

**MINUTES OF THE CUMBERLAND COUNTY  
PLANNING COMMISSION  
Public Hearing  
Cumberland County Circuit Courtroom  
Monday, January 10, 2022  
6:30 p.m.**

**PRESENT:** Bill Burger, District 3, Chairman  
Steve Rosen, District 1  
Stephen Donahue, District 2  
Hubert Allen, District 4, Vice-Chairman  
Michael Schember, District 5  
Kevin Meadows, At-Large  
William Flippen, At-Large

**ALSO PRESENT:** Stephany S. Johnson, Planning and Zoning Administrator, Planning  
Commission Secretary  
Gene Brooks, Board of Supervisor liaison to the Planning Commission

**ABSENT:** None

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**CALL TO ORDER AND ROLL CALL**

Chairman Burger called the Planning Commission's regular meeting of Monday, January 10, 2022, to order at 6:30 p.m. and a quorum was established.

**APPROVAL OF AGENDA**

**MOTION:**

Commissioner Allen made a motion to amend the agenda and move item 7 up to item 5. Commissioner Donahue seconded. The motion carried with a vote of 7-0.

**APPROVAL OF MINUTES**

**MOTION:**

Commissioner Allen made a motion to approve the minutes from November 15, 2021. Commissioner Flippen seconded. The motion carried unanimously with a vote of 7-0.

**PUBLIC HEARING: REZ 21-02 SPRING RIVER FARM, LLC**

Chairman Burger opened the Public Hearing and Mrs. Johnson provided the staff overview.

Mrs. Johnson stated that the applicants, Mr. & Mrs. Woods, who are in attendance, own the property and operate Spring River Farm, LLC, and they wish to rezone the property from R-2 to A-2 to allow for the continuous operation of the farm without limitation of the number and types

of animals they can have on the farm. The property is located at 116 Stoney Point Road, and is identified as tax map parcel 58-A-28C which is 19.53 acres in size. The property is located just outside of a moderate intensity growth area as defined by the 2013 Comprehensive Plan. The property appears to be zoned both R-2 and A-2.

REZ 72-01 initially rezoned a portion of Rt. 600, Stoney Point Road, from its intersection of Rt. 60, Anderson Highway, heading south for 5,000 feet, to include 1,000 feet from the centerline of Stoney Point Road on either side from A-2 to R-2. This property appears to be approximately 700 feet from the termination of the R-2 zone and the start of the A-2 zone. REZ 72-01 was revised in the 1990's.

### **COMMISSIONERS DISCUSSION: REZ 21-02 SPRING RIVER FARM, LLC**

Commissioner Donahue asked how many acres of the subject property were zoned each A-2 and R-2. Mrs. Johnson referred to the GIS map provided in the packet, though it is not always accurate. Commissioner Allen stated that it appears that more than fifty percent of the property is zoned R-2.

Commissioner Allen stated that he believes the latest revision was done during his tenure on the Board of Supervisors in the 1990's, and he argued at the time that the termination of the R-2 should be less than 5,000 feet.

Mrs. Johnson also mentioned that a parcel just west of the subject parcel was rezoned from R-2 to A-2 in 2015 for similar reasons.

Commissioner Rosen asked about the current restrictions on goats and chickens in R-2. Mrs. Johnson stated that you can have 12 chickens per 2-acres beginning at 4-acres, and one horse or cow or pig or two goats per 2-acres, beginning at 6-acres.

Mrs. Donna Woods spoke up and stated that she sells both eggs and goats, and therefore does not want to be limited in the number of these animals she can legally have on the property.

Chairman Burger asked if increasing the amount of allowed chickens would be beneficial to the applicants in place of a rezoning.

Commissioner Donahue stated that originally, there was a minimum allowance of any farm animals in R-2, until the Commission changed this requirement in 2015.

Chairman Burger confirmed, and stated that his concern with rezoning the property is that it would open the property up to other uses that may not be compatible with the surrounding residentially zoned property, including apoultry processing plat. While the current owners may not have that intention., if the property is sold, the new property owners could change the use.

Mrs. Johnson stated that per current code, the maximum number and types of animals that the applicants could have by code would be 96 chickens, 7 horses or cows, or 14 goats or llamas. Chairman Burger suggested increasing the number of animals allowed in R-2.

Mrs. Woods stated that they just want to be zoned Agricultural.

Commissioner Donahue stated that he is in favor of the rezoning. Commissioner Meadoes stated he is leaning towards approving of the rezoning request. Commissioner Allen stated that his concern with approving the rezoning request was that this could be considered spot zoning. Commissioner Schember stated he understands the applicants reason for wanting the rezoning. Commissioner Flippen stated that this rezoning was a good start and that the location of the termination of the R-2 should be amended in the future.

Chairman Burger asked if any of the commissioners had any questions for the applicants. With no citizens signed up to speak, the Chairman closed the public hearing.

MOTION:

Commissioner Donahue made a motion to submit REZ 21-02 Spring River Farm, LLC to the Board of Supervisors with the recommendation of approval. Commissioner Flippen seconded the motion. The motion carried by a vote of 5-2.

**PLANNING COMMISSION ANNUAL MEETING ITEMS – BYLAWS RENEWAL**

MOTION:

Commissioner Allen made a motion to approve the Bylaws as presented. Commissioner Rosen seconded the motion. The motion carried unanimously with a vote of 7-0.

**PLANNING COMMISSION ANNUAL MEETING ITEMS – ELECTION OF OFFICERS**

MOTION:

Commissioner Allen made a motion to continue with the current officer of Commissioner Burger as Chairman. Commissioner Schember seconded the motion. The motion carried unanimously with a vote of 7-0.

MOTION:

Chairman Burger made a motion to nominate Commissioner Allen as Vice-Chairman. Commissioner Schember seconded the motion. The motion carried unanimously with a vote of 7-0.

**DISCUSSION: PLANNING COMMISSION ANNUAL MEETING ITEMS – MEETING SCHEDULE**

MOTION:

Vice-Chairman Allen made a motion to accept the meeting schedule as presented. Commissioner Meadows seconded the motion. The motion carried unanimously with a vote of 7-0.

**DISCUSSION: LOCAL BOARD OF BUILDING CODE APPEALS ANNUAL MEETING ITEMS – BYLAWS RENEWAL**

MOTION:

Commissioner Allen made a motion to approve the Bylaws as presented. Commission Rosen seconded the motion. The motion carried unanimously with a vote of 7-0.

**DISCUSSION: LOCAL BOARD OF BUILDING CODE APPEALS ANNUAL MEETING ITEMS – ELECTION OF OFFICERS**

MOTION:

Commissioner Donahue made a motion to allow the planning commission officers of Chairman Burger and Vice-Chairman Allen to serve as the officers for the Local Board of Building Code Appeals. Commissioner Meadows seconded the motion. The motion carried unanimously with a vote of 7-0.

**PUBLIC HEARING: CODE AMENDMENT 21-11 ACCESSORY STRUCTURES**

Mrs. Johnson informed the Commission that current code does not allow for accessory structures in any of the business or industrial zoning districts, which staff had determined is an oversight. In previous Commission discussion, concerns were raised with the use of storage containers or other types of structures that could be considered an eye sore in the business district. Staff has further defined an accessory storage building and storage container to address these concerns. Further, staff has suggested allowing storage containers as accessory structures only when screened or shielded from view from any road or adjoining property.

The Chairman opened the public hearing. With no

Commissioner Donahue stated that he was in favor of this amendment when the Commission discussed it previously. He stated that he is aware this code amendment would not be applied retroactively, but asked if staff knew how many properties would be out of compliance once this ordinance amendment was approved. Mrs. Johnson could not answer that question.

Commissioner Allen stated that existing business and industrial zoned properties with accessory structures are technically out of compliance with our zoning ordinance, and adoption of this amendment will remedy that.

MOTION

Commissioner Allen made a motion to submit CA 21-11 as presented to the Board of Supervisors with the recommendation of approval. Commissioner Rosen seconded the motion. The Board continued to discuss the amendment and removing the screening requirement for storage containers on industrial zoned property.

Commissioner Flippen made a substitute motion to amend CA 21-11 removing “unless screened or shielded from view from any road or adjoining property” from section 74-542 (1), and submit to the Board of Supervisors with the recommendation of approval. Commissioner Donahue seconded the motion. The substitute motion failed by a vote of 2-5.

The main motion was once again raised and the Chairman asked for further discussion. Commissioner Donahue what would happen if the amendment was not passed and someone installs an accessory structure. Mrs. Johnson stated that it would constitute a code violation. Chiamrna Donahue asked for the code section that stated that accessory structures are prohibited in the industrial and business districts. Mrs. Johnson stated that accessory structures are not listed as an allowed use currently, which means they are not allowed.

The Chairman asked if there was any further discussion. Commissioner Allen called for the question, and the main motion carried by a vote of 5-2.

### **PUBLIC HEARING: CODE AMENDMENT 21-12 FIRE PROTECTION PLAN REQUIRED**

Mrs. Johnson stated that the proposed amendment would require a Fire Prevention Plan to be submitted and approved by the Cumberland Building Official, Cumberland Fire Marshall, and the Director of Cumberland Fire & EMS prior to energy generation. The Chairman opened the public hearing. There were no citizens in attendance and the Chairman closed the public hearing.

### **MOTION**

Commissioner Allen made a motion to to submit CA 21-12 as presented to the Board of Supervisors with the recommendation of approval. Commissioner Schember seconded the motion. The motion passed unanimously with a vote of 7-0.

### **PUBLIC HEARING: CODE AMENDMNET 21-13 ZONING PERMIT EXPIRATION**

Mrs. Johnson stated that current code does not allow for expiration of approved zoning permits. This is cause for concern as a permit that was approved 5 or more years ago may not meet current code. The proposed amendment will set an expiration date of two-years from approval, and empower the Zoning Administrator to re-issue expired permits so long as they meet current code. The Chairman opened the public hearing. With no citizens in attendance, the Chairman closed the public hearing.

### **MOTION**

Commissioner Allen made a motion to to submit CA 21-13 as presented to the Board of Supervisors with the recommendation of approval. Commissioner Rosen seconded the motion. The motion passed with a vote of 6-1.

### **PUBLIC HEARING: CODE AMEDMENT 21-14 CONDITIONAL USE PERMIT EXPIRATION**

Mrs. Johnson informed the Commission that current Code Sec. 74-702(c) regarding Conditional Use Permits states that construction or operation shall commence within one year of CUP approval. Staff recommends this be changed to allow for the applicant to obtain all necessary Federal, State and Local permits, which often take six to nine months for approval. This has

been the case with Solar Facilities specifically. Solar Developers are required to obtain approval from the localities (CUP's) prior to submission of the project for consideration by the local utility company. If the project is selected, the developer can only then apply to the appropriate state agencies for all necessary permits (i.e. DEQ, U.S. Army Core of Engineers, etc.), which is likely to extend past the one-year deadline of the CUP for commencement of construction. The Chairman opened the public hearing. With no citizens in attendance, the Chairman closed the public hearing.

#### MOTION

Commissioner Allen made a motion to submit CA 21-13 as presented to the Board of Supervisors with the recommendation of approval. Commissioner Schember seconded the motion. The motion passed with a vote of 7-0.

#### DISCUSSION; CAPITAL IMPROVEMENTS PLAN FY 2023-2027

The Commission will discuss the CIP at their workshop on February 14, 2022, and asked that the Finance Director and the new County Administrator attend to assist in the discussion.

Commissioner Allen made a motion to set a public hearing for CIP FY 2023-2027 on February 28, 2022 at 6:30 p.m. Commissioner Donahue seconded the motion. The motion passed with a vote of 7-0.

#### GENERAL CITIZEN COMMENT

None.

#### OLD BUSINESS

None.

#### NEW BUSINESS

None.

#### GENERAL COMMISSIONER COMMENTS

Commissioner Allen requested that the Commission direct staff to draft a Resolution of Appreciation for former Planning Commissioner Carol Miller for her many years of service. It was the consensus of the Commission that staff will prepare the resolution and it be considered during their February 28, 2022 meeting.

Commissioner Donahue commended Mrs. Johnson on her hard work on the meeting packet.

#### ADJOURNMENT

MOTION:

Commissioner Allen moved to adjourn to the next Planning Commission meeting of Monday, February 14, 2021, at 6:30 p.m. or as soon thereafter as may be heard. Commissioner Flippen seconded. The motion carried unanimously with a vote of 7-0. The meeting adjourned at 7:44 p.m.

Attested:

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Bill Burger, Planning Commission Chairman      Date

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Planning/Zoning Administrator      Date