

Camden County Planning Board
Minutes
April 16, 2008, 7:00pm
Historic Courtroom
Camden County Courthouse Complex

Members Present: Chairman Rodney Needham,
Vice Chairman Terri Griffin,
Members Fletcher Harris,
Calvin Leary, Michael Etheridge,
and John Aydlett

Absent: Ray Albertson

Call to Order & Welcome

Chairman Rodney Needham called to order the April 16, 2008 meeting at 7:00 PM.

Others Present at Meeting

Present were staff members Dan Porter, Director of Planning, Dave Parks, Permit & Flood Administrator, and Amy Barnett, Planning Board Clerk. Present for purposes of presenting information relevant to their Re-Zoning Requests were Brian and Anna Smith, Robert Harris (adjacent property owner to the Smiths), and Melissa Linton. Also present were Steve Balance, Jason Weeks, Lorraine Mizelle, Mike Mizelle, and multiple other members of the community affected by the Rezoning Request centered in the area of 131 Cool Breeze Place.

Consideration of Agenda

Chairman Rodney Needham called for the consideration of the agenda. Calvin Leary made a motion to approve the agenda. Vice Chairman Terri Griffin seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, members Fletcher Harris, Calvin Leary, Michael Etheridge, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Consideration of the Minutes- March 19, 2008

Chairman Rodney Needham called for the consideration of the minutes from the March 19, 2008 meeting. Calvin Leary made a motion to approve the minutes from the March 19, 2008 meeting as written. Vice Chairman Terri Griffin seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, members Fletcher Harris, Calvin Leary, Michael Etheridge, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Comments from the Public.

None.

Old Business

Discussion of Voting Procedures

During discussion, it was pointed out that although Roberts Rules of Order says a motion should be on the floor prior to discussion, it was ultimately up to the Board to decide on the method used to make and vote on motions. Also pointed out was that by considering and voting to accept the agenda, in effect a motion is placed on the floor for each business item up front at the start of the meeting.

The Board was concerned about the flow of the meeting proceedings, and that making a motion prior to discussion would send the wrong message to the public. To alleviate any confusion and to allow the meeting proceedings to flow better from item to item, and to avoid any misunderstandings and/or the perception that any decisions had been made prior to the meeting, the Board decided to return to the previous method of making and voting on motions.

New Business

Item #1, Rezoning request, 10 acres, 183 Lambs Rd, Courthouse Township, from R-3-1 to GUD, UDO 2008-03-57

Dave presented a brief description of this rezoning request to the Board. Staff recommended approval of this request for the 2 parcels listed in the findings of facts shown on the following 2 pages. Brian and Anna Smith were present to answer any questions the Board may have of them. Also, present was Robert Harris, an adjacent property owner. The Board had no questions for Mr. or Mrs. Smith, or for Mr. Harris. Chairman Rodney Needham called for a motion to approve or deny this request. John Aydlett made a motion to approve Item #1, Rezoning request, 10 acres, 183 Lambs Rd, Courthouse Township, from R-3-1 to GUD, UDO 2008-03-57. Fletcher Harris seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, members Fletcher Harris, Calvin Leary, Michael Etheridge, and John Aydlett voting aye; none voting no; 1 absent; none not voting.

Findings of Facts
UDO 2008-03-57
Map Amendment

1. **Name of Applicant:** Brian & Anna Smith
2. **Agent for Applicant:**
3. **Address of Applicant:** 191 Lambs Road, Camden, NC, 27921
4. **PIN:** 02-8935-00-49-6728
5. **File Reference:** UDO 2008-03-57
6. **Street Address of Property:** 183 Lambs Road
8. **Location of Property:** Courthouse Township
9. **Flood Zone:** AE
10. **Zoning District(s):** Basic Residential (R3-1)
12. **General Description of the Proposal:** Request rezone property from Basic Residential (R3-1) to General Use District (GUD)
14. **Date Application Received by County:** March 25, 2008
15. **Received by:** David Parks, Permit Officer
16. **Application Fee Paid:** \$360.00 Check #1695
17. **Completeness of Application:** Application is complete.
19. **Documents Received Upon Filing Application or otherwise included:**
 - A. Rezoning Application
 - B. GIS Ariel Map
 - C. Copy of Deed
 - D. Letter from adjacent property owner
20. **Soil Classifications:**
 - A. Predominant: Tomotley (ToA) Severe wetness, percs slowly
 - B. Other: Chowan (CoA) Severe flooding, wetness percs slowly
20. **Adjacent Property Use:**
 - A. Predominant: Agriculture
 - B. Other: Residential
21. **Existing Land Use:** Residential / Home Occupation (Horse Boarding Facility)
22. **Lot Size:** Approximately 11 acres
25. **Findings Regarding Additional Requirements**
 - A. How will the proposed zoning change enhance the public health, safety, or welfare?: The proposed zoning change will enhance the public welfare as property owner has an existing Home Occupation (horse boarding facility) which will provide some tax revenue to the county.
 - B. Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification?: The entire range of permitted uses in the requested zoning classification are more appropriate as the General Use District allows for very low density residential development and agricultural uses. Adjacent properties are predominantly bona-fide farms and agricultural uses.
 - 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 Future Land Use Maps have the properties identified as Conservation and Low Density Residential / Agricultural.
- (2). Other Plans officially adopted by the Board of Commissioners - None.

Staff recommends approval to rezone property from Basic Residential (R3-1) to General Use District (GUD) to include parcels identified by PIN 02-8935-01-49-8003 and 02-8936-00-31-6053 owned by adjacent property owner as the requested rezoning is in conformity with the County's Land Use Plan.

Item #2, Rezoning Request, 131 Cool Breeze Place, South Mills Township, from HC to R-1, UDO 2008-03-95

Findings of Facts

**UDO 2008-03-95
Minor Map Amendment**

1. **Name of Applicant:** Melissa P. Linton
2. **Agent for Applicant:**
3. **Address of Applicant:** 129 Horseshoe Road
South Mills, NC 27976
4. **PIN:** 01-7989-03-20-2738
5. **File Reference:** UDO 2008-03-95
6. **Name(s) of Current Owner(s) of Record:** Melissa P. Linton
7. **Street Address of Property:** 131 Cool Breeze Place
8. **Location of Property:** South Mills Township off Horseshoe Road
9. **Flood Zone:** AE
10. **Zoning District(s):** Highway Commercial (HC)
11. **General Description of the Proposal:** Request rezone property from Highway Commercial (HC) to Mixed Village Residential (R1)
12. **Date Application Received by County:** March 31, 2008
13. **Received by:** David Parks, Permit Officer
14. **Application fee paid:** \$200.00 Cash
15. **Completeness of Application:** Application is complete.

16. Documents received upon filing of application or otherwise included:

- A. Rezoning Application
- B. GIS Ariel Map
- C. Deed
- D. Petition from adjacent property owners (family) requesting that their property be considered in this rezoning.

17. Adjacent Property Uses:

- A. Predominant: Agriculture
- B. Other: Residential

18. Existing Land Uses: Vacant Parcel

19. Lot size: Approximately 1 acre.

20. Findings Regarding Additional Requirements:

- A. How will the proposed zoning change enhance the public health, safety or welfare? The proposed zoning change and the property owners requesting to consider that their property be rezoned will enhance the welfare of all property owners in allowing them to utilize their property for what it was intended to be used for as a family subdivision.
- B. Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification? The entire range of permitted uses in the existing zoning classification are more appropriate in a planning aspect. Future Land Use Plan Map shows area to be commercial.

However, since there is no infrastructure (i.e. water, sewer) that runs along Cool Breeze Place and the parcels were split (see attached deeds and surveys) to create a family subdivision the use as residential is more appropriate at this time.

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

– **Policy 34 states the county supports directing more intensive land uses to areas that have existing or planned infrastructure.**

- **Policy 78 states the county will encourage industrial and commercial development in areas with existing infrastructure that does not infringe on existing medium density residential uses.**
- **Future Land Use Plan Map shows area to be commercial.**

Water and sewer services do not exist along Cool Breeze Place at this time.

- (2) Other Plans officially adopted by the Board of Commissioners. None

Staff recommends denial of R1 zoning as property is visible from scenic Highway 17 and the uses in the requested zoning classification would permit manufactured homes (Singlewide and Doublewide). Staff recommends approval for the following properties to be rezoned to Basic Residential R-3 as it is in compliance with the Land Use Plan:

Property Identification Numbers (PINs)

01-7989-03-20-2738

01-7989-03-20-0792

01-7989-03-21-4337

01-7989-03-21-3193

01-7989-03-21-4577

01-7989-03-21-0504

01-7989-03-21-4788

01-7989-03-22-0096

01-7989-03-21-3924

01-7989-03-21-9280

01-7989-03-21-9335

01-7989-03-12-9105

01-7989-03-10-4601

01-7988-00-29-3413 – Property currently zoned R-2

Dan Porter gave a description of the rezoning request. This rezoning request was initially for one parcel, but surrounding property owners have also requested to be included in this request. Applicants are requesting to down zone property from Highway Commercial to Basic Residential R-1, for the purpose of constructing single family homes. Current commercial zoning prohibits the use of the property as residential. The property was previously rezoned to Highway Commercial due to its location on the US 17 highway corridor and the need for Highway Commercial properties within the county. Prior to the rezoning to HC, the deeds to several of the parcels included in this request indicate that the properties were split as family subdivisions. Petitioners are requesting a rezoning to a R-1 zoning district, which allows singlewides, doublewides, manufactured homes, modular homes, and stick built homes. Planning Department is recommending the Board NOT rezone it to R-1, instead consider rezoning it to some kind of residential other than R-1.

Mr. Porter then reminded the Board of the suggested establishment of an R-4-X zoning district. Terri Griffin also reminded the Board that it was proposed by the Planning Board to the Board of Commissioners several years ago with a package of ordinance changes, but was ultimately denied by the BOC (the entire package was denied, R-4-X never was considered). Mr. Porter suggested that the Board may wish to resurrect this suggested zoning district / ordinance change, which would allow for a mixture of uses, both residential and commercial, but with the limitation of only allowing for Modular Homes, Stick Built Homes, and Commercial Businesses.

It would not allow mobile homes of any size (singlewide, doublewide, or triplewide). Mr. Porter suggested to the Board, that the property mentioned above be rezoned to R-4-X after the establishment of that type of zoning district. This type of zoning district would leave options open in order to accommodate any future development (commercial or residential) in the area. The Board package for this meeting includes information about the text amendment pertaining to R-4-X, which was previously submitted to the Board of Commissioners by the Planning Board, also a copy of excerpts from the Table of Permissible Uses that shows the type of commercial uses that would be allowed in that area.

Calvin Leary questioned the process for R-4-X zoning / rezoning. Dan responded to him saying that there currently is no R-4-X since it was denied by the Board of Commissioners. So, the process would be first the establishment of the R-4-X as a zoning district, which requires a text amendment to the Camden County Code of Ordinances to allow such a district to occur in the county. Then, once the rezoning was approved, a map amendment would be made for the property in question to be zoned to that category of use.

Mr. Porter added that although the property is appropriate for Highway Commercial uses, it lacks infrastructure (sewer, water, etc) which would be needed prior to any commercial businesses locating at that location. That said, it is unlikely that any commercial businesses would choose to locate there until such time as the infrastructure is in place. R-4-X would eliminate spot zoning issues, while at the same time avoiding the need to rezone property to Highway Commercial from residential should property be sold to commercial companies down the line by any of the property owners.

Terri Griffin added that R-4-X could potentially increase the value of the properties in question, since R-4-X would allow both residential and commercial. That said, it is not unlikely that given the right amount of money in terms of an offer to purchase, a property owner may choose to sell their property so it can be commercially developed.

Mr. Porter added that R-4-X would also give Planning the ability to say that the use of the property is consistent with the land use plan, as this area is zoned for commercial use.

At this time, Dave Parks mentioned to the audience in attendance (approximately 20-25 persons were in attendance) that the R-4-X differs from the Findings of Fact that were sent to them with the notices for this meeting. This was to avoid confusion on the part of the audience.

Mr. Porter added one more thing in regards to the recommendation by Planning, that R-1 be denied. R-1 allows mobile homes, and Planning is not in favor of seeing mobile homes along the US 17 corridor areas.

At this time, Dave Parks invited the property owners who were present to speak on this issue if they would like to.

Property Owner: Melissa Linton

Ms. Linton's concerns are as follows:

- She has a problem with the proposed R-4-X. She feels like Planning is trying to put something new on the property owners.
- She doesn't like the Highway Commercial zoning. She doesn't want commercial stores popping up next to her property.

(Terri Griffin responded to this concern saying that commercial stores wouldn't locate next to her property unless one of her neighbors or family members sold land to a commercial developer.)

- She feels like Planning is saying "if all you can afford is a singlewide, we don't want you in Camden County". She said she and other property owners have family who currently live in singlewides. She feels that Planning is "stepping on toes" by recommending against zoning that would allow mobile homes.
 - She said that none of the property owners present were ever notified of the prior rezoning which resulted in their residential property being zoned to Highway Commercial.
-

Property Owner: Steve Balance

Mr. Balance's concerns are as follows:

- He is concerned about the areas where singlewides are allowed. He questioned whether or not they were allowed in the county at all.

(Dave Parks answered him saying that they were allowed, but in 'strategically zoned locations throughout the county'. He then explained what Planning looks at when deciding what zoning to place on certain areas.)

- He asked what the agenda was with the suggested R-4-X zoning. He wanted to know if it was to allow commercial and residential uses concurrently.

(Dave Parks answered that it would provide a mixture of commercial and residential uses within the same zoning district.)

- He asked what would happen to property tax values if R-4-X went through. He said that when his property was rezoned to Highway Commercial (without his knowledge) that tax values went up. But he didn't think much of it since values went up all over the county. He does not want to have to pay more taxes on his property than currently are in place.

(Terri Griffin answered this. Property value increases were an across the board increase, and if there was a house on the property, it was taxed as residential. Residential has its own tax rate.)

- He also said that when the property was rezoned to Highway Commercial, no one was notified. He said he didn't find out until after 2 separate property owners tried to obtain permits to build houses.

(Terri Griffin responded saying that rezoning is done through a public meeting. Notices are sent out and property owners are invited to attend the public meeting.)

Dan Porter added that according to the records there were public meetings in association with the rezoning to Highway Commercial. Notices were sent out, but they were not personalized. The notices were a form letter. Mr. Porter said the letters said something like "there is a comprehensive rezoning taking place, come down and look at what effect it may have on you". All the property owners were sent notices. Terri Griffin asked what the time frame of the notices was. Dave Parks responded that May of 2002 was when the concept of the proposed 'New Growth Management Plan' which entailed a large major scale rezoning in the county was initialized. So the time frame was somewhere around that time. Dave Parks commented to Mr. Balance that those present are not the only ones who have said they didn't receive notices on the major scale rezoning within the county. The notices were mailed, there are records indicating that, but for whatever reason, either they didn't make it to the intended recipient(s) or were not read, or the recipients didn't think that it related to their property.

As the next speaker approached the podium, a member of the audience (identity unknown) said that "In NC, General Statutes guarantee the right of the property owner to be notified if you are going to do anything to the property value...". He indicated that he did not feel that the rights of the property owner were protected in any way. Dave Parks responded to this saying "And we did follow what was required".

Property Owner: Jason Weeks

Mr. Week's concerns are as follows:

- He is concerned about the fact that R-1 is the only zoning designation to allow mobile homes. He said that many people start out in mobile homes because they can not afford a house right away. He said that this is the way he started out.
- He thinks that R-1 is easier than R-4-X (which was already turned down once).
- He said that the properties were originally family subdivisions and that is the way they should remain.

Terri Griffin asked "when something is divided prior to a rezoning change, is there any kind of grandfathering that is done?" Dan Porter responded to her asking if she meant "in terms of the current uses on the property?" Mr. Porter said that all the current uses at the time of rezoning are grandfathered to be allowable. They are considered to be "Legal Non Conforming Uses".

Michael Etheridge added to Ms. Griffins question asking "would the subdivision be grandfathered in with the rest of the properties that have houses on it?"

Dave Parks responded that when the properties were subdivided, the property was probably zoned for residential use. If it was zoned for commercial use, then the property owners would have known that when it was subdivided. So when Mr. Weeks placed a single wide on the property, it was a use that was allowed per the ordinances at that time.

John Aydlett asked what the zoning was prior to the single wide being placed on the property. Mr. Weeks said it was Agricultural. He said he had to have it rezoned from Agricultural to Residential. Mr. Parks asked Mr. Weeks if he had to get a Conditional Use Permit for the single wide. Mr. Weeks responded he did not remember. Mr. Parks said that back then, the zoning districts allowed single and doublewides with the approval of a conditional use permit by the Board of Adjustment.

Calvin Leary asked how long the properties on the map (included in the board packet) had been plotted. Dan Porter responded that most of the deeds say May of 2000. Michael Etheridge indicated that he thought they would be grandfathered in, that being the case.

At this time, Terri Griffin made a broad statement to the board: "This is when I feel really torn with our ordinance, because I do know this family and what they are contending is that this is a family subdivision. It was intended to be a family subdivision, and everything I know about this family is that they all want to be in that area and live around here, so this is just a heart statement, which you all know me to do from time to time. But I know what all the right answers are to this and to you all, it should be Highway Commercial, there's no doubt in my mind that it should be Highway Commercial because of the location of the property and what generally constitutes Highway Commercial. But I also think that some consideration should be given to the length of time the property has been within the family, and the goals and objectives of the family. And I think it's with conscientious effort to be a part of a family unit and not to circumvent rules or laws or anything. So I have concerns that we would take something from a family and not let them pursue it the way it was intended, from their family, their mother and father. That's not a motion, just a thought."

Calvin Leary stated that he thought R-4-X would solve both problems, if it gets approved. Terri Griffin responded to this saying that we (the board) don't know if it will get approved. She went on to indicate that the mobile home issue is a big concern.

Mr. Weeks asked the board if R-4-X was basically a R-3 that allows commercial development. Terri Griffin responded that it was. She added that most by-passes are considered commercial properties, and that commercial businesses are what normally develops on a by-pass. She said that the unfortunate thing is that the properties in question are properties that have had a by-pass created on them and thus limits the uses on those properties.

At this time Ms. Lorraine Mizelle spoke to the board regarding her concerns.

- Her family has owned land in the area in question for over 200 years. When the highway was built, her family lost land which went to the building of the highway. In her words "We didn't choose to live beside the highway, the highway came to us."
- If something happened to her home, what would she be able to put there under the current or future zoning? She doesn't want to have to build a \$300,000 home if something happened to her current home.

(Dave Parks showed her what her current zoning was according to the zoning map. Dan Porter told her she would not be able to place a mobile home on the property.)

- If this area were to be zoned to allow mobile homes, she said that it would not be like a trailer park, there would probably only be a few trailers.

- She asked if the other side of Horseshoe Road was already zoned commercial. If it is, isn't that enough? She said she keeps hearing there's going to be a strip mall and etc.

(Dave answered this saying that the property she was speaking of was part of a sketch plan approval for a Planned Unit Development with South Mills Landing LLC. They were in negotiation on the development of this, there was some contention between them and the county as far as the sewer availability and etc, and their actual sketch plan had expired. Although the property is still zoned a PUD, there are no active plans in the works for any commercial development there right now.)

{Ms. Mizelle replied to Dave saying that since it is zoned to allow commercial, won't it be commercial some day? She wants to keep the commercial development on the other side of the road.}

Terri Griffin then spoke about the reasoning for zoning. In her words:

"If you look at the goal of what we [the Board] try to achieve and what zoning tries to achieve, it tries to put the best use of the property [in place] and it tries to not spot zone." ... "What you are going to see primarily [along highways] is zoning that supports commercial development. Because of the access and the ability to get to it and see it, it's highly visible. So, in just making a zoning change, it's not personal, it's personal to [the property owners], but it's not personal when the zone is set out. It's just looking at a map, and looking at a road and saying 'what would be the best use for this property'. Any time you have a major corridor road, your commercial is going to be pinpointed for that area. I really want the public to understand what goes into decisions that are made. Sometimes good decisions are made, and sometimes bad decisions are made, but it's always trying to put the best use for the property [in place] because of what is around it. And you don't want to do a small piece, you want to do a fairly large area so that similar things can be located beside each other."

At this time, Mr. Mike Mizelle, the general manager of the South Mills Supermarket, spoke to the Board regarding his concerns:

- Since 1980, how much commercialism has come to the county? He said that most of the Board of Commissioners don't even know that South Mills has a supermarket, much less know the level of commercialism (his opinion).
- Native residents are relatively low income, and can't afford much. (his opinion)

- The county is taking away from family by telling them what they can or can not do with their land, and by rezoning property without notifying people.
- He is against all the influx of residents from out of state, coming in and buying up land, putting up \$300,000+ homes when native born residents can barely afford what they have. (his opinion)
- He thinks that the county is rezoning properties to attract others into the county rather than taking care of the native born residents.

Chairman Rodney Needham called for a motion on this matter. Terri Griffin made a motion to "Go against the recommendation of staff, and rezone it R-1 as requested." Michael Etheridge seconded the motion. A roll call vote was asked for.

Chairman Rodney Needham: Yes;
 Members: Fletcher Harris: Yes;
 John Aydlett: Yes ;

Vice Chairman Terri Griffin: Yes;
 Calvin Leary: No;
 Michael Etheridge: Yes.

By a vote of 5-1, with one member absent, the motion was approved.

Dan Porter asked the Board for a Land Use Consistency Statement for the records. He asked for clarification on the reason for not being consistent with the land use plan. The way he understood it was "Because the land was initially subdivided, it was zoned residential. It was subdivided with the knowledge that it was residential. The rezoning to Highway Commercial took place after that subdivision took place."

Information from Board and Staff

Dan Porter gave updates on the following

- Wharfs Landing Sketch Plan
- Camden Plantation Rezoning (Board of Commissioners postponed setting the public hearing until May 5, 2008).
- Lakes at Shiloh are proceeding toward the Preliminary Plat stage
- Adequate Public Facilities Ordinance Update
- Number of Permits (requiring Certificate of Adequate Public Schools) issued prior to deadline=106 during the month of March. Includes Single Family Dwellings, Mobile Homes, and Modular Homes.

Consider Date of Next Meeting – May 21, 2008

Adjournment

At 8:05 PM, Vice Chairman Terri Griffin made a motion to adjourn the meeting. Calvin Leary seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Calvin Leary, John Aydlett, and Mike Etheridge voting aye; none voting no; 1 absent; none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk