

MINUTES
PLANNING BOARD
BRUNSWICK COUNTY, NC

4:00 P.M. Monday
April 10, 2023

Commissioners Chambers
David R. Sandifer Administration Bldg.
County Government Center
Old U.S 17 East

MEMBERS PRESENT

Eric Dunham, Chair
William Bittenbender
Clifton Cheek
Christopher Wood
Richard Leary
Harry Richard Ishler, Alternate

MEMBERS ABSENT

Joy Easley
Ron Medlin

STAFF PRESENT

Kirstie Dixon, Director
Marc Pages, Principal Planner
Connie Marlowe, Admin. Asst. II
Garrett Huckins, Planning Tech.
Ron Meredith, Project Planner
Bryan Batton, Asst. County Attorney

OTHERS PRESENT

John Hankins
Jim Board
Patrick Newton
Nathan Howard Cook
George Melvin Smith
Phil Norris, Norris & Tunstall Engineering
Durrall Gilbert

Mayor Jean Toner, Town of St. James
Tyler Newman, BASE
Mayor Liz White, Town of Oak Island
Glen Walker, B.C. Public Utilities
Helen Wils
Don Harley, Jr.

I. CALL TO ORDER.

Mr. Dunham called the meeting to order at 4:00 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE.

Mr. Dunham said a prayer. Mr. Dunham asked everyone to stand and face the U.S. Flag to say the Pledge of Allegiance

III. ROLL CALL.

Ms. Easley and Mr. Medlin were absent.

IV. CONSIDERATION OF MINUTES FROM THE 13-MAR-23 MEETING.

Mr. Leary made a motion to approve the 13-Mar-23 minutes as presented and the motion was unanimously carried.

V. AGENDA AMENDMENTS.

There were none.

VI. PUBLIC COMMENT.

There were none.

VII. NEW BUSINESS.

A. Wellhead Protection Area Overlay

Ms. Dixon addressed the Board. She stated that the County's Planning and Zoning jurisdiction encompasses about 46% of the actual area within the wellhead protection area. She stated that staff had further review since the initial presentation to the Board and the document has been streamlined to focus on uses and performance standards. Ms. Dixon said the depth has been changed from 10' to 23' based upon reports received from the Brunswick County Public Utilities. Ms. Dixon said a community meeting was held on 02-Mar-23 at 6:00 p.m. and there were 32 people in attendance as well as staff members. There were concerns expressed about the North Carolina Department of Transportation's single source borrow mine; weakening and streamlining the performance standard; potential contaminates in the water quality and future water quality for the County; enforcement of the wellhead plan and zoning overlays for the future; and requirement of a special use permit for certain uses. Ms. Dixon provided the Board with copies of emails (attached) from Patrick Newton and Tyler Newman, BASE (Brunswick Alliance for a Sound Economy). As a result of the information gathered from the public, staff recommends moving forward with creating the overlay zoning district that includes the Use Table that allows home occupations, all places of worship and bed and breakfasts with limited standards rather than by special use permit and exclude Section D., Performance Standards. She concluded that it is vital that the Wellhead Protection Area Overlay move forward with limiting uses in this area because the County has received inquiries about putting uses in the area that maybe detrimental to the area without proper protection to the area in place.

Mr. Leary made a motion to open the Public Hearing and the motion was unanimously carried.

Mayor Jean Toner, Town of St. James, addressed the Board. She read her comments (attached) to the Board. Mayor Toner felt that the Performance Standards should be included with the Wellhead Protection Area Overlay.

Mr. Jim Board addressed the Board. Mr. Board spoke in favor of the Use Table, but he did not agree with the deletion of Section D., Performance Standards. Mr. Board said he provided comments regarding some of the paragraphs in Section D via an email to Ms. Dixon. He further stated that he supports protection of the Castle Hayne Aquifer as it is a vital source of clean water to several municipalities within the County. He was in hopes that the proposed Wellhead Protection Area Overlay provides adequate protection and enforceable remedies for failure to comply with the restrictions.

Ms. Dixon responded that the depth of excavation is a moving target and the Brunswick County Public Utilities received another report that is in draft form. She said the County is proposing to limit the uses in the wellhead area that may pose a risk, but this matter will be revisited as more reports are made available so the performance standards can be addressed at a later date.

Mr. Tyler Newman, representative for BASE, addressed the Board. He stated that he emailed (attached) the members of the Board of Commissioners regarding BASE's concerns. Mr. Newman felt that groundwater regulations is not the purview of the Planning Board and/or the County. He stated that water quality and quantity are important to the future of this region, but they don't think the County is in the groundwater business. Mr. Newman said this is a policy decision that is enabled by State law and that has to be the focal point.

Mr. Patrick Newton addressed the Board. Mr. Newton thanked Ms. Dixon for meeting with him regarding his concerns of the proposed Wellhead Protection Area Overlay. He was concerned with special use permits being required for several uses (approximately 65 uses) within the overlay district and he felt that 17 of those 65 uses will be problematic if a special use permit is required. He stated that Ms. Dixon said staff found 3 uses that should be allowed as limited uses (places of worship, bed and breakfast and home occupation) rather than requiring a special use permit. He further stated that a special use permit is to determine compatibility with the surrounding development rather than administering an overlay district. Mr. Newton felt that the Board of Adjustment will be overloaded with cases should this matter move forward as presented by staff.

Ms. Liz White, Mayor of Oak Island, addressed the Board. Ms. White said she is a strong advocate of responsible development and she supports the use table, but she was concerned with the deletion of Item D., Performance Standards because this exposes the watershed to unnecessary risk. She asked the Board to enact the most conservative protection in alignment with the moral and social contract the County has with its residents.

Mr. Nathan Howard Cook, Attorney with Block, Crouch, Keeter, Behm & Sayed Law Firm, addressed the Board on behalf of St. James Development Company LLC, Canal Associates LLC, Harbor Development Corporation, Reserve Development Company LLC and C.F. Smith Properties, Inc. Mr. Cook said they are in support of Mr. Tyler Newman's comments and his clients are opposed to the Wellhead Protection Area Overlay due to the restrictions that it will place on development along NC 211 (Southport-Supply Road SE).

Mr. Durrall Gilbert addressed the Board. Mr. Gilbert spoke in favor of the Wellhead Protection Area Overlay and he urged the Board to be more restrictive with performance standards and ease the restrictions at a later date, if need be.

With no further comments, Mr. Wood made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Dunham asked Ms. Dixon if there will be additional reports on wellhead protection? Ms. Dixon said Brunswick County Public Utilities (Public Utilities) is expecting additional reports to help clarify the depth of excavation so it can be revisited in the future. She stated that a representative from Public Utilities is present for any questions.

Mr. Cheek made a motion to reopen the Public Hearing and the motion was unanimously carried.

Mr. Glen Walker, representative from Public Utilities, addressed the Board. Mr. Walker said they are waiting on more data from a developer within the wellhead area so they can summarize their report. He stated that, if no data is received from the developer, they will finalize their existing report. Mr. Dunham asked how the County will monitor this matter in the coming months and/or years? Mr. Walker said they currently do regular groundwater monitoring in the well field.

Mr. Leary asked if the County has jurisdiction in this area? Mr. Batton said that has been reviewed and that is why the matter is before the Board.

With no further comments, Mr. Cheek made a motion to close the Public Hearing and the motion was unanimously carried.

Ms. Dixon reiterated that staff is recommending the creation of the Wellhead Protection Area Overlay excluding Item D., Performance Standards until further reports have been made available regarding excavation depth.

Mr. Wood made a motion to recommend to the Board of Commissioners to approve the Wellhead Protection Area Overlay excluding Section D, Performance Standards that will be revisited at a later date and the motion carried 5 to 1 with Mr. Cheek opposing.

APPROVAL – The proposed zoning amendment is APPROVED

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed text amendment is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) as it will create an overlay for wellhead protection.

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public interest for the following reasons:

The proposed amendment will protect the aquifer and groundwater.

B. Brunswick County Unified Development Ordinance (UDO) Refinements.

Ms. Dixon addressed the Board. She stated that the proposed text amendments (attached) are housekeeping items with regards to minimum number of stacking spaces for gasoline and diesel pumps; clarification of large scale commercial structures 75,000 square feet or more of **enclosed heated gross floor area**; clarification of the appeal process of final plats, minor and major site plans including Planned Developments and Major Subdivisions; elimination of bonding language, which is currently not allowed; and adding BEMA Alternate Electrical Service Certification under Summary of Final Plat Certificates and Endorsements.

Ms. Dixon said staff recommends approval of the proposed UDO Refinements as presented.

Mr. Leary made a motion to open the Public Hearing and the motion was unanimously carried.

With no further comments, Mr. Leary made a motion to close the Public Hearing.

Mr. Leary made a motion to recommend to the Board of Commissioners to approve the proposed text amendments to the UDO as presented by staff and the motion was unanimously carried.

APPROVAL – The proposed zoning amendment is APPROVED

- The Planning Board finds that the proposed zoning amendment is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed text amendment is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) as it will clarify sections in the Brunswick County Unified Development Ordinance.

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public interest for the following reasons:

The proposed amendment will better clarify certain sections in the Brunswick County Unified Development Ordinance.

C. Rezoning Z-863 – Dave Nelson.

Request rezoning of approximately 0.43 acres located off Westbrook Avenue near Sunset Beach from R-6000 (High Density Residential) to C-LD (Commercial Low Density) for Tax Parcels 2423A042 and 2423A043.

Mr. Ron Meredith addressed the Board. He read the Staff Report (attached) and identified the subject property and surrounding properties on a visual map.

Mr. Meredith said staff recommends approval to C-LD (Commercial Low Density) for Tax Parcels 2423A042 and 2423A043 located off Westbrook Avenue near Sunset Beach.

Mr. Cheek made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. George Melvin Smith addressed the Board. He stated that he owns the subject property and he made himself available for questions.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Cheek made a motion to approve Tax Parcels 2423A042 and 2423A043 to C-LD (Commercial Low Density) and the motion was unanimously approved.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for REZONING be

APPROVED – CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed zoning is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan).

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public's interests for the following reasons:

There is similar zoning nearby.

Mr. Dunham stated that any person with standing may appeal the decision of the Planning Board. If an appeal is received in the allotted time, the case will move forward to the Brunswick County Board of Commissioners for a Public Hearing and their consideration. He further stated that if notice of the appeal is not provided in writing within 15 days, then the decision of the Planning Board shall be final.

D. Rezoning Z-864 – Don Harley, Jr.

Request rezoning of approximately 266.09 acres located off Newman Smith Road NW and Russtown Road NW (SR 1315) near Ash from RR (Rural Low Density Residential) to R-7500 (Medium Density Residential) for Tax Parcels 16300008, 16300009, and 16300014.

LAND USE PLAN MAP AMENDMENT LUM-864:

Request to amend Tax Parcels 16300008, 16300009, and 16300014 located off Newman Smith Road NW and Russtown Road NW (SR 1315) near Ash from Open Space Conservation 1 and Rural-Agriculture Place Types to MDR-M (Medium Density Residential-Mixed) Place Type.

Mr. Ron Meredith addressed the Board. He read the Staff Report (attached) and identified the subject property and surrounding properties on a visual map.

Mr. Meredith said staff recommends approval to R-7500 (Medium Density Residential) for Tax Parcels 16300008, 16300009, and 16300014 located off Newman Smith Road NW and Russtown Road NW (SR 1315) in conjunction with an amendment to the Blueprint Brunswick CAMA Land Use Plan Map to MDR-M (Medium Density Residential-Mixed) Place Type.

Mr. Dunham asked staff where the access point(s) is for the subject properties? Mr. Meredith said the property owner owns properties that gain access to Russtown Road NW (SR 1315) and

Whiteville Road NW (NC 130), but the subject properties are currently landlocked with other means to gain access.

Mr. Cheek asked staff how school capacity is determined? Mr. Meredith said this information is received from a school representative. Ms. Dixon interjected that the school use growth trends information to determine if a school has adequate capacity.

Mr. Cheek made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Don Harley addressed the Board on behalf of the property owner, Ashton Farms LLC. He stated that the applicant wants all their properties under the same zoning designation. Mr. Harley further stated that there are 3 means of ingress (Russtown Road NW [SR1315], Newman Smith Road NW, and Whiteville Road NW [NC 130]) to the property.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Cheek made a motion to approve Tax Parcels 16300008, 16300009, and 16300014 to R-7500 (Medium Density Residential) in conjunction with an amendment to the Blueprint Brunswick CAMA Land Use Plan Map to MDR-M (Medium Density Residential-Mixed) Place Type and the motion was unanimously carried.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for REZONING be

APPROVED – NOT CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment is NOT consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed zoning is not consistent with the Blueprint Brunswick CAMA Land Use Plan. However, a Land Use Plan amendment has been requested to MDR-M (Medium Density Residential-Mixed Use) Place Type.

- The Planning Board further finds that the approval of the proposed zoning amendment will amend the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) and the following changes have been considered to meet the needs of the community:

It is consistent with the surrounding area and there was no opposition from the public.

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public's interests for the following reasons:

There is similar zoning nearby.

Mr. Dunham stated that any person with standing may appeal the decision of the Planning Board. If an appeal is received in the allotted time, the case will move forward to the Brunswick County Board of Commissioners for a Public Hearing and their consideration. He further stated that if notice of the appeal is not provided in writing within 15 days, then the decision of the Planning Board shall be final.

E. Rezoning Z-865 – Brian Howard.

Request rezoning of approximately 7.87 acres located off Southport-Supply Road SE (NC 211) near Southport from R-6000 (High Density Residential) to C-LD (Commercial Low Density) for Tax Parcel 1850002203.

Mr. Ron Meredith addressed the Board. He read the Staff Report (attached) and identified the subject property and surrounding properties on a visual map.

Mr. Meredith said staff recommends approval to C-LD (Commercial Low Density) for Tax Parcels 1850002203 located off Southport-Supply Road SE (NC 211) near Southport.

Ms. Helen Wils addressed the Board and made herself available for any questions.

Mr. Leary made a motion to open the Public Hearing and the motion was unanimously carried.

With no further comments, Mr. Leary made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Leary made a motion to approve Tax Parcel 1850002203 to C-LD (Commercial Low Density) and the motion was unanimously approved.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for REZONING be

APPROVED – CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The proposed zoning is consistent with the Blueprint Brunswick CAMA Land Use Plan (Comprehensive Plan).

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public's interests for the following reasons:

There is similar zoning nearby.

Mr. Dunham stated that any person with standing may appeal the decision of the Planning Board. If an appeal is received in the allotted time, the case will move forward to the Brunswick County Board of Commissioners for a Public Hearing and their consideration. He further stated that if notice of the appeal is not provided in writing within 15 days, then the decision of the Planning Board shall be final.

F. Planned Development – PD-99

Name: Long Farm Planned Development
Applicant: Norris and Tunstall Engineering

Tax Parcel(s): 20900031
Location: Ash-Little River Road NW (SR 1300)
Description: Long Farm is a proposed planned development consisting of 49 single family homes on 17 acres creating an overall density of 2.88 dwelling units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department.
- That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.
- Planned Development approval does not constitute an authorization to construct. All applicable Federal, State and County approvals/permits will be necessary to obtain final plat approvals and building permits. This includes Stormwater, Utilities, and Fire Marshal requirements.
- Show pavement to the planned development boundary on the stub out between Lots 11 and 12.

Mr. Bittenbender made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Phil Norris, Norris and Tunstall Engineering, addressed the Board on behalf of the applicant. Mr. Norris said they addressed the Technical Review Committee's (TRC) comments and they will meet the conditions stipulated in the Staff Report.

Mr. Bittenbender asked about the note on the vacant area between Lots 11 and 12. Mr. Norris said that area is a designated access easement that will be shown to the property line.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Leary made a motion to approve Long Farm Planned Development (PD-99) with the noted conditions presented in the Staff Report and the motion was unanimously carried.

G. Planned Development – PD-100

Name: Rye Pint Townhomes Planned Development
Applicant: Norris and Tunstall Engineering
Tax Parcel(s): 20800010 and 2240000604
Location: Hickman Road NW (SR 1303)
Description: Rye Pint Townhomes is a proposed planned development consisting of 176 townhomes on 65.88 acres creating an overall density of 2.67 dwelling units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department.
- That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.
- Planned Development approval does not constitute an authorization to construct. All applicable Federal, State and County approvals/permits will be necessary to obtain final plat approvals and building permits. This includes Stormwater, Utilities, and Fire Marshal requirements.
- Revise the open space calculations to reflect the split zoning on the properties.

Mr. Wood made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Norris addressed the Board. Mr. Norris said he concurs with the staff report. He reiterated that there will not be any development within the AE Flood Zone. He further stated that there is approximately 45 acres of open space for a nature park. Mr. Dunham asked if there will be a path in the area and Mr. Norris said there will likely be a trail around the proposed retention pond. Mr. Norris concluded that they concur with the Staff Report.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Wood made a motion to approve Rye Pint Townhomes Planned Development (PD-100) with the noted conditions presented in the Staff Report and the motion was unanimously carried.

H. Planned Development – PD-101

Name: Hickman Branch Townhomes Planned Development
Applicant: Norris and Tunstall Engineering
Tax Parcel(s): 22400009, 2240000901, and 2240000902
Location: Hickman Road NW (SR 1303)
Description: Hickman Branch Townhomes is a proposed planned development consisting of 316 townhomes on 70.82 acres creating an overall density of 4.46 dwelling units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department.
- That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.

- Planned Development approval does not constitute an authorization to construct. All applicable Federal, State and County approvals/permits will be necessary to obtain final plat approvals and building permits. This includes Stormwater, Utilities, and Fire Marshal requirements.
- Revise the open space calculations to reflect the split zoning on the properties.

Mr. Cheek made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Norris addressed the Board. He stated that they concur with the Staff Report and they have addressed TRC comments. He reiterated that no dwellings will be within the AE Flood Zone and the stormwater system will be designed to meet or exceed the 100-year storm event. He further stated that the areas within the AE Flood Zone will be reserved as open space.

Mr. Cheek asked about the 20' utility easement for future connection to the Forest View Townhome Project. Mr. Norris said they are proposing a street and utility connection to the west for another project that will likely be before the Board for consideration at the Board's May 2023 meeting as well as another project at the June 2023 Board meeting. Mr. Norris said they are trying to provide interconnectivity with future projects for infrastructure purposes.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Cheek made a motion to approve Hickman Branch Townhomes Planned Development (PD-101) with the noted conditions presented in the Staff Report and the motion was unanimously carried.

VIII. OTHER BUSINESS.

- Planning Board Case Update.

Ms. Dixon addressed the Board. She stated that Zoning Cases Z-861 and Z-862 were approved at the Planning Board's 13-Mar-23 meeting and there were no written appeals within the allotted time (15 days), so the Board's decision stands.

IX. ADJOURNMENT.

With no further business, Mr. Wood made a motion to adjourn and the motion was unanimously carried.