

**COLUMBUS COUNTY BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING**

**Monday, July 12, 2021
6:00 P.M.**

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Dempsey B. Herring Courthouse Annex Building, located at 112 West Smith Street, Whiteville, North Carolina, for the purpose of conducting a Special Called Meeting.

COMMISSIONERS PRESENT:

Ricky Bullard, **Chairman**
Jerome McMillian, **Vice Chairman**
Chris Smith
Giles E. Byrd
Lavern Coleman
Brent Watts
Charles T. McDowell

APPOINTEES PRESENT:

Edwin H. Madden, Jr., **County Manager**
Amanda B. Prince, **Staff Attorney**
Boyd Worley, **Board Attorney**
Jay Leatherman, **Interim Finance Officer**

APPOINTEE ABSENT:

June B. Hall, **Clerk to Board (Excused)**

Agenda Items #1, #2 and #3:

CALLED to ORDER, INVOCATION and PLEDGE of ALLEGIANCE:

At 6:00 P.M., Chairman Ricky Bullard called the July 12, 2021 Special Called Meeting to order. The invocation was delivered by Commissioner Lavern Coleman. Everyone in attendance stood and pledged Allegiance to the Flag of the United States of America, which was led by Commissioner Giles Byrd.

Agenda Item #4:

BOARD OF ELECTIONS - GUIDEWAY SCHOOL AS VOTING PRECINCT LOCATION:

Carla Strickland, Elections Director, stated the following:

1. We are merging several precincts;
2. We are ADA surveys;
3. There are issues with some of the precincts;
4. It has been recommended to me that we utilize the Guideway Elementary School Cafeteria.

Eddie Madden, County Manager, stated to take this matter under advisement, and this will be voted on at next week's meeting. No action is required.

Agenda Item #5:

WORKSHOP BETWEEN BOARD of COMMISSIONERS and PLANNING BOARD :

Samantha Alsup, Planning Director: stated the following:

- I do have a quorum of the Planning Board here tonight;
- I would like to present some background on our rules and regulations;
- Our Subdivision Regulation Ordinance was passed in February, 2010.
- We have a definition of minor and major subdivision;
- We passed the Zoning Ordinance in the County in 2014;
- We need to determine what the short term and long term objectives are;
- The Comprehensive Land Use Plan would be long-term, and the short-term would be text amendments to subdivisions or Special Use;
- I have invited Wes MacLeod from the Cape Fear Council of Governments, here tonight to discuss local government services, land use plans, ordinances and utilities.

Wes MacLeod, Cape Fear Council of Governments, stated the following:

- I am the Local Government Services Director and have been for ten (10) years;
- We serve four (4) counties - Columbus, Brunswick, New Hanover and Pender;
- This region has development pressures;
- Brunswick County is struggling with pressure to develop; **and**
- How do we better control or stop things from happening.

Commissioner McDowell - these are some of the concerns that I have:

- When you have a major subdivision, they would locate near water and sewer; **and**

-Lot size - economics for developers.

Wes MacLeod, Cape Fear Council of Governments:

- All agree the market is creating abnormalities in property development. Yes, developers are locating near utilities;
- In some areas, water and sewer connection are mandatory;
- The lot sizes range across the board; **and**
- In Pender County for example, the most substantial portion of that county is zoned residential/agriculture, which is a 1 acre minimum lot size and if you go a little further east, you have 15,000 square foot lots and Brunswick County's rural /residential is 20,000 square foot lot size.
- That's a pretty substantial difference and is a matter of preference.

Commissioner McDowell:

- Is it fair to assume that you will have smaller lot sizes the closer you are to municipalities because they don't need a well and a septic system?
- Also, have you noticed that as you go out into residential areas that lot sizes increase and are there more rules governing those developments?

Wes MacLeod, Cape Fear Council of Governments:

- Yes, typically 20,000 or 30,000 foot lot sizes are what you see the further out you go into the rural areas of the county.

Commissioner McDowell:

- We had a developer some years ago who put down village wells. Do you see that often?

Wes MacLeod, Cape Fear Council of Governments:

- Typically not, that's much less common.

Chairman Bullard:

- How do we control growth properly?
- We recently had a developer that wanted to come in and place about 48 double-wide homes on about a 33 acre tract. We're zoned at 30,000 square foot lots, about two-thirds of an acre.
- I think it should be 1 1/4 or 1 1/2 acre lots.
- How do you control the type of subdivisions you allow?

Wes MacLeod, Cape Fear Council of Governments: stated the following:

- It is a Political decision and a policy decision on what size you want your lots to be.
- Columbus is a very large county and you can choose whether to put larger lots in your rural areas and smaller lots closer to municipalities;
- You can set up quasi-judicial special use approval procedures to take into account property values.
- Appraisals can be considered but the burden is on the community or neighborhood to get appraisals to contest those of the developer.
- In North Carolina our hands are somewhat tied concerning what we can do to discourage development.
- You can choose what type of homes you allow to be built, whether they're stick built or modular or multi-family but that would require a more comprehensive approach to zoning; **and**
- This is not easy and it won't happen overnight.

Chairman Bullard:

- I would like for you to explain some experiences.

Wes MacLeod, Council of Governments:

- There was an instance where the town tried to change the size of a lot from 7,500 to 10,000 square feet and the developers' lobbyists managed to get a bill filed to de-annex 100 acres out of that community.

Commissioner McDowell:

- House Bill #409 and Senate Bill 349, anything up to a quad duplex put forward as affordable housing. What's happening with that?

Wes MacLeod, Council of Governments:

- It did not receive a single vote and was not passed.

Commissioner Smith:

How many counties that you cover have county-wide zoning?

Wes MacLeod, Council of Governments:

-Most of Eastern North Carolina does have county-wide zoning.

Commissioner Smith:

-It looks like county-wide zoning would solve our problems.

Samantha Alsup:

There are several different variations of how you can do county-wide zoning:

- Residential districts can be based on lot size and distance from water/sewer, the further out you go from utilities, you can have larger lots: to protect flood plains, farm land, conservation districts;
- Lumberton lot size for their conservation district, I think is 150 acres;
- Density should be considerably lower in rural areas;
- So for an example, Antioch Church road is in rural area, it should be characterized by low density housing, but our zoning ordinance is not set up to make sure that is the case;
- Our Land Use plan explains different possible zoning districts and possible restrictions;
- Variations: only single family and multiple family (Special Use).

Eddie Madden:

-If the Board were to entertain an amendment to require a special use permit for major subdivisions, would that go in the zoning ordinance or the subdivision ordinance?

Wes MacLeod, Council of Governments:

- It would go in the subdivision ordinance and it would concern only the division of land.
- If the use of the land was of concern then you could specify that in your zoning ordinance.

Eddie Madden:

- Moratorium ends in February or it can end if the Board decides it's no longer needed;
- It comes down to what do these Boards want to achieve during this moratorium period?; **and**
- What I've heard this evening and in multiple meetings is that the requirement for notice is critical.
- The Antioch Community would have appreciated being notified of the development.
- So, some type of amendment requiring special use approval for major subdivisions is priority one, right?

Commissioner McDowell:

-We want it to address all subdivisions;

Wes MacLeod, Council of Governments:

- That's an easy fix, Pender County requires notice but it's still an administrative approval but the community will receive notice.
- It will cause administrative stress on staff to have to prepare that notice but it is an easy change.
- If it's a special use or quasi-judicial issue, notice is mandatory.

Eddie Madden:

- Second area of concern is the minimum lot size, this is what we have currently -
 - 15,000 square foot lot - for Water and Sewer
 - 25,000 square foot lot - Water only
 - 30,000 square foot lot - Neither
- Your concerns are for subdivisions proposed out in the county where no water and sewer are available.
- You've mentioned increasing minimum lot sizes to 1 1/4 acres or 1 1/2 acres and that can also be dealt with by amending the subdivision ordinance.

Commissioner McDowell:

- At the last meeting I suggested we move away from per lot to per unit; **and**
- Someone could potentially purchase Nine (9) lots without going through major subdivision requirements and then put a duplex on one and quad-plex on the others. What is your opinion of us moving away from the term lot and using unit?

Wes MacLeod, Council of Governments:

-Only issue is when you're talking about a lot, that would fall under the subdivision ordinance, but when you're talking about a unit, that falls under your zoning ordinance.

Eddie Madden:

- It would seem to me that a simple fix would be to insert into your current requirements the mention of single family only units - in those residential areas. What would be required for this Board to

adopt a single family only district?

Wes MacLeod, Council of Governments:

- You would need to put it on the map where you would allow manufactured homes, multi-family etc, then you could show where you would allow only single family units.
- You cannot exclude outright an otherwise legal usage of land throughout your entire jurisdiction.

Commissioner McDowell:

- In a rural area, it makes sense you don't put in 100 unit duplex, but for those areas that are closer to the required infrastructure then we could allow those multi-units per lot.
- Then as you go further out into the rural areas you can require a special use permit if you want to build anything other than a single family home, is that correct?

Wes MacLeod, Council of Governments:

- Yes, that's correct, or you could deny them outright because you've already allowed for those units elsewhere.

Commissioner Smith:

- A lot of our county is below sea level and those types of developments just should not be allowed because they are constantly flooding.

Chairman Bullard:

- There have to be exceptions, if I'm the landowner and I want to develop my property with duplexes or quads, I should be able to do that.

Eddie Madden:

- Increase lot size county wide for areas not served by water or sewer, that will then drive developers closer to municipalities.
- Most municipalities require annexation for services to be extended to a development.
- When that happens then cities and towns have jurisdiction over that area.
- I think if you increase the minimum lot size, it will automatically encourage growth towards more urban areas.

Samantha Alsup:

- I think what Mr. Madden is suggesting is that the Planning Board make a recommendation, which would then go before the Board, to change lot sizes in our rural areas from 30,000 square feet to 1acre or 1 ½ acres, which would then drive developers to municipalities because they couldn't make money off of a lot that size.

Eddie Madden:

- Correct, and that would address your concern of over-development in less populated areas.
- Now there may be other areas in the county where smaller lot sizes would be applicable

Samantha Alsup:

- What percentage of County has no water and no sewer?
- Never had any subdivision that was eligible for 15,000 square foot lot sizes.
- There is some sewer in the county but I'm not sure where it is.
- I think some maybe coming out of Grand Strand sewer station.

Commissioner McDowell:

- There is some sewer coming from Robeson County.

Chairman Bullard:

- That's only for municipalities of Cerro Gordo, Fair Bluff and Boardman.

Commissioner McDowell:

- I would like to see a county wide map showing water and sewer.
- Sewer cost is prohibitive.
- There is sewer coming into the Eastern end from Brunswick County.
- Municipality sewer is available in some areas.

Commissioner Byrd: That is pressure line.

Chairman Bullard: A lot of the places where I built all you had to have was a 10 or 15 foot easement, so if you have water and sewer you didn't need a septic line or repair area so you could

put it on a smaller lot.

Commissioner Smith:

-Ms. Alsup, this ETJ, is that your 1 mile extended district.

Samantha Alsup:

-Yes.

-I would be curious to see how much county water is out there because 99.9 percent of plats are from your average landowner, not developers.

-Since 2014, this is the first subdivision proposal I've received from a commercial developer.

Chairman Bullard: There will be more, they're on the way.

Samantha Alsup:

-But if you increase the lot size to 1 acre or 1 ½ acres...

Commissioner Coleman:

-You're going to get a lot of complaints. What if I want to give my son an acre of land...

Samantha Alsup:

-Well you still have your gift lot exceptions.

-But if you want to sell your land and you don't want to sell an acre or 1 ½ acres but 30,000 square feet, you won't be able to do that if we change our sizes.

-So, this won't only impact commercial developers but any landowner who wants to sell a portion of their property.

Commissioner Byrd:

-How does it affect lots that have already been sold and set up?

Samantha Alsup:

-They will be grandfathered in.

Samantha Alsup:

-I recommend we start working on countywide zoning, I know this is not going to happen in 8 months.

-Special Use Permits will be a faster fix to address some of your concerns.

Boyd Worley:

-In other counties, have there been implementations over using restrictive covenants?

Wes MacLeod, Council of Governments:

-Restrictive covenants can be in place but the local governments aren't going to enforce them.

-If they change or modify down the road, it would be a civil matter between the property owners.

-Restrictive covenants in Special Use permits with binding language is enforceable by the local government.

Eddie Madden:

So after the approval is granted, then the Board has to adopt the order, then that's recorded and that's what makes it binding.

Boyd Worley:

-Can we build into ordinances restrictive covenants that would only approve that subdivision in the event that they adopt those covenants?

-Providing some flexibility for each unique scenario via a broad zoning requirement we have throughout the county?

Wes MacLeod, Council of Governments:

-It may be possible. The better way to do this is to have conditions on your special use permits.

Linda Jablonowski:

-I know a major concern was upkeep of the properties 4 or 10 years down the road. The developer mentioned an HOA, but once they leave, who is there to enforce it?

Wes MacLeod, Council of Governments:

-That is a problem we experience everywhere.

- The HOA isn't paying the appropriate amount of fees to maintain roadways.
- It's tough.
- You want to make sure there are HOA's in place but ultimately it's a private matter.
- You need to make sure there are forcible nuisance orders in there.
- There's no way to know that, that type of situation isn't going to happen.

Commissioner McDowell:

- Someone asked me, is there a limit to the number of lots that you can permit?
- Have you seen any county with a limit on the number of units/lots they allow?

Wes MacLeod, Council of Governments:

- In Pender County we've had a handful that have gotten up to 1,000 unit developments.
- The quick answer is you don't set a max, you just have to figure out what you're comfortable with.

Chairman Bullard:

- Can you control the number of lots if it's manufactured housing over stick built housing?

Wes MacLeod, Council of Governments:

- Absolutely, but you would have to say "we're fine with manufactured housing here, but not in these places."
- So you could control it like that..
- You could potentially limit manufactured homes if you base it on the density you are going to allow for a particular area. So for instance you may allow 1 manufactured home per acre.
- I don't think you can't set a maximum but you can set a density that you're comfortable with.

Chairman Bullard:

- On my way to Raleigh, I went through and there were no double-wides, only stick built homes.

Wes MacLeod, Council of Governments:

- I'm pretty sure that area to Raleigh only allows stick built houses.
- But there will still be areas in that jurisdiction that allow for manufactured homes, but it's not everywhere.
- The difficulty is figuring out where those areas are on the map.
- That's when feelings start to get hurt.
- With Planning Land Use, there are difficult decisions.

Commissioner McDowell:

- I understand we're trying to address some things short term but we need to look at tackling county-wide zoning.
- The events of the last six weeks has opened the eyes of a lot of citizens that zoning is to protect the citizens of the County, not the developers coming in.
- Development won't be stopped but we need to control it. Zoning is needed.
- So, I hope we don't lose sight of that.

Samantha Alsup:

- Zoning is going to be hard decisions, but need to control growth in our county.
- We need to update the comprehensive Land Use Plan.
- We may need to do that first to make sure the map looks the way we want because everything will be based on that.
- Then we can work on our county-wide zoning policies.

Commissioner McDowell:

- This is the only way to protect the harmony.

Commissioner Smith:

- I am receiving calls relative to "we can't do what we want with our own land?".
- And I told them, if this was happening across the street from your house, you would be putting a for sale sign in your yard before they even start with construction.

Chairman Bullard:

- What can we do now?
- Mr. Madden, did you have some recommendations?

Eddie Madden:

- Yes, sir. Special Use approval requirements for major subdivisions or some notice for all

subdivisions is necessary.

- Increasing the minimum lot size for lots not served by water, sewer, or water and sewer to 1 1/4 acres.

-Then you can proceed with the Planning Board to tackle the more long term goals.

Commissioner Watts:

-That's only on major subdivisions right?

-What if someone wants to sell just one acre of land for a single family home?

-You'll be hurting a lot of people with something like that.

Commissioner Byrd:

-My concern is, if you make lot sizes that big, you're pushing the price up and you're putting it where some people can't afford to buy a lot that size to make a home.

-Then we'll be creating a hardship there.

Commissioner McDowell:

-Can we exempt a single-family residence from this?

Samantha Alsup:

-This would prevent someone from selling a portion of their land if we pass this law.

-You couldn't sell 1/2 an acre or 2/3 an acre. You would have to sell at least 1 1/4 acres.

Commissioner Watts:

-So there's no way we can differentiate between one person buying a single lot and a developer trying to create a subdivision?

Eddie Madden:

-No sir, the law doesn't allow you to differentiate.

Wes MacLeod, Council of Governments:

- That's correct.

Eddie Madden:

-So, it sounds like to me that everyone would be more comfortable with an acre lot.

Commissioner Smith:

Yes, most people want an acre when they're purchasing land.

Commissioner Watts:

-Yes, you can put a house and a septic tank on an acre.

Chairman Bullard:

-Some people might not like it, buying a little more than an acre, but some people will.

-I think a lot should be identified as a single family home.

-Then if someone wants a lot for multi-family homes, that would fall up under special use.

Samantha Alsup:

-We could change our law so that any major subdivision of 10 lots or more or any multi-family unit will need a Special Use Permit.

Linda Jablonowski:

-So that would bring the 48 unit development down to 33.

-Is that really going to solve that problem?

Commissioner McDowell:

-I think so because it will drive up the costs for the developer.

Commissioner Byrd:

-You also have to take into account the roads for use that will be coming out of the that property, so that will take away even more land.

Samantha Alsup:

-Can we do a text amendment to our Zoning Ordinance?

-Can we add a provision that defines one acre as the minimum required lot size per dwelling unit?

Wes MacLeod:

-I think you could because you're not differentiating, it's based on utilities - availability of water and sewer, but I would need to clarify that.

Commissioner McDowell:

-We need to hold another Workshop for clarity. I also would like a map of county water and sewer.

Eddie Madden: These are the four (4) take away's that I have in my notes:

1. Increase minimum lots to one (1) acre for units that don't have water or sewer or both;
2. Require Special Use Permit approval process for major subdivisions
3. Require notification of adjoining property owners where subdivisions of 5 lots or greater; **and**
4. Requiring Special Use Permit for any multi-family units/projects.

This information is to be forwarded to the Planning Department for their input and be brought back for another workshop.

Agenda Item #6: ADJOURNMENT:

At 7:44 P.M., Commissioner Byrd made a motion to adjourn, seconded by Commissioner Watts. The motion unanimously passed. These minutes were recorded by Amanda Prince, Staff Attorney, and typed by June B. Hall, Clerk to the Board, and LaToya Williams.

APPROVED:

AMANDA B. PRINCE, Deputy Clerk to Board

RICKY BULLARD, Chairman