Print Form

# COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Pete Frisina

Preferred Meeting Date: Wednesday, February 4, 2009

Wording for the Agenda:

Consideration of Peachtree City's request to reaffirm two annexations fronting on McDuff Parkway which were previously annexed on May 3, 2007.

Background/History/Details:

The first annexation consists of 403.093 acres, is located at Land Lots 183, 184, 166 and 167 of the 7th district, is zoned LUR, and fronts on McDuff Parkway. Peachtree City desires to annex this property for the purpose of developing a 650-lot active adult community. The second annexation consists of 379.594 acres, is located at Land Lots 165, 166, 184 and 185 of the 7th District, is zoned LUR-15, and fronts on McDuff Parkway. Peachtree City desires to annex this property for the purpose of developing a 475-lot single-family detached subdivision. The Board of Commissioners approved these annexation requests on August 10, 2006 and a letter was mailed to Peachtree City expressing concern about density changes associated to the annexation. On May 3, 2007 the City of Peachtree City annexed the properties from unincorporated Fayette County into the city limits of Peachtree City.

What action are you seeking from the Board of Commissioners?

As required by Georgia State Law, the Board of Commissioners must choose to either "object" or to "not object" to Peachtree City's annexation request.

If this item requires funding, please describe:

Not Applicable.

Has this issue come before the Commissioners in the past? Yes

If so, when? Thursday, January 22, 2009

Do you need audio-visual for the presentation? No

Back-up Material Submitted? Yes

## STAFF USE ONLY

Approved by Finance? Yes

Reviewed by Legal? Yes

Approved by Purchasing? Yes

Approved by Administrative Staff? Yes

Staff Notes

Administrator's Approval Yes

Confirmed Meeting Date Wednesday, February 4, 2009

- ○ Recognition/ Presentation
- ○ Public Hearing
- ◉ Old Business
- ○ New Business
- ○ Consent
- ○ Report
- ○ Other

Fayette County
GEORGIA

*Where Quality Is A Lifestyle*

To: Board of Commissioners

From: Pete Frisina

Date: January 23, 2009

Subject: Peachtree City Requests to Reaffirm Annexations/Rezonings

Fayette County has received notice of two requests to reaffirm annexations and rezonings from Peachtree City. These requests are:

1. Reaffirm annexation and rezoning request from John Wieland Homes and Neighborhoods for a 379.594 acre tract on land within Wilksmoor Village for a 475 lot single-family subdivision

2. Reaffirm annexation and rezoning request from Scarbrough and Rolader Development, LLC for a 403.093 acre tract of land within Wilksmoor Village for a 650 lot active adult community.

These properties were annexed and rezoned by the Peachtree City City Council on May 3, 2007 and are presently within the city limits of Peachtree City. The purpose of these requests, as stated in the cover letters, is to reaffirm the previous annexations and rezonings. David Rast, Peachtree City City Planner, stated to me that Peachtree City is being sued on the basis that the City did not follow the proper procedure in the annexation process in 2007; so as a preemptive measure Peachtree City is repeating the annexation and rezoning and notifying the County of such. To my knowledge this court case is still pending. Given the fact that the annexation has not been nullified, Staff questions whether this is action even constitutes an actual annexation.

The Board of Commissioners considered and recognizes the previous annexation and rezoning requests on August 10, 2006 (see attached minutes). The Board did not file a Bona Fide Land Use Objection to the annexations. However, the Board did send a letter (see attached) to the Mayor stating that they were concerned about the impact this development would have on the County and Peachtree City and asked to meet with the appropriate parties to discuss how some of their concerns could be negated. I am not aware of the outcome of this request or any meetings with Peachtree City.

The original annexation and rezoning requests were as follows:

1. Annexation and rezoning request from John Wieland Homes and Neighborhoods for a 379.493 acre tract for a 546 lot single-family subdivision and retail center of 5.7 acres

2. Annexation and rezoning request from Levitt and Sons for a 400.306 acre tract for a 752 lot active adult community

In terms of the 379 acre tract, the number of proposed single-family lots has decreased by 71 lots from 546 to 475 and the site plan does not indicate a retail center. Concerning the 403 acre tract, the acreage has increased by three acres but this could be due to a surveying or CAD error and the number of proposed active-adult lots has decreased by 102 lots from 752 to 650. In total, this is a 173 lot decrease from 1,298 to 1,125.

**ANNEXATION REQUEST FROM PEACHTREE CITY BY LEVITT & SONS:** Dennis Dutton, Zoning Administrator informed the Board of an annexation request from Peachtree City by Levitt & Sons. He said this was a request for a 400.306 acre track to be developed by John Wieland Homes and Neighborhoods. He remarked that the second request was for an adjoining 379.493 acre track and an existing 89.146 track which was already in the City to be rezoned for limited use residential (LRU) and open space. He remarked that currently the property was zoned agricultural/residential and R-70. He said the future Land Use Map has this area listed for agricultural/residential and designated at one unit per one to two acres. He said the proposal was for 752 single family detached homes and a 27,000 square foot club house with indoor and outdoor pools, eight tennis courts, a greenhouse, craft room, card room, and so forth with 180.2 acres of greenspace. He said the access would be provided along McDuff Parkway. He said the applicant had contacted the Atlanta Regional Commission and gone through the DRI proceedings and was awaiting a meeting with GRTA which would be on September 14th.

Chairman Dunn noted that they had not gone through the process yet but were waiting to start the process. He said this Board had received nothing to respond to this yet.

Mr. Dutton said the applicant had submitted the rezoning to the City of Peachtree City.
Mr. Dutton remarked that the second annexation involved with this property was the 397.49 acre tract of land. He said the existing zoning for that property was A-R and the request was for limited use residential plus limited use commercial and open space. He said the future land use was agricultural/residential. He said the proposal was for single family medium density, single family low density, commercial, open space and community service. He said for this 379.49 acres, 546 single family detached residential units was proposed. He said the gross density would be 1.4 dwelling units per acre, with neighborhood retail commercial on 5.7 acres. He said they had submitted their DRI form to the Atlanta Regional Commission and to the Department of Community Affairs.

Chairman Dunn asked if Mr. Dutton had reviewed this and determined how many buildable acres there were. He said he agreed with the figure for gross acres but a substantial amount of this property was located in the wetlands.

Mr. Dutton said yes and remarked that part of the problem was receiving this request on such short notice. He said it had been difficult to get all of the TRC members together and obtain all of the facts.

Chairman Dunn said the County had a rezoning request for the 379 acres a couple of years ago. He said the County fought that request with the City of Peachtree City and ended up in court over it. He said the court did uphold the County's Land Use Plan. He said the County went to two acre zoning and this was the reason the property had become R-70. He said the entire West village area was A-R for five acre lots. He said this request went down in that action to two acres per home. He remarked that he could not remember exactly what the buildable property was but felt it was substantially lower than 379 because of the wetlands and the flood plain. He said the same was on the adjoining 400 acres. He noted that huge areas of that were in wetlands. He said between the two properties there were 1,298 homes being proposed. He said this was an amazing amount of increased density from what the County went to court and tried to uphold there.

Mr. Dutton remarked that there would be 752 single family detached homes on the 400 acres and 546 single family detached homes on the 379 acres currently zoned two acres.
Chairman Dunn said this would be a tremendous increase in density for that area. He said if the City annexed the property then they could do whatever they wanted with it. He stated the County had fought to keep the density reasonable over there. He said the County had been through a lot with this piece of property during the last twenty years and had to deal with it three or four times during the last eight years. He said this Board had been consistent in saying that this was too much density for that area.

Commissioner Pfeifer said he would like to urge the City of Peachtree City to not do this. He said this would totally change the character of that area. He said there had been several long running discussions about transportation in that area. He said one of the issues was that if this was a senior housing project there would be no impact on the schools but they were also talking about a school site within the project. He said with this number of houses plus commercial, plus recreation, and plus a school site it was astounding that they would ask people to move to an area like that. He said the other point that he would like to make was the issue of water use. He said one of the things that this County had done a fabulous job with was water use. He said Fayette County did not have the problems like some of the other areas have. He said Fayette County has a plan that culminates in building Lake McIntosh in that area and the whole water system size was based on assumptions of the land use. He said whereas older citizens may not use the schools they do drink and use water. He said if the development in this County continued, there would not be enough water.

Chairman Dunn said one of the issues that he had spoken to the Mayor about in the past was the 400 acre parcel with 752 houses being proposed. He said he was told that the builder had been sent back to the drawing board and he had reduced the number of homes from 752 to 350 homes. He said now the project was back again with 752 homes being proposed. He said they were asking for 1,298 houses to be put on 752 gross acres. He said he doubted that there was more than 500 acres in there that was buildable.

Commissioner Frady asked Attorney Davenport if there was anything that he could add.

Attorney Davenport replied that this was the area known as the West village. He said this was also an area that was an unincorporated island and one of the rare times that he could remember where the County had received a request that involved an unincorporated island. He said this method of annexation was one that provided a very limited basis to have any objection with respect to annex the unincorporated island then. He said if there were any issues that this Board wanted to bring to the attention of Peachtree City then it certainly could do that. He pointed out the way in which the annexation framework was set out in the law, the law encourages the annexation of unincorporated islands even more so than typical annexations during the 100% or the 60% method.

Commissioner Frady clarified that the County could send its objection, but it probably would not do any good.

Chairman Dunn interjected if an objection was sent, then possibly the County might be able to negotiate down the density. He said this had nothing to do with a turf war but the issue of the amount of traffic and wear and tear on the County's infrastructure. He said he would like to sit down with them and try to get a reduction in density.

Attorney Davenport interjected that this was a different stage in the process. He said while this item was within the seven day window for a Notice of Intent to Object, in order to meet the time frame for the ten day window for the objection to be put in place if this was the desire of the Board, there would have to be a called meeting to make that occur because the Board's next meeting would not occur in time to meet the ten day window. He noted if the Board had enough information before it this evening and the Board wanted to enter an objection this evening then that certainly be done.

Chairman Dunn said he certainly had enough information to enter an objection. He said it would be a land use objection.

Commissioner Wells asked if the Board's objection would follow the same format even though this was an unincorporated island or would it be different.

Attorney Davenport replied that the problem with the language in the law as it was written now related to the 2004 amendments that came in at the same time that the S.P.L.O.S.T. amendments came in. He said they amended this entire objection process in its entirety with very substantial changes. He remarked that there was a provision under the unincorporated island section which stated that a municipality had sole discretion for annexing unincorporated islands. He said the information in 363611 was put in place after that language. He said the 363611 language did not address the issue of unincorporated islands, however that was typically used under the 100% method and the 60% method. He said although this was new, there was a strong presumption in favor of allowing the annexation of unincorporated islands.

Chairman Dunn said he realized that the County's objection might be ignored and then taken in as an island but he hoped that they would want to sit down and at least try and trim down some of the density. He said there had been complaints for years regarding McDuff Parkway and now that would be extended and would cause a lot of traffic problems on S.R. 74, S.R. 54 and inside of this area.

Commissioner Wells said since the language of the legislation was very clear about the cities having the ultimate authority as to whether or not they annex an unincorporated island, it did not sound like the County would have much recourse here. She said the language was very clear that if the City decided to do it then they could do it. She felt the County's best bet would be to strongly object to the land use of the property but not necessarily object to the annexation itself. She said she would also like to sit down and discuss this with the City but the County did not have any legal basis for objecting based upon the language of that particular legislation.

Chairman Dunn said the legislation did allow the County to object and the first step would be to sit down and mediate this with the City.

Attorney Davenport said that was correct. He said ultimately the Board could sit down and speak with the City representatives but that would grow into a citizen review panel if no conclusion could be reached with respect to that.

Chairman Dunn suggested the Board write the City a letter stating its objection and request a meeting with them to discuss this further.

Commissioner Frady agreed and said that would also be his recommendation. He said he would like the letter to state that while the County realized its position as far as an objection goes, that the County would certainly appreciate them taking into consideration lesser density for that area.

Chairman Dunn said these figures were twice as much as the last figures that the City had quoted him.

On motion made by Commissioner Frady, seconded by Commissioner Wells to write a letter to Peachtree City to explain their position and request that they consider lesser density in the area they intend to annex. The motion carried 5-0. A copy of the letter, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

Fayette County
GEORGIA

"ATTACHMENT NO. 8"

**BOARD OF COMMISSIONERS**
Gregory M. Dunn, Chairman
Linda Wells, Vice Chairman
Herbert E. Frady, Commissioner
Robert Horgan, Commissioner
Peter Pfeifer, Commissioner
Christine L. Venice, County Administrator
W. R. McNally, Attorney
Carol Chandler, Executive Assistant

*Where Quality Is A Lifestyle*

August 11, 2006

Honorable Harold Logsdon
Mayor, Peachtree City
151 Willowbend Road
Peachtree City, Georgia 30269

Re: Annexation Requests: 379.493 acres by Levitt & Sons; and
400.306 acres by John Wieland Homes and Neighborhoods, Inc.
Land Lots 183, 184, 166, and 167 of the 7th District

Dear Mayor Logsdon Harold,

We have been notified by your Planning Department of the pending annexation and rezoning of 379.493 acres and 400.306 acres on the west side of Peachtree City. As you well know, the density and changes in the use of this property as proposed are dramatically more intense than Fayette County's existing land use and zoning regulations allow. The impact this type of development will have on our county, our infrastructure, and neighboring communities is astounding.

The development of the "West Village" of Peachtree City in any manner will forever change the area and its characteristics. However, this Board urges you to strongly consider how this development, ***as proposed***, will negatively impinge on not only the immediately surrounding areas, but all of Peachtree City and the entire west side of our county, for that matter. We would like the opportunity to meet with the appropriate parties to discuss the development of these enormous tracts and the potential negative effects the annexation/rezonings, as proposed, will surely have on our county.

As stated in David Rast's letters, the proposed development of these tracts qualifies as a Development of Regional Impact. Fayette County will submit it comments to ARC, GRTA, and DCA at the appropriate time during the DRI process. Please let us know if we can expect an opportunity to meet with Peachtree City to discuss how some of our concerns can perhaps be negated.

Sincerely,

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

Gregory M. Dunn, Chairman

cc: Pete Frisina, Director, Community Development
David Rast, Peachtree City Planner/Zoning Administrator

*140 Stonewall Avenue West, Fayetteville, Georgia 30214 Phone 770 460-5730 Ext. 5400 Fax 770 460-9412 Web Site www.fayettecountyga.gov*