

**Camden County Planning Board
Minutes
May 16, 2012, 7:00pm
Historic Courtroom
Camden County Courthouse Complex**

Members Present:	Absent:
Chairman Rodney Needham	NONE
Vice Chairman Calvin Leary	
David Bundy (arrived just before New Business #1)	
Michael Etheridge	
John Aydlett	
Ray Albertson	
Fletcher Harris	

Call to Order & Welcome

Chairman Rodney Needham called to order the May 16, 2012 meeting at 7:00 PM.

Others Present at Meeting

STAFF PRESENT

Name:	Title:
Dan Porter	Director of Planning
Dave Parks	Permit Officer/Flood Administrator
Amy Barnett	Planning Clerk/Clerk to the Board

OTHERS PRESENT (in order of appearance)

Name:	Residence:	Purpose:	Meeting Section:
Rayburn G. Burgess and wife	141 Edgewater Dr. Shiloh, NC	Request Rezoning	New Business #1
Elvin Small	Elizabeth City, NC	Lawyer for Mr. & Mrs. Brian Foster	New Business #1
Mr. & Mrs. Brian Foster	257 Sailboat Road, Shiloh, NC	Oppose Rezoning	New Business #1
Donna Nash	Not Given	To Ask Questions	New Business #1
Vicky Horde	Prior Occupant of 141 Edgewater	Support Rezoning	New Business #1
Alex Burgess	116 Edgewater Dr.	Support Rezoning	New Business #1

Consideration of Agenda

Ray Albertson made a motion to approve the agenda as presented. John Aydlett seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, Michael Etheridge, and John Aydlett voting aye; none voting no; 1 absent (David Bundy arrived late); none not voting.

Consideration of Minutes: March 21, 2012

John Aydlett made a motion to approve the minutes from the March 21, 2012 meeting as written. Fletcher Harris seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, Michael Etheridge, and John Aydlett voting aye; none voting no; 1 absent (David Bundy arrived late); none not voting.

Comments from the Public

None

Old Business

None

New Business

New Business, Item #1

Rezoning Request

Rayburn G. Burgess, 141 Edgewater Drive, Requesting Lot 94 Rezone from R2 to MC

Dave Parks gave a brief introduction to this rezoning request. Mr. Parks read through the finding of facts, incorporated herein:

Findings of Facts

UDO 2012-04-13 Zoning Map Amendment

- | | |
|---|--|
| 1. Name of Applicant: | Rayburn G. Burgess |
| 2. Agent for Applicant: | |
| 3. Address of Applicant | 141 Edgewater Drive, Shiloh, NC, 27974 |
| 4. PIN: | 03-8899-00-16-2671 / 2671 / 2425 |
| 5. File Reference: | UDO 2012-04-13 |
| 6. Street Address of Property: | 141 Edgewater Drive |
| 7. Location of Property: | Shiloh Township |
| 8. Flood Zone: | AE |
| 9. Zoning District(s): | Mixed Single Family Residential (R2) |
| 10. General Description of the Proposal: | Request rezone property (Lot 94 Camden Point Shores) from Mixed Single Family Residential (R2) to Marine Commercial (MC) |
| 11. Date Application Received by County: | April 19, 2012 |
| 12. Received by: | Dave Parks, Permit Officer |
| 13. Application Fee Paid: | \$650.00 Check # 15951 |
| 14. Completeness of Application: | Application is complete. |

15. **Documents received upon filing of application or otherwise included:**
 - A. Rezoning Application
 - B. GIS Ariel / Current Zoning / Commercial Fishing Overlay District / Land Suitability Map
 - C. Copy of Deed
 - D. Table of Permissible Use (Article 151.334) comparison R2 vs. Marine Commercial
 - E. Copy of standards for Commercial Fishing Overlay District
16. **Adjacent Property Uses:**
 - A. Predominant: Residential
 - B. Other: Commercial Fishing (Crabbing)
17. **Existing Land Uses:** Agriculture
18. **Lot size:** Approximately .3 acres
19. **Findings Regarding Additional Requirements (Article 151.585)**
 - A. How will the proposed zoning change enhance the public health, safety or welfare?
The proposed zoning change will enhance the public welfare by providing more commercial development.
 - B. Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification? The lot in question is adjacent to lots within the Commercial Fishing Overlay (CFO) District with the underlying zoning being R2. Rezoning of this lot which is located on the canal side, to Marine Commercial is appropriate for the area and the uses allowed.
 - C. For proposals to re-zone to non-residential districts along major arterial roads: N/A
 - (1) Is this an expansion of an adjacent zoning district of the same classification?
 - (2) What extraordinary showing of public need or demand is met by this application?
 - D. Conformity with the Plans:
 - (1) Land Use Plan - Proposed zoning request is conforming as it is an expansion of existing commercial uses of the same classification.
 - (2) Other Plans officially adopted by the Board of Commissioners. None

Staff recommends approval as the proposed zoning amendment is in conformity with the County's Land Use Plan as it is an expansion of existing commercial uses of the same classification.

Mr. Parks mentioned that Mr. Burgess was present to answer any questions that the board may have of him, then opened the floor for public comment.

PUBLIC COMMENTS REGARDING THIS REZONING:

Mr. Elvin Small

Mr. Small, lawyer for Mr. & Mrs. Brian Foster of 257 Sailboat Road spoke:

- Mr. & Mrs. Foster live across the canal, opposite the Burgess property
- Concern is that lot is at far end of road, and trucks going back and forth on the road adjacent to Burgess property may damage road
 - The road in question is Edgewater Drive, which is across the canal from the residence of Mr. & Mrs. Foster
 - Road is a private road and not maintained by NCDOT
 - Road is too narrow for NCDOT to ever accept as a state maintained road
- Burgess property is surrounded by residential property, not adjacent to any commercial property
- Burgess property is already in the commercial fishing overlay
- Feel it is illegal spot zoning
- Fosters and neighbors ask for board to deny rezoning request

Mr. Brian Foster

- Read through the zoning ordinances and couldn't find anything that said what restrictions would be in place regarding marine commercial operations
 - Mr. Dave Parks explained to Mr. Foster that restrictions can be placed on a business when they apply for their zoning permit (business permit).
 - Mr. Parks further explained that the business to be operated at 141 Edgewater would still have to obtain a zoning permit at which point the county could impose restrictions (such as 'no commercial vehicles allowed') which could take into consideration any concerns of the surrounding area. Such restrictions would be considered when the property owner came in for the zoning permit.
 - Mr. Foster questioned the zoning permit process saying that to obtain a zoning permit, no appearance before a legislative body is required, and asked how any restrictions could be placed if a property owner were to operate a business in accordance with the Table of Permissible Uses and did not violate any ordinance.
 - Mr. Parks replied that there was a method of code enforcement for allowed uses and the restrictions placed on a zoning permit. Mr. Parks added that any violation of any provision in a zoning permit which is not remedied within the allotted time can render a zoning permit null and void.
 - Mr. Foster again questioned the process, whether or not a business had to appear before any legislative body to obtain a zoning permit for uses in the zone whereupon the business is located.
 - Mr. Parks replied that the zoning permit was issued administratively by the Planning Department.
 - Mr. Foster indicated that his concern is that once the zoning permit is issued, a business can do anything listed in the Table of Permissible Uses without any input from the public or having to appear before any board. Anyone with objections to said business will have no way of being heard in a public forum once the zoning is rezoned.
 - Mr. Foster added that (his opinion) the ordinance doesn't give the county the right to specify what kind of traffic can go down a road, so how is the county to enforce a restriction. Foster said he could not find any provision in the ordinance which states that the county can place restrictions on a zoning permit.
 - Mr. Parks asked Mr. Foster to clarify what his address is. Mr. Foster responded that his address was 257 Sailboat Road. Mr. Parks asked him if that was adjacent to Quality Crab Company. Mr. Foster replied that it was adjacent.

BOARD QUESTIONS TO FOSTER:

- Ray Albertson asked how wide the road which is adjacent to the Burgess property is
 - Foster responded that the road is 20 feet wide, 30 if you count the right of way
 - Foster added that NCDOT will not accept the road as a state maintained road because the road is too narrow
- Fletcher Harris asked if the opposition presented is about vehicular traffic
 - Dave Parks responded that the opposition was that the road was too narrow
 - Dan Porter added that the road is a private road
 - Foster added that the road was ½ mile in length and that for one vehicle to pass another, one vehicle has to pull off to the side of the road; also there is nowhere to turn around on Edgewater Drive.
- Chairman Rodney Needham asked Foster if his property is directly across the canal from Burgess Property (on the sound side)
 - Foster responded yes
- Chairman Rodney Needham asked how far Foster's property was from any marine commercial property
 - Mr. Foster replied that his property was adjacent to marine commercial zoning and is adjacent to Quality Crab Company
- Dave Parks (staff) asked Foster what the zoning on his property was.
 - Mr. Foster replied that it was marine commercial, but he used it as residential
- Chairman Rodney Needham asked for clarification as to whether Foster was concerned about a road that belongs to someone else and the traffic involved, a road that Foster doesn't even travel on, as Foster himself lives and operates on Sailboat Road, a state maintained road.
 - Foster responded yes.
- Chairman Rodney Needham observed that Foster lives next door to Quality Crab Company, a similar business to Burgess
 - Foster responded that Quality Crab Company is buffered and equipment and so forth cannot be seen from his house.
 - Foster added that Burgess property is not buffered at all and has equipment, freezers, etc right out in the open.
 - Foster stated that there was no commercial operations past Quality Crab Company which is why he purchased the land he has. He further stated his opinion that Burgess operation would be a noisy eyesore if approved.
- Chairman Rodney Needham revisited the issue of the road asking what if Burgess used small trucks and not big commercial trucks.
 - Foster stated that the road issue was only one point, that all the other marine commercial property in the area had state maintained roads to operate on, and implied that Edgewater Drive would be in a constant state of disrepair.
- Chairman Rodney Needham asked what the other points were
 - Foster responded:
 - It is directly across the canal from his property and not buffered
 - Will be an eyesore
 - Will have noise issues
 - Will negatively impact the value of his property

- Vice Chairman Calvin Leary asked what the distance across the canal was
 - Foster responded between 100-150 feet depending on where you are at on the property
- Vice Chairman Calvin Leary inquired regarding properties that were not in the commercial fishing overlay
 - Dave Parks (staff) replied that not all properties were in the commercial fishing overlay

Mr. Ray Burgess

- Does not operate a commercial crabbing business, has no intention of going into it either
- His business is a restaurant supply business
 - Family owned and operated small business
 - He supplies seafood to local restaurants
 - He purchases wholesale seafood and stores it in his freezers and then sells it to local restaurants
 - His business utilizes 2 small trucks with storage boxes on them
- He maintains the private road (with money obtained from the community that lives along Edgewater Drive).
- Mr. Foster does not live on Edgewater Drive, but rather on Sailboat Road, a state maintained road. Mr. Foster has nothing to do with the road conditions on Edgewater Drive.

BOARD QUESTIONS TO BURGESS:

- Chairman Rodney Needham observed that when considering a rezoning, the board has to consider all the potential future uses of the land as allowed by the Table of Permissible Uses for the zoning being requested
- Ray Albertson asked for clarification regarding the size of the trucks that will be used by Burgess
 - Burgess responded
 - F450, F350, Small Trucks (not commercial trucks) with seafood box on back
 - Edgewater Drive is not set up for commercial traffic as there is no place to turn around
 - No semi-trucks with trailers will be delivering to him, big trucks can not fit down the road except to back down the road
- Vice Chairman Calvin Leary asked how Mr. Burgess gets his supplies
 - Mr. Burgess responded that he travels to south eastern Virginia and north eastern North Carolina, various places and purchases his supplies himself, bringing them back on one of his small trucks
- Fletcher Harris asked how many vehicles on average travel the private road daily
 - Mr. Burgess responded that around 10 per day travel Edgewater Drive

- Michael Etheridge asked if a buffer could be put in place to help obscure the portions of his business which are visible to the public
 - Mr. Burgess responded that his property can not be seen unless you travel all the way down to the end of Edgewater Drive
 - Mr. Foster commented on Mr. Burgess' response saying that the back of the property can be seen from across the canal

Donna Nash

- Ms. Nash is a neighbor of Mr. Burgess
- Ms. Nash inquired regarding why Edgewater Drive is not maintained by state or county.
 - Dave Parks informed Ms. Nash that Edgewater Drive is a private road, and is too narrow for the state to take on as a state maintained road. Also, Mr. Parks informed her that the county does not maintain roadways, that the NCDOT is in charge of that.
- Ms. Nash stated she has no objection to Mr. Burgess' operations, that his operation is a clean business, producing little to no trash. She stated that Mr. Burgess keeps his property clean and kept up.

Marie Foster

- Stated an opinion that Mr. Burgess' property would be an eyesore
- Provided the board with before and after pictures of Mr. Burgess property, before he placed the freezers on the property and after
- Said compressors that run the freezers and ice machine would be loud

Vice Chairman Calvin Leary asked Mr. Foster about his livelihood, what he did with the crabs he catches. Mr. Foster responded that he sells them to Quality Crab on a daily basis.

Ray Burgess

- Not sure what Foster can hear with regard to the compressors
- Compressors run the freezer and ice machines, no way around that

Mrs. Burgess

- Purchased the property at 141 Edgewater to have more room for equipment
- Property is not messy, it is kept up and clean
- Equipment is not that noisy

Vicky Horde

- Used to live at 141 Edgewater Drive
- Sold property to Burgess
- Spoke about the Commercial Fishing Overlay and how community tried to fight it in 1995
- Stated that roadway along Edgewater Drive has always been such that 2 cars can not pass one another without one pulling off of road

Alex Burgess

- Stated that Burgess business would employ at most two trucks with seafood boxes on them traveling Edgewater Drive daily
- Stated that there are commercial crabbers in many places on Edgewater Drive and surrounding area
- Stated that the Burgess' business has been in operation for more than 14 years, it was located at 116 Edgewater Drive, it is just moving to 141 so as to have more room for equipment
- Stated opinion that Foster is only concerned with his view
- Stated that the private road belongs to Burgess and is maintained by Burgess with money from community as well as out of pocket from Burgess himself
- Stated that Foster does not travel Edgewater Drive, and can not see why that would be any grounds for an objection from Foster.

At this time, Chairman Rodney Needham asked if there were any further comments from the public. Hearing none, he asked if there were any comments or questions from the board. Hearing none, he entertained a motion.

John Aydlett informed the board that he would have to be recused from the vote due to the fact that he is involved in the fishery industry. Michael Etheridge made a motion to recuse John Aydlett. Ray Albertson seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, David Bundy, Michael Etheridge, and John Aydlett voting aye; none voting no; none absent; none not voting.

Vice Chairman Calvin Leary made a motion to approve the rezoning request as recommended by Planning Department staff. Fletcher Harris seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, David Bundy, and Michael Etheridge voting aye; none voting no; none absent; 1 not voting (recused).

Vice Chairman Calvin Leary made a motion to adopt the following consistency statement regarding the aforementioned vote: "According to policies 19 & 58, the rezoning of 141 Edgewater Drive from R-2 to MC is consistent with the County Land Use Plan." Fletcher Harris seconded the motion to adopt the consistency statement. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, David Bundy, and Michael Etheridge voting aye; none voting no; none absent; 1 not voting (recused).

***New Business, Item #2
Amendment to CAMA Future Land Use Map***

Dan Porter described this item:

- This is to set a public hearing for the amendment to the CAMA Land Use Plan
- Reasoning for this amendment is to obtain a consistency statement from CAMA for the Camden ECO Industrial Park
 - Trying to classify the Eco Park as a certified development site
 - Need to send statement to Department of Commerce
- CAMA advised that the Eco Park is consistent with some things, but not others
 - Inconsistencies are reason Land Use Map needs to be updated
 - Requesting approximately 70 acres to be updated, moving acreage around between various categories on the land use map
 - In Land Use Plan
 - Mixed use development... asking CAMA to allow county to have combination of commercial and residential
 - Changes on map show mixed use development
 - Staff went through the policies and map and determined where the consistent and inconsistent areas were and are recommending changes to make entirety consistent

Vice Chairman Calvin Leary made a motion to send the proposed Amendment to the CAMA Future Land Use Map to the Board of Commissioners to be heard in a public hearing at the BOC meeting on June 18, 2012. Michael Etheridge seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, David Bundy, Michael Etheridge, and John Aydlett voting aye; none voting no; none absent; none not voting.

Information from Board and Staff

None

Consider Date of Next Meeting - June 20, 2012

Adjournment

At 7:55 pm, Ray Albertson made a motion to adjourn the meeting. David Bundy seconded the motion. The motion passed with Chairman Rodney Needham, Vice Chairman Calvin Leary, Members Fletcher Harris, Ray Albertson, David Bundy, Michael Etheridge, and John Aydlett voting aye; none voting no; none absent; none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk