

Duplin County Planning Department

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Minutes

Duplin County Planning Board

01-13-2009

Members Present Marshall Britt, J.B. Merritt, Tina Murphy, Bobby Jean Rivenbark
Charles Edwards Jr. and Gerald Bell

Members absent None

Others Present Randall Tyndall, Johnnie Williams, Brent Whitfield, John Parker,
Brenda Moore, Preston Brown, Commissioner Harold Raynor, and
concerned citizens from the Cedar Fork Community

A meeting of the Duplin County Planning Board was held at the County Commissioners Board Room on January 13, 2009. The meeting was called to order at approximately 7:30 p.m. The meeting was recorded at the request of Mr. Kenneth Brinson. The Chairman of the Planning Board agreed that the meeting could be recorded and all present were advised of such. Members were advised to review agenda and disclose any items with potential conflicts of interest. Member Gerald Bell advised board that he would not be voting on amending the 11-18-2008 meeting minutes due to his absence. Member Charles Edwards Jr. requested the County Planner interpret the criteria of "Conflict of interest". The members were advised that within their packets, information was provided to each of the board members from an article published by the UNC School of Government regarding "Key Legal Issues" – Conflict of Interest and they were advised to interpret the document on their own due to the absence of the County Attorney. Member Tina Murphy arrived at the meeting.

Old Business approval/disapproval/amendment of Minutes of 11-18-2008;

The board agreed to amend item 7H comments made by Mr. Bob Daughtry to state that he was in disagreement with the Planning Board's interpretation of the MHP ordinance and delete "verbatim compliance with Mr. Daughtry's interpretation of the MHP ordinance". A motion was made, seconded and approved by the board.

The County Planner advised the board that at least two board members stated during a called meeting on 12-22-2008 that item 6 of the 11-18-2008 minutes should be discussed and that a misunderstanding was made as to the approval(s) of the board. The board members stated that they only acknowledged that a variance had been denied and the

sketch plan was returned to the developer for revision. Motion was made, seconded. A recommendation was made by the County Planner that the Board consider a potential “conflict of interest” of a Planning board member. Member Edwards stated that his nearby land ownership, in his opinion, did not constitute a “conflict of interest”. Commissioner Raynor was requested to clarify his interpretation of “conflict of interest”. He responded that another board member could challenge their opinion of a potential “conflict of interest”. Member Edwards stated his opinion. Member Rivenbark challenged Member Edwards statements objecting to the development of Cedarwood. Member Edwards clarified that his objections were related to the vicinity of his swine operation and the potential residential development. His main concern was the protection of the potential residents. Member Merritt stated that he interpreted his duties included representation of the County as a whole rather than any specific district/community and based on comments Member Edwards may have a “conflict of interest”. Mr. Kenneth Brinson asked that the Planning Board clarify Member Edwards responsibility to the district. Member Bell stated that he felt he represented the interest of the County and not any one specific district. County Planner recommended that Chairman call for a vote of Board members to determine if a Planning Board member appears to have a potential “conflict of interest”. The Planning Board took a hand vote and it was determined that Member Edwards did appear to have a potential “conflict of interest”. The recommended actions (s) were for Member Edwards to remove himself from the podium during the Cedarwood Subdivision discussions or remain silent and not vote on these actions. Member Edwards requested clarification on his being allowed to approve/disapprove previous board actions in relationship to amendments to the 11-18-2008 minutes. Member Bell responded that due to his attendance he felt it appropriate for Member Edwards be allowed to vote regarding previous board actions as recorded (prior to amendment). Member Bell stated that he could not vote due to his absence from the meeting. After discussion, Member Edwards recommended that the minutes be amended to reflect variance denied. Additional discussion was made from the County Planner regarding the development approval process. A motion was made, seconded and approved to remove any conditional approval of the “Cedarwood” subdivision in the 11-18-2008 minutes. No additional amendments were made to the 11-18-2008 minutes and a motion to accept the 11-18-2008 board minutes as amended was made and approved.

A recommendation by the County Planner was made to add 6 additional plats to the 1-13-09 agenda. No additional agenda items were submitted by the board members. A motion was made, seconded and approved to accept the agenda as amended.

A detailed review of the actions regarding the Cedarwood Subdivision was made by the County Planner to include the following:

- 1) Developer submitted sketch plan with variance request to be considered by board on 11-18-2008
- 2) Planning Board denied variance and made conditional approval
- 3) Concerned community members made protest to Board of Commissioners at 12-15-2008 County Board of Commissioners meeting resulting in a called meeting of the Planning Board, Developer representative and community members on 12-22-2008. Discussion forum conducted with concerned citizens,

developer, and planning board attended by County Attorney with no official actions taken. A misunderstanding of official actions taken by board on 11-18-2008 was declared by two planning board members in attendance.

4) All additional actions regarding the “Cedarwood” subdivision were addressed above under “Old Business”.

II New Business

An amended sketch plan for the CEDARWOOD subdivision was submitted on behalf of Hadnot Farm Investments LLC reducing the lots to 56 lots along with a checklist extracted from the County subdivision ordinance. All items were addressed and were presented as directed in the ordinance as being in compliance. Mr. John Parker (Parker and Associates) was given the opportunity to present additional information for consideration of the board. Mr. Parker shared concerns noted during the 12-22-2008 meeting. He assured the board that the project was designed with the same attention to detail as is customary of his organization. He related that soil considerations were made by staff and wetlands preliminary delineations were determined. They utilized standard business practices in developing the plan. Mr. Parker stated he had discussions with the County Health department regarding septic systems normally utilized in Duplin County. He had also redesigned the sketch plan to no longer require a width variance. Water district concerns were discussed and additional contact would be made. The concerns shared at the 12-22-2008 were relayed to the property owner particularly the agricultural overspray. He felt that his organization would have no difficulty in meeting the requirements for development from any of the Duplin County departments. Chairman Britt shared concerns regarding the location and development of potential wetlands within the subdivision. He requested a determination of the accuracy of the wetlands mapping. Mr. Parker explained in detail the steps taken by his staff in locating and determining potential wetland issues. Additional wetland considerations will be made along with an expounded staff involvement in conjunction with Army Corps of Engineers. The Army Corps of Engineers would provide guidance as to the requirements for development or other environmental impacts. Mr. Parker assured the board of his previous experience with dealing with wetlands issues and coordination with the Army Corps of Engineers. He also informed the board of other Federal/State agencies involved in the potential wetlands impact issues. The County Planner pointed out the ordinance reference paragraph referring to sketch plan requirements. He informed them of the other agencies required to review the preliminary plat. He advised the board to also add the Board of Education as a potential review agency as directed by the board. He advised the board of the benefits of having military dependents and the additional financial dollars given to those school systems that provide education to military dependents. Chairman Britt shared concerns regarding the effects of this development on the adjacent farming operations. He shared concerns regarding the potential for a buffer between the development and the requirements of our ordinance. Mr. Parker explained the intent for the developer to establish site built homes within that subdivision, but that our ordinance did not have any restrictive covenant requirements in a subdivision other than Planned Unit Developments (PUD). The Chairman asks the requirements of our ordinance and the authority for the board to require additional buffers and/or restrictions. Mr. Kenneth

Brinson was allowed to make comments regarding the spraying of controlled pesticides on adjacent farming parcels. Chairman Britt shared concerns regarding agricultural nuisance and County Planner shared the NC GS 106-701 by reading the first line of the statutes.

An explanation of the approval process was made by the County planner with alternative recommendations to the planning board. He also reminded the board of the ordinance revision process. Member Edwards stated he did not understand the process and had assumed that additional restrictions could be made by the planning board during each step of the approval process. He was of the impression that the board had the authority to add additional conditions of approval and other board members stated that the rules in place were those required for compliance. A concerned citizen from the Cedar Fork community commented that the board should be more responsive to those concerns of the community. He suggested that the Cedar Fork community would be of a financial loss by the development of this subdivision. A motion was made to approve the sketch plan as amended and approved by a 4 – 0 vote, with member Edwards excluded and Chairman Britt choosing not to vote. Mr. Kenneth Brinson requested that each board member accompany him for a site visit to a subdivision near Cedar Fork to view his perception of the impending subdivision. The board took a 5 minute break.

At the request of Johnny Williams, Surveyor, he suggested the board consider moving agenda item 13 to the forefront of the agenda due to his client traveling from Wilmington. The board agreed. Ms. Brenda Moore, representing the Alva C. Maready heir property, wished to divide inherited land into 3 lots (2.42 acres each) accessed from an existing path 20ft. wide. She had attempted to get 50 ft access easement but property owners would not agree due to future restrictions on his property. Ms Moore stated that this had created a hardship due to insurance concerns and receiving insurance reimbursement for damage reimbursements. She requested a variance of Section 303.2 A. A motion was made, seconded and passed by majority vote to grant the variance and approve the plat.

Thomas E. Stanley Jr. wished to acquire 2 parcels of land (1.48 acres Tract A and 0.90 acres Tract B) along NC Highway # 50. Tract A has a 50ft access/ingress/egress ownership from Highway # 50 but approximately 20% of the property is within the 100 yr floodplain including a portion of the access to the larger portion of the property. Tract B has approximately 75% of the property within the 100 yr floodplain. After discussion and additional information from the Surveyor, a motion was made, seconded and passed by majority vote to approve the plat.

Harrel G. Sholar wished to combine 1.94 acres to an existing parcel off of Fountaintown Rd. Member Edwards excluded himself from discussing and voting on this property due to a potential conflict of interest due to ownership of adjacent property. A motion was made, seconded and passed by majority vote to approve the plat.

Hilbert J. Williams wished to combine 0.22 acres to an existing parcel off of Highway 41/111. A motion was made, seconded and passed by majority vote to approve the plat.

Myrtle Susan Kennedy wished to make family division of property by creating 4 new parcels and combining land to 2 existing parcels along Kennedy Lane. A motion was made, seconded and passed by majority vote to approve the plat.

Theodore D. Chasten wished to create 0.58 lot along Wells Brothers Road. A motion was made, seconded and passed by majority vote to approve the plat.

Raymond Maples wished to create a 1.00 acre lot along a 50 ft private easement from C.R. Edwards Road in order to divide land for banking purposes. Existing DWMH is on the parcel. A motion was made, seconded and passed by majority vote to approve the plat.

Arnold Flowers wished to move lot lines from previous survey of Hazel Scot in order to better utilize property. No additional lots are being created and recombination allows each property owner to have cleared and wooded property. Existing MH and septic tanks are being removed and abandoned. A motion was made, seconded and passed by majority vote to approve the plat.

Mary Jernigan wished to develop 3 lots along a private easement off of Wesley Chapel Road. (Note: Previous concept presented by Surveyor). A motion was made, seconded and passed by majority vote to approve the plat.

Kenneth R. Murray wished to combine 1.74 acres to an existing parcel off of Lightwood Bridge Rd. A motion was made, seconded and passed by majority vote to approve the plat.

Thomas Bradley Frederic wished to combine 6.20 acres off of CA Godbold Rd to an existing parcel off f W. Wards Bridge Rd. A motion was made, seconded and passed by majority vote to approve the plat.

Preston Brown division of land. Mr. Brown addressed the board wishing to divide 2 each 2 acre lots to give to his daughters for the purpose of establishing residences. This property is off of Fountaintown Road on parcel # 08-404-2. These lots will be accessed via a 50 ft access/ingress/egress easement on a private established IAW the subdivision standards. A motion was made, seconded and passed by majority vote to approve the plat.

Surveyor Brent Whitfield addressed the board regarding the Benny Grady and Bruce Jackson properties. Mr. Whitfield shared concerns regarding the recombination portion of the subdivision stating difficulties in acquiring 50 ft easements

Benjamin L. Grady wished to acquire 5.11 acres from James Coley. Mr. Grady will access this additional farm land from his current adjacent property lines. He wishes not to recombine due to financial recommendations and requested a variance of the requirement of a 50 ft access easement. A motion was made, seconded and passed by majority vote to grant the variance and approve the plat.

Bruce D. Jackson wished to acquire 0.69 acres from Joyce Jackson (relative). Access to this property would be along a private access easement with a small portion being 36.02 ft. A motion was made, seconded and passed by majority vote to approve the plat.

Member Bell suggested an invitation for Surveyors familiar with our ordinance to submit suggestions and participate in our ordinance revisions.

The County Planner personally presented the revised salvage yard sketch plan presented by Mr. Art Carroll.

Art Carroll Salvage Yard – located off of David Bright Road wished to plan expansion of currently approved sketch plan. (Note: Although authorized per Planning Board minutes dated 6-10-2008, no construction has been initiated. This approval would allow Mr. Carroll to add approximately ½ acre additional space to this Salvage yard and prepare him for additional expansion at a later time. This would approve phase 1 of Mr. Carroll's overall salvage yard plan. A motion was made, seconded and passed by majority vote to approve the plat.

The County Planner offered to provide additional copies of the 2009 planning board meeting schedule to each member. He then proceeded on providing progress reports on the following projects:

- a. Sewer operation negotiations for Airpark updates- negotiating solid waste collection operations conditions. Currently contracting with Stanley Miller to provide that service. Town is hesitant in taking over operations without having received a recent system inspection/evaluation.
- b. Airpark Ordinance(s) progress report – schedule to be forthcoming on adoption of ordinance and covenants.

The draft copy of the Minimum housing ordinance was discussed and a recommendation was made to delay any additional adoption action until the February board meeting. The timeline and errata sheet was discussed and board members wanted to further reflect on the potential financial effects the adoption of this ordinance could have. Instructions were given to add this to the February agenda.

Board members shared an appreciation of receiving a “draft” agenda with their meeting reminder and *.PDF copies of the subject plats to be considered. They also acknowledged the process of adding additional items to the agenda at the beginning of the meeting upon approval of board members.

Member Edwards desired the board to make efforts to make revisions of the Subdivision ordinance to correct those agricultural concerns disclosed by the citizens of the Cedar Fork community. Surveyor Williams shared information regarding zoning in other counties. Several board members shared with Member Edwards their interpretation of the limited powers of the planning board. The County Planner shared with the planning

board other counties actions regarding agricultural acknowledge recorded on plats of major subdivisions and also the relationship of “agricultural districts”. Member Bell discussed concerns regarding “agricultural districts” and any potential conflicts with changes to the “subdivision ordinance”. County Planner explained a scenario where there may be conflicts of purpose and concerns over the “voluntary” agricultural district participant imposing a restriction on a prospective developer and then taking the parcel “voluntarily” out of the agricultural district program in order to develop for personal gain.

The Planner also shared recent research done regarding the public availability of information identifying parcels being used for waste management tracks not being recorded as participating in the voluntary agricultural program. Member Edwards stated that the soil and water department in Wilmington was the only site he knew of that had those parcels recorded. Surveyor Williams suggested that zoning in densities would potentially resolve major development near area’s of concern. He stated that his recommendations would be to work toward some form of restrictive land use. The zoning status of surrounding counties was discussed. Member Edwards asked if zoning would give us some form of restrictive standards to consider agricultural interest and development. Surveyor Williams recommended that the County not be perceived as anti-development. The County Planner informed the board of upcoming training he was scheduled to attend regarding zoning requirements and that he would share it with the board. He stated that he would mail a copy of the current draft changes in the subdivision ordinance to each of the board members.

Member Bell asks that the board of commissioners to establish a committee to assist the planning board in considering zoning within the county. County Planner suggested that the board already had the authority per its by-law. He recommended that the board solicit representatives from communities to assist in discussed controlled development and its relationship with our agricultural heritage.

Chairman Britt requested the board consider adding additional buffers between MHP and agricultural lands. Farmers were having difficulties in utilizing farmlands because of development trash blowing into the farmlands. Chairman Britt shared concerns in the MHP 1000 ft development limit not meeting current concerns. Surveyor Williams stated that even with zoning the county would be required to designate areas suitable for MHP.

Surveyor Williams appealed to the board to consider in the subdivision revisions allowing the subdivision administrator more authority to approve plats already in compliance. He stated that the City of Kinston was the only nearby county where the administrator had less authority than that of the Duplin County administrator.

The County Planner informed the board of changes in the County policy regarding interpretations of IRS regulation and its relationship with the Planning Board members receiving meals as compensation. He informed them that all meals will have to be while we conduct business and allow the public to be in attendance. He pointed out the advantages of having all planning board meetings at the County administration building. He also offered to investigate an alternate compensation consideration. Some members

stated that they would prefer financial compensation and other members stated they would not desire any financial compensation. The board members did request snacks and beverages to be available during meetings. Member Merritt asks if the planning board could have closed meetings or “executive sessions” without the meetings being opened to the public to discuss business. The County Planner suggested the same restrictions as the County Board of Commissioners. After discussion, a motion was made to discontinue meal meetings at the County Squire and passed with a vote of 4 to discontinue and 2 to receive financial compensation. The motion passed to discontinue meetings at the Country Squire.

Member Merritt shared concerns with Member Edwards regarding his verbal treatment of the County Planner during the December 22, 2008 meeting. Member Edwards stated that the comments were not to be taken “personally” at the County Planner, but he was concerned over the process in considering the development in his community. Member Edwards stated he felt he was being rushed to make an uninformed decision. He was additional frustrated at the limited authority of the planning board. Member Rivenbark suggested that the planning board’s efforts should be more focused in revising the ordinance to better meet the needs of the County. The current ordinance does not address the issues shared by the Cedar Fork community. Chairman Britt shared his concerns over the need for revisions of our subdivision ordinance. Member Bell shared the names of several Commissioners that he perceived would be in favor of countywide zoning. Member Edwards suggested that the County needed to be better prepared for expansion.

The County Planner reiterated his responsibilities as he understood them and suggested that the board focus on the positive actions that the board could make to correct those deficiencies in our ordinances.

The meeting was adjourned at approximately 10:30 p.m.

The next meeting is scheduled for February 10, 2009 at the County Administration Building at 7:30 p.m.

Submitted,

Randall G. Tyndall, County Planner