

**Camden County Planning Board
Minutes**

January 15, 2014, 7:00pm

Historic Courtroom

Camden County Courthouse Complex

| Members Present: | Absent: |
|----------------------------|-------------------|
| Chairman Rodney Needham | David Bundy |
| Vice Chairman Calvin Leary | Michael Etheridge |
| Fletcher Harris | |
| Ray Albertson | |
| Patricia Delano | |

Call to Order & Welcome

Chairman Rodney Needham called to order the January 15, 2014 meeting at 7:00 PM.

Others Present at Meeting

STAFF PRESENT

| Name: | Title: |
|--------------|-----------------------------|
| Dan Porter | Planning Director |
| Dave Parks | Permit Officer |
| Amy Barnett | Clerk to the Planning Board |

OTHERS PRESENT

| Name/Residence: | Title: | Purpose / Representing: | Meeting Section: |
|---|----------------------------|---------------------------------|-------------------------|
| Britton J. Overton NC 343 S., Shiloh | Property Owner | Requester / Rezoning | New Business Item #1 |
| Charles W. Harris, Chesapeake VA | Adjacent Property Owner | Voice Objections to Rezoning | New Business Item #1 |
| Teresa Harris Chesapeake VA | Adjacent Property Owner | Voice Objections to Rezoning | New Business Item #1 |

Consideration of Agenda

Proposed Meeting Agenda:

I. Call to Order; II. Consideration of Agenda; III. Consideration of Minutes;
IV. Comments from Public; V. Old Business (none); VI.1. New Business Item#1 UDO 2013-12-12, Rezoning Request, Britton J. Overton; VII. Info from Board and Staff; VIII. Consider date of next meeting; IX. Adjourn

Mr. Porter noted that there were no additions to or deletions from the Agenda.

Motion: "Approve agenda as presented by staff".
Made by: Vice Chairman Calvin Leary; Seconded by: Fletcher Harris
Vote: Approved by all board members present.

Consideration of Prior Meeting Minutes

Vice Chairman Calvin Leary noted that comments he made at the previous meeting, regarding the Board taking no action on agenda items, were absent from those minutes and he would like them to be on the record. Staff suggested that the Board not vote on the minutes at this meeting, so that they may be corrected and brought back to the next meeting for consideration. Board consensus was general agreement to this suggestion, and no vote was taken on the minutes at this meeting.

Public Comments

None

Old Business

None

New Business

Item # 1: UDO 2013-12-12, Rezoning Request, Britton J. Overton

Dave Parks described this rezoning request.

- The applicant, Britton J. Overton, is present at meeting
- Mr. Parks went over the Staff Report, excerpt is below

EXCERPT FROM STAFF REPORT (Full Report Available in Board Packet Posted to County Website)

INFRASTRUCTURE & COMMUNITY FACILITIES

| | |
|----------------------|--|
| Water | Water line located adjacent to property on Alder Branch Road. There exists a water tape on property. |
| Sewer | Septic tank located on property |
| Fire District | Shiloh Township |
| Schools | N/A |
| Traffic | Estimated daily traffic count is 620 at the intersection of Hwy 343 and Alder Branch Road IAW NCDOT |

PLANS CONSISTENCY

CAMA Land Use Plan Policies & Objectives:

Consistent Inconsistent

In accordance with the CAMA Land Use Plan – Requests for zoning changes will not be approved if the requested change will result in spot zoning. Spot zoning is a form of discriminatory zoning whose sole purpose is to serve the private interests of one or more landowners instead of furthering the welfare of the entire community as part of an overall zoning plan. Spot zoning is based on arbitrary and inappropriate nature of a re-zoning change rather than, as is commonly believed, on the size of the area being rezoned.

PLANS CONSISTENCY – cont.

2035 Comprehensive Plan

Consistent Inconsistent

Consistent with Comprehensive Plan Future Land Use Maps in that area is identified as Rural Preservation with a minimum lot size of 5 acres. Though the request is for 10 acres to be rezoned to R-1, the entire tract of land is approximately 130 acres.

Comprehensive Transportation Plan

Consistent Inconsistent

Property abuts Alder Branch Road (SR 1106)

Consistent Inconsistent

N/A

Other Plans officially adopted by the Board of Commissioners

N/A

FINDINGS REGARDING ADDITIONAL REQUIREMENTS:

Yes No

Will the proposed zoning change enhance the public health, safety or welfare?

Reasoning: The proposed zoning change will not enhance the public health, safety, or welfare. However, nor shall it have a negative effect.

Yes No

Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification?

Reasoning: Due to the size of the area requested to be rezoned, it is staffs opinion that the entire range of uses in the existing zoning classification is more appropriate as there is no additional R1 zoning in the immediate area. (See Table of Permissible Use comparison above)

Yes No

For proposals to re-zone to non-residential districts along major arterial roads:

Yes No

Is this an expansion of an adjacent zoning district of the same classification? N/A

Reasoning:

What extraordinary showing of public need or demand is met by this application? N/A

Reasoning:

Yes No

Will the request , as proposed cause serious noise, odors, light, activity, or unusual disturbances?

Reasoning: All uses allowed in the requested zoning classification should not cause any serious noise, odors, light, activity, or unusual disturbances.

Yes No

Does the request impact any CAMA Areas of Environmental Concern?

Reasoning: Property is outside any CAMA Areas of Environmental Concern.

Yes No

Does the county need more land in the zoning class requested?

Reasoning: The below graph indicates the percentage and amount of land in the R1 zone and the possibility of the need for additional land in the requested zoning classification to address affordable housing.

Yes No

Is there other land in the county that would be more appropriate for the proposed uses?

Reasoning: The property requested to be rezoned is located in an area that fits the definition of where R1 zoning should be located, however it's the amount of land (10 acres) that is requested to be rezoned that brings up the issue of spot zoning.

Yes No

Will not exceed the county’s ability to provide public facilities:

Schools – If the land were developed / subdivided will have an impact on the schools

Fire and Rescue – Minimal impact.

Law Enforcement – Minimal impact.

Parks & Recreation – Minimal impact.

Traffic Circulation or Parking – N/A

Other County Facilities – No.

Yes No

Is This A Small Scale “Spot” Rezoning Request Requiring Evaluation Of Community Benefits?

If Yes (regarding small scale spot rezoning) – Applicants Reasoning:

| | Personal Benefits/Impact | Community Benefits/Impact |
|-------------------------|--|---|
| With rezoning | This would allow the applicant to place a singlewide mobile home on the property | Based on the acreage requested to be rezoned, there is no community benefit, but not adverse impact. |
| Without rezoning | The personal impact would be the applicant can only place a modular or site built home which the cost would exceed his budget. | Upholds the intent of the CAMA Land Use Plan (adopted by the BOC based on public input) by prohibiting spot zoning. |

STAFF COMMENTARY:

STAFF RECOMMENDATION: Staff recommends denial of the rezoning as it is inconsistent with the CAMA Land Use Plan in that it is spot zoning in which the only benefit is that of the property owner.

PLANNING BOARD RECOMMENDATION:

END OF EXCERPT

Mr. Parks made note of the following items which are in the Staff Report:

- Property adjacent to 152 Alder Branch Road, Shiloh township
- Request Rezone from General Use District to Mixed Village Residential R-1
- Gave definition of General Use District: Established to allow opportunities for very low density residential development and bona fide farms along with agricultural and related agricultural uses.
- Gave definition of Mixed Village Residential R-1: Designed to provide for very low density residential development in areas that do not intrude into areas primarily devoted to agricultural, agriculture, in or near the 3 core villages of Camden, Shiloh, or South Mills as appropriate.
- Property size is approximately 130 acres
- Requesting to rezone the 10 acres that immediately abuts Alder Branch Road
- Adjacent uses are General Use District: woodland to the north, agriculture to the south and west, and residential to the east
- Zoning classification comparison is in the board packet comparing GUD to R-1
- Property is located outside the 100 year flood zone
- All but 1 acre of the property is currently being farmed or is woodland
- A singlewide mobile home was removed from the property around 2009, which is outside of the 6 month limit for continuation of legal non-conforming uses. As such the uses on the property must conform to current zoning, GUD, which allows only modular or stick built homes.
- No streams, creeks, or ditches in the area; the soils are Portsmouth (PtA) – fine sandy loam
- CAMA Future Land Use Map shows the property as Low Density Residential
- Comprehensive Plan Future Land Use Map shows the property as Rural Preservation
- Current zoning map shows General Use District surrounding the property
- Nearest zoning that is different is R-2 located on Hwy 343
- Flood Zone map shows the area that Mr. Britton is requesting rezoning is outside the 100 year flood zone.

- Water line is located adjacent to the property, septic system is on the property where the old singlewide was
- Is in the Shiloh Fire District
- This request is inconsistent with the CAMA Land Use Plan Policies and Objectives :
 - In accordance with the CAMA Land Use Plan - Requests for zoning changes will not be approved if the requested change will result in spot zoning. Spot zoning is a form of discriminatory zoning whose sole purpose is to serve the private interests of one or more landowners instead of furthering the welfare of the entire community as part of an overall zoning plan. Spot zoning is based on arbitrary and inappropriate nature of a re-zoning change rather than, as is commonly believed, on the size of the area being rezoned.
- This request is consistent with the 2035 Comprehensive Plan in that the area is identified as “Rural Preservation” with a minimum lot size of 5 acres. Though the request is for 10 acres to be rezoned to R-1, the entire tract of land is approximately 130 acres.
- The property abuts Alder Branch Road, which is a state maintained road, making it consistent with the Comprehensive Transportation Plan.
- Findings regarding additional requirements – these are questions that must be answered to evaluate any application for rezoning. (These questions and their answers appear above in the excerpt)
- For the question “Does the county need more land in the zoning class requested?”, Mr. Parks noted that R-1 zoning is only 0.5% in the county.
- For the question “Is this a small scale ‘spot’ rezoning request requiring evaluation of community benefits?”, staff answered yes.
 - Benefits with Rezoning (Personal Benefits): This would allow the applicant to place a singlewide mobile home on the property
 - Benefits with Rezoning (Community Benefits): Based on the acreage requested to be rezoned, there is no community benefit, but no adverse impact.
 - Without Rezoning (Personal Impact): The personal impact would be the applicant can only place a modular or site built home which the cost would exceed his budget.
 - Without Rezoning (Community Impact): Upholds the intent of the CAMA Land Use Plan (adopted by the BOC based on public input) by prohibiting spot zoning.
- Staff is recommending denial of the rezoning as it is inconsistent with the CAMA Land Use Plan in that it is spot zoning in which the only benefit is that of the property owner.

At this time, Mr. Britton Overton spoke and gave the following information:

- This is basically a financial situation in that he is trying to provide an affordable housing situation for himself and his child.
- Has plans down the road to put a more permanent structure in place, modular or site built house, but for now a singlewide is all he can afford
- There was a singlewide on the property in the past
- The property is not able to be farmed with the systems that exist on the property

Chairman Rodney Needham asked since the property is 130 acres and only 10 acres is requested for rezoning, why not do a 10 acre bona fide farm instead?

Dave Parks responded that Mr. Needham is referring to subdivision of the property in which anything over 10 acres is exempt from the subdivision regulations, but must still conform to the zoning regulations. If it were a bona fide farm, the owner of the farm would be able to place a single wide on the farm for an employee, but that person must make his living off of that farm.

Dan Porter added that the property would have to actually be a farm – it would have to be listed on the tax records as a bona fide farm and be valued and utilized in that manner. Rezoning would also allow future subdivision of the property to 40,000 foot lots which, if the rezoning were approved, would allow structures permissible in the R-1 zoning district to be placed on the property.

Vice Chairman Calvin Leary noted that it is unfortunate that the prior singlewide was not replaced within the 6 month time limit for continuing legal non-conforming uses.

Chairman Rodney Needham asked who owns the farm. Mr. Overton responded that he owns a sixth of it.

Vice Chairman Calvin Leary asked if the farm is Mr. Overton's livelihood. Mr. Overton responded no it is not.

Chairman Rodney Needham asked if the 10 acres would continue to be farmed. Mr. Overton responded that all but the 1 acre where the prior singlewide sat would be.

Mr. Overton further stated that his brother owned the 1 acre where the singlewide had sat and had power of attorney over that one acre, while the rest was being utilized as farmland.

Mr. Overton reiterated that his current budget will only support a singlewide.

At this time, Mr. Charles W. Harris and his wife Teresa (adjacent property owners, residing in Chesapeake VA) made the following public comments with regard to this rezoning request:

- Owns property right next to Mr. Overton's property
- Is against the rezoning
- Does not want single or double wide homes in the area
- Feels it would reduce land values
- Wants it to remain farmland
- Have owned adjacent property for at least 26 years
- Their property will always be farmland as long as they own it, and would prefer that property adjacent to theirs remain agricultural as well.

Mr. Dan Porter added that with this type of rezoning it is important to look at the uses in the existing versus the requested zoning. In the requested zoning, R-1, the uses are strictly residential. In the current zoning, GUD, farming is allowed but that does not guarantee that the property will be utilized for farming as modular and site built homes as well as other uses are also allowed.

Mr. Overton stated that he originally only wanted to rezone enough land to have a place to live. Since the application allowed him to request up to 10 acres, that is what he requested. He just wants the 1 piece where the prior singlewide was at, so that he can have a place to live. That 1 piece already has septic, water hookup, other utilities, etc. He stated that he is open to changing his application to only that 1 piece of land. He also stated that his family has owned this property all his life, and that he is not looking to develop on it, only to have a place to live. Also since his family owns it, with himself being only a 1/6 owner, he doesn't have clear deed to the property and without that would be unable to get a bank loan to build a site built or modular on the property.

At this time, Chairman Rodney Needham asked for staff input as to whether the application should be changed and brought back to the Board or to be voted upon and sent to the Board of Commissioners as is.

Dan Porter replied that originally Mr. Overton had sought to obtain a variance that would allow him to put a singlewide on the property. Mr. Porter stated that the variance would be a "use" variance, which is illegal in NC. It would be for his personal benefit, not the community. This is a legislative decision. The Planning Board can make a recommendation, and that the Board of Commissioners can either decide to go with the recommendation, or reverse that recommendation.

At this time, Chairman Rodney Needham called for a motion on *Item # 1, UDO 2013-12-12, Rezoning Request, Britton J. Overton.*

Motion: "Due to the fact that it would be spot rezoning, motion is to decline the request".

Made by: Vice Chairman Calvin Leary; Seconded by: Fletcher Harris

Vote: Approved by all board members present.

Dan Porter stated that it will still go to the Board of Commissioners but with the recommendation of the Planning Board to deny it.

Information From Board and Staff

Dan Porter gave a presentation regarding the Future Land Use Plan and changes to ordinances that staff are considering proposing:

- Considering change in density where sewer systems are in place
- Spoke about R4X
 - Would like to bring this back to the board with revised language to include mixed villages and add new districts
- Current requirement for development is 5% open space
 - Farmland buffers
 - Drainage Easements
- Recreational requirement is separate from the 5% requirement for open space
- Open space is every 30 lots must have 1 lot open space or pay a fee
- Propose to remove the open space requirement but still require farmland buffers, drainage easements, and recreational spaces
- In higher density areas, create walkable space, mixed use areas –add design standards

After a brief presentation, and a few questions from the Board, Chairman Rodney Needham asked for staff to look into a study to show what developments are doing with their open space, how the open space is being utilized.

Mr. Porter noted that to his knowledge Magnolia Manor is the only area currently utilizing their open space. Dave Parks added that Whitehall Shores has open space, the beach area, that is being used.

The question was raised regarding tall grass on the open space areas. Mr. Parks stated that unless a home owners association exists and takes care of the grass, it will likely grow to tall heights.

Mr. Porter asked the Board if staff should pursue these changes. The consensus of the Board was yes, and to the study as well.

Consideration of Next Meeting Date

Next meeting will be February 19, 2014.

Adjournment

Motion: "Adjourn the meeting"
Time of Motion: 7:55 PM
Motion made by: Ray Albertson
Seconded by: Patricia Delano
Vote: Approved by all board members present.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk