain made both of the motions referenced above, seconded by Mrs. McLaughlin, to follow the staff recommendations and approve the request. The motions passed unanimously.

- D. **P15-55.** INITIAL ZONING OF 57.39+/- ACRES TO CD CONSERVANCY OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF SR 1601 (CHAPEL HILL ROAD) AND EAST OF NC HWY 87 (N BRAGG BLVD), OWNED BY THE TOWN OF SPRING LAKE. (SPRING LAKE)

1st MOTION

The Planning and Inspections Staff recommends approval of the initial zoning Case No. P15-55 to CD Conservancy district based on the following:

1. If approved, the initial zoning would restrict development on the tract which is subject to State Conservation Easements; and
2. The request was submitted by the Town of Spring Lake.

There are no other districts considered suitable for this case.

2nd MOTION

The County Planning Staff recommends the board find that approval of the initial zoning to CD for Case No. P15-55 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* because the Plan calls for “conservation” at this location. The initial zoning of the subject property to CD is also consistent with the Spring Lake Area Detailed Land Use Plan which calls for “low density residential” and “open space” at this location.

The staff recommends the board further find that approval of the initial zoning to CD is reasonable and in the public interest because the location criteria as listed in the adopted Land Use Policies Plan for CD will be met or exceeded: *should have a minimum direct access to a public or private street, may be located in an environmentally sensitive area or part of the open space requirements for residential development, could include the Special Flood Hazard Area (100-year Flood Area), May be designated on the 2030 Growth Vision Plan Map as conservation area.*

Mr. Cain made both of the motions referenced above, seconded by Mrs. McLaughlin, to follow the staff recommendations and approve the request. The motions passed unanimously.

IX. PUBLIC HEARING CONTESTED ITEMS

CONDITIONAL ZONING DISTRICT

- E. **P15-54.** INITIAL ZONING OF 2.86+/- ACRES TO C2(P) PLANNED SERVICE AND RETAIL/CZ CONDITIONAL ZONING FOR A RETAIL STORE AND CONVENIENCE RETAIL WITH GASOLINE SALES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE SOUTHWESTERN QUADRANT OF SR 1132 (LEGION ROAD) AND NC HWY 162 (ELK ROAD), OWNED BY SHEILA PLAYFORTH HANRICK, RANDALL H. AND PAMELA P. RAY, TIMOTHY G. AND TAMMY D. PLAYFORTH. (HOPE MILLS)

Ms. Speicher presented the case information.

1st MOTION

The County Planning Staff recommends approval of the initial zoning Case No. P15-54 to C2(P) Planned Service and Retail/ CZ Conditional Zoning district for a retail store and convenience retail with gasoline sales based on the following:

1. The requested district is more restrictive than the existing C2(P) that was approved on adjacent properties on September 3, 2014.
2. The subject properties are currently unzoned and are part of an approved overall site plan for a shopping center; and
3. The request was submitted by the Town of Hope Mills.

There are no other districts considered suitable for this case. The property owners have voluntarily agreed to all “Ordinance Related Conditions.

2nd MOTION

The County Planning Staff also recommends the board find that approval of the initial zoning to C2(P) Planned Service and Retail/CZ Conditional Zoning for a retail store and convenience retail with gasoline sales for Case No. P15-54 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* because the Plan calls for “urban” development at this location and supports the commercial goal and objectives of the Southwest Cumberland Land Use Plan that include *concentrating regional and community oriented commercial development in nodes at major intersections and located in areas with sufficient infrastructure to support commercial activities*. However the initial zoning of the subject properties to C2(P)/CZ is not consistent with the Southwest Cumberland Land Use Plan map which calls for “low density residential” at this location.

The staff recommends the board further find that approval of the initial zoning to C2(P) Planned Service and Retail/CZ Conditional Zoning for a retail store and convenience retail with gasoline sales is reasonable and in the public interest because the location criteria as listed in the adopted Land Use Policies Plan for C2(P) will be met or exceeded, in that: *public water and sewer is available*, the property has direct access to two collector streets (Elk and Legion Roads), *there are other commercial uses in the area*, and the initial zoning will allow for the provision of *convenient goods and services to the immediate surrounding neighborhood*. In addition, the property owners and developer are voluntarily restricting those uses that would not be conducive to a neighborhood environment.

Mr. Morris asked why this case was before the Board again.

Ms. Speicher stated that the case went before the Town Board and it failed with a vote of 3-2 and the municipalities need to have a super majority vote for it to pass, according to the Town Attorney for initial zoning.

Mr. Morris asked if the new conditions would appease those who were not in favor.

Ms. Speicher stated that staff had no reason to think that was true the Town did submit the request and asked that we process as an initial zoning.

Mr. Lloyd said that some of the uses that are listed aren't even allowed in the C2(P) district anyway.

Mr. Morris stated that if the conditions were approved it would pretty much be going back as it was before.

Ms. Speicher and Mr. Lloyd stated yes.

There were people present to speak in favor and in opposition.

Sheila Hanrick spoke in favor. Ms. Hanrick said her house was divided by the unzoned property and was present speaking on behalf of her brother and his wife Mr. & Mrs. Playforth. Ms. Hanrick stated that they were in favor of the request, as they were before back in July, and they are in favor of the conditions.

Chuck Maxwell spoke in favor. Mr. Maxwell gave some of the history about the zoning of the subject property and stated that this was a zoning issue plain and simple. He asked the Board to approve the request for the rezoning.

Andrew Moriarty spoke in favor and stated that he worked for Bohler Engineering present on behalf of the applicants and was available for questions if needed.

Jay Schneider spoke in favor. Mr. Schneider stated that they had originally offered conditions on the initial site plan there were some concerns on whether or not they were enforceable. So they took a step back from that, when the original annexation case was heard there was some confusion and the request was denied. Mr. Schneider said that the conditions would be honored. Mr. Schneider asked the Board for a favorable recommendation and hopes that the Town of Hope Mills will approve.

Pamela Ray spoke in favor. Ms. Ray explained that the subject property had been in her family since the late 1800's. They never thought they would sell the land, with all of the traffic changes around the property they had no choice. The decision should be based on the zoning alone not on what is going to be built there. Ms. Ray asked the Board to please help them get this case settled.

Jacqueline Warner spoke in opposition. Ms. Warner indicated where her home was located in relation to the subject property. Ms. Warner stated that when this case first came up, the question was if conditional zoning could be done for the first piece and that was not even considered. The reason for the conditional zoning on the other eight acres was to protect that corner. There are residential areas behind the subject property. Residents are concerned with the traffic increase that this would bring and the placement of driveways.

Albert Ferri spoke in opposition. Mr. Ferri said that he has spoken against this case before, Mr. Ferri stated that his concern was about how traffic would be impacted with what was being proposed. Mr. Ferri would like to see the gravesite located on the subject property left alone.

Public hearing closed.

Mr. Lloyd went through a brief year long history of this and adjacent parcels.

Ms. Speicher reminded the Board that they were only considering the portion of the site that is not shaded on the site map.

Mr. Morris made both of the motions referenced above, seconded by Ms. Andrews, to follow the staff recommendations and approve the request. The motions passed with Ms. Hall voting in opposition.

REZONING CASE

- F. **P15-56.** REMOVAL OF 1.58+/- ACRES FROM THE MSOD MAIN STREET OVERLAY DISTRICT, ZONED: O&I OFFICE AND INSTITUTIONAL; LOCATED AT 405 N MAIN STREET; SUBMITTED BY WOONG C. KIM ON BEHALF OF A/G NEW VISION MISSION CHURCH (OWNER) AND DIANE R. BECKER, PC. (SPRING LAKE)

Mr. Lloyd presented the case information.

1st MOTION

The Planning and Inspections Staff recommends denial of Case No. P15-56 which would remove the subject property from the Main Street Overlay district based on the following:

- The request, if approved, would be contrary to the goals and objectives set forth in adoption of the Main Street Overlay district which was designed to encourage new construction and re-development in an area that is oriented towards serving the citizens of Spring Lake and the traveling public as well as increasing the economic well-being of the town.

There are no other districts considered suitable for this case.

2nd MOTION

In addition to the above information, the Planning and Inspections Staff recommends the board find that the request is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan* which calls for "urban" at this location. The request is also consistent with the Spring Lake Area Detailed Land Use Plan which calls for "downtown" and "office and institutional"; however, the Main Street Overlay district, which generally precludes not for profit businesses, was adopted in 2014 and is more restrictive than the adopted land use plans.

The staff further recommends the board find that the request is not reasonable or in the public interest because the proposal discourages the protection and enhancement of the downtown Main Street area by impeding the efficient and adequate provisions for infrastructure particularly a pedestrian-friendly,

vibrant commercial environment while encouraging economic growth that compliments and expands the unique character of the downtown area.

Diane Becker, Attorney for the applicants, spoke in favor. Ms. Becker stated that she was the speaker the other signatures were there to show support. Ms. Becker said the applicants purchased the property, which was formerly a lodge, thinking they could put a church there. The applicants found out about the overlay after the purchase of the property. Ms. Becker said that since the zoning is O&I under the overlay that would allow the church which is the reason for the request. The church has been in Spring Lake for twenty years and has been active in the community for a long time. What they want to do lends itself to the character of the area. They will also add to the economic development of the community with the amount of people coming in and out of the church. Ms. Becker passed out handouts that showed the churches activities involving the community.

Anna Lee spoke in favor, and asked the Board for approval of the request.

Public hearing closed.

Mr. Manning made both of the motions referenced above, seconded by Ms. Andrews, to follow the staff recommendations and deny the request. The motions failed with four votes in favor and four votes in opposition.

Mr. Morris made the first motion to deny the staff recommendation and approve the request to remove the Overlay district, seconded by Ms. Andrews. The motion passed with five voting in favor to remove the Overlay district and three voting in opposition of removing the Overlay district.

Mr. Morris made the second motion to approve the request because the Board finds the petitioners request is allowable because the district is overly restrictive respective of this particular use as outlined in the application, seconded by Ms. Andrews. The motion passed with a vote of five to three.

X. DISCUSSION

There was none.

XI. DIRECTOR'S UPDATE.

There was none.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:21 pm.