

THE FAYETTE COUNTY PLANNING COMMISSION met on April 5, 2007 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Douglas Powell, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Tim Thoms

MEMBERS ABSENT: None

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Dennis Davenport, Assistant County Attorney
Sgt. Earl Williams

STAFF ABSENT: Pete Frisina, Director of Planning & Zoning
Tom Williams, Assistant Director of Planning & Zoning
Delores Harrison, Zoning Technician
Phil Mallon, Director of Engineering

Welcome and Call to Order:

Chairman Powell called the Public Meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

Chairman Powell and the other members wished Robyn Wilson a happy birthday.

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1. Consideration of the Minutes of the meeting held on March 15, 2007.

Chairman Powell asked the Board Members if they had any comments or changes to the Minutes as circulated? Al Gilbert made the motion to approve the Minutes. Jim Graw seconded the motion. The motion unanimously passed 5-0.

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2. Consideration of a Preliminary Plat, Jerl Estates (Revision), Grover Kneece, Owner, and Randy Boyd, Agent. This property consists of 143.593 acres with four (4) single-family dwelling lots. This property is located in Land Lots 33, 34, and 64 of the 4th District, fronts on Bankstown Road, and is zoned A-R. Staff recommended approval of the preliminary plat stamped received 03/23/07.

Randy Boyd explained that the original preliminary plat was approved by the P.C. in 2006; however, the four (4) lots have been reconfigured by adding and deleting property to the lots. He confirmed that the street was already in place and paved.

Chairman Powell asked if there was anyone to speak to address the technical aspects of the preliminary plat. Hearing none, he closed the floor from public comments.

Al Gilbert made a motion to approve the preliminary plat stamped received 03/23/07. Tim Thoms seconded the motion. The motion unanimously passed 5-0.

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Dennis Dutton read the procedures that would be followed including the fifteen (15) minute time limitation for presentation and opposition for petitions.

April 5, 2007

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON APRIL 5, 2007 AND BY THE BOARD OF COMMISSIONERS ON APRIL 12, 2007.

3. **Consideration of Petition No. 1192-07, Dan V. Stinchcomb, Owner, and Randy M. Boyd, Agent, request to rezone 213.77 acres from R-40 and A-R to R-50 to develop a single-family residential subdivision consisting of 92 lots. This property is located in Land Lots 5, 28, 29, and 30 of the 7th District and fronts on Davis Road and Ebenezer Church Road.** *Staff recommended denial.*

Chairman Powell explained that the initial P.C. public hearing was postponed due to severe weather then was rescheduled to March 15, 2007. He said the B.O.C. decided, at their March 22nd public hearing, to send the request back to the P.C. for reconsideration of the revised concept plan. He reported that the number of lots indicated on the revised concept plan had been decreased from 106 lots to 92 lots plus seven (7) self-induced conditions.

Randy Boyd stated that approximately six (6) acres along Davis Road was zoned R-40. He noted that there are three (3) acre lots along Ebenezer Church Road and Windridge Subdivision, two (2) acres along the remaining perimeter of the property, and one (1) acre lots on the interior property. He added that there will be a 25 foot undisturbed buffer along the entire exterior property lines. He advised that there are 52 one (1) acre lots, 33 two (2) acre lots, and 7 three (3) acre lots. He confirmed that the design would adhere to the stormwater management of better design practices to take care of environmentally sensitive areas. He reported that there will be 39.85 acres of open space which is 18.6%.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. He advised that the P.C. had received letters of opposition from Mr. Dave Hannum and Jack and Susan Smith which will be made a part of the permanent record.

Mary Hannum of 100 Martha's Cove submitted photos to the P.C. She said she did not notice a lot of changes from the previous plan. She stated that at least 40 more lots should be removed. She expressed concern about the proposed density. She commented that once the R-50 zoning is approved that the property can be developed with one (1) acre lots and the revised concept plan will not apply. She remarked that the entire development should be developed with a minimum of three (3) acre lots. She advised that her property is a certified habitat which was certified by the National Wildlife Association more than a year ago and any development will affect the habitat's environment; however, it should recover in time. She said that she knew Mr. Stinchcomb had a right to develop his property but it should be developed with the correct density so as not to place a hardship for the rest of the community. She asked the P.C. to reconsider the R-80 zoning, a three (3) acre minimum lot size, which would be acceptable.

Jack Smith of 180 Martha's Cove said that the primary reason he purchased his property was because it was zoned for agricultural. He stated that his biggest concern was that once you lose the master Comprehensive Plan you have no plan. He commented that the plan for this area was low density and agriculture and once the one (1) acre zoning is approved every large land owner will petition for one (1) acre zoning. He expressed concern about stormwater collection and sewage collection for the County. He requested denial of one (1) acre and instead zone for three (3) acres.

Milton McKnight of 100 Bridger Point Road advised that in 1988 the subject property was annexed by the City of Fayetteville and then de-annexed by the State Legislature. He confirmed that the Comprehensive Plan calls for low density between Fayetteville and Peachtree City. He expressed concern about septic systems, the water table, and possible contamination of wells. He added that the request does not comply with the Comprehensive Plan and requested denial of the petition.

Douglas Peters of 145 Hillred Road said everyone had purchased five (5) or more acres. He stated that Ebenezer Church Road could not handle more traffic. He added that there would also be an additional strain on the school system. He remarked that the development of the subject property would affect the wildlife in the area. He commented that the County should improve the road and then allow the construction of more houses.

Peter Blair of 135 Martha's Cove stated that a lot of time is spent developing the Comprehensive Plan and before the ink is dry, someone wants to change it. He added that everyone purchased five (5) or more acres and if someone wants smaller lots then they should purchase closer to the city.

John Smith of 230 Davis Road stated that he owned 92 acres adjacent to the subject property. He said that the one (1) acre zoning is like having a rusty spike driven through the heart. He reminded the P.C. that the man who lives at the corner of Ebenezer Road and Ebenezer Church Road owns four (4) acres and the next door neighbor owns three (3) acres and they wanted to trade an acre but were denied by the County because they would be creating a one (1) acre lot which is not permitted in the area.

Trudy Whittington of 35 Country Trace said she purchased a special and unique quality of life. She commented that you could ride around the County and see that quality of life eroding due to the decisions of the primary governing officials. She remarked that the proposed density is absurd for the development of that many homes in an area that has chosen to be five (5) acre lots. She stated that Mr. Stinchcomb has rights to develop the land; however, the homeowners also have rights. She pointed out that the development would require more classrooms and teachers. She said that greenspace is being lost drastically due to the clear cutting of trees. She added that the powers that be should not go against the wishes of the citizens.

In rebuttal, Mr. Boyd pointed out that the Comprehensive Plan designates the area as one (1) unit per two (2) to three (3) acres which is why the proposal is for 92 lots. He confirmed that the proposed yield was one (1) unit per 2.019 acres which complies with the Comprehensive Plan. He said that there are no intentions of destroying the trees. He added that they have also protected the environmentally sensitive areas such as the creek and provided undisturbed buffers. He pointed out that the proposed development is at the upper limits of the rural residential designation which touches the low density residential designation which is one (1) unit per one (1) to two (2) acres. He confirmed that the proposed development complies with the Comprehensive Plan, adheres to the Fayette County greenspace program, and adheres to the Sedimentation and Erosion Control Ordinance. He noted that the self-induced conditions would not allow development of the subject property into one (1) acre minimum lots for the entire property because the net density shall not be less than two (2) acres per dwelling unit. He advised that a Level III Soil Survey would be performed on the subject property and some of the lots may become larger. He added that the R-50 requires a minimum house size of 2,100 square feet; however, the minimum house size will be increased to 2,500 square feet. He requested approval of this petition.

Chairman Powell thanked Mr. Boyd for decreasing the proposed density. He read the eight (8) self-induced conditions to the audience.

Hearing no further comments, Tim Thoms made a motion to deny the petition. Chairman Powell seconded the motion.

Jim Graw reminded the P.C. that the petitioner is not bound by a concept plan and conditions cannot be attached to a rezoning petition.

Attorney Dennis Davenport advised that conditions may be attached to a rezoning petition provided the conditions are addressing a negative impact of the rezoning such as upgrading a substandard street which needed to be upgraded due to the strain of the proposed development. He said that the

key is to ask the question if the rezoning produces a negative impact. He added if there is a negative impact then you can have a condition to mitigate the negative impact. He pointed out that there are requirements in each zoning district which regulate minimum house size and minimum lot size and to make a condition which makes these requirements different for R-50 for this petitioner would treat this petitioner differently than the last petitioner who received R-50.

Mr. Graw clarified that the P.C. could not condition lot sizes and house sizes.

Attorney Davenport replied that Mr. Graw was correct.

Mr. Graw stated that the P.C. must decide if the one (1) acre zoning is appropriate for the area. He said that the rezoning petition does not comply with the Comprehensive Plan. He added that approval of one (1) acre zoning would set a precedent for the area.

Mr. Thoms said his motion for denial was because the rezoning request does not comply with the Comprehensive Plan. He stated that the self-induced conditions basically give the property another rezoning. He remarked that the Goals and Objectives of the Comprehensive Plan states to encourage to maintain and to improve the individual character and identity of established neighborhoods, communities, and rural settlements. He pointed out that when you drive the area, the area is a rural settlement and A-R is an appropriate zoning for the subject property.

Bill Beckwith asked if the petition could be withdrawn and then the petitioner request to rezone to R-80.

Chairman Powell replied that there was a motion on the floor for denial.

Mr. Beckwith asked if a motion for denial of R-50, but approval of another zoning district would be appropriate.

Mr. Graw stated that there was a motion on the floor for denial of R-50, but once that is voted down then a new motion could be made for another zoning.

Chairman Powell remarked he would entertain another motion.

Attorney Davenport advised that subsequent motions after a denial to rezone to a different zoning district could be made.

Mr. Thoms clarified that the Chairman could entertain another motion for a different zoning district should the denial pass.

Attorney Davenport advised that Mr. Thoms was correct.

Mr. Graw called for the vote. He then called the question. He reiterated he was calling for the question and there is a motion and a second on the floor.

Chairman Powell stated that Mr. Graw could not call the question and that only the Chairman could call the question. He asked if there was any further discussion.

Mr. Graw advised that he had called the question and there was no further discussion allowed.

Chairman Powell replied that he had not ended the discussion.

Mr. Beckwith called for a point of order and said that the rules state that once the question is called that vote has to be taken immediately.

Attorney Davenport advised that once a point of order is raised, a vote is taken as to whether or not the point of order carries. He said that three (3) votes are required to have the motion go forward. He added that technically the P.C. would need to vote on the point of order if there is disagreement on whether or not the motion should be voted on now. He advised that if the point of order receives three (3) affirmative votes then the motion is voted upon without further discussion; however, if the point of order does not receive three (3) affirmative votes then the discussion continues.

Jim Graw, Bill Beckwith, and Al Gilbert voted for the point of order and the discussion ended.

The motion for denial unanimously passed 5-0.

Jim Graw made a motion to approve the petition as R-80 subject to the Staff's recommended condition regarding the dedication of right-of-way. Bill Beckwith seconded the motion.

Mr. Beckwith said that the owner has a right to develop the property; however, the three (3) acre minimum lot size is appropriate.

Mr. Graw remarked that one (1) acre zoning is not appropriate for the area. He said that the three (3) acre minimum lot size complies with the Comprehensive Plan and would set a precedent for the area.

Chairman Powell commented that R-50 is too dense for the area. He reiterated that the petitioner knows he can develop five (5) acre lots, which he has elected not to do. He pointed out that the R-80 zoning district is consistent with the Comprehensive Plan.

Hearing no further comments, the motion for approval as R-80 with the Staff's recommended condition regarding the dedication of right-of-way passed 4-1 with Tim Thoms voting in opposition.

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Chairman Powell adjourned the public hearing at 7:52 P.M. for a short break.

Chairman Powell reconvened the public hearing back to order at 7:59 P.M.

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THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON APRIL 5, 2007 AND BY THE BOARD OF COMMISSIONERS ON APRIL 26, 2007.

4. **Consideration of Petition No. 1194-07, Winn Martin, Manager of 54 Prop, LLC, Owner, and Laura Mehl and Tammi Sullenberger of Prudential Georgia Realty-Fayette and Ricky Gaskins of Delta Surveyors, Inc., Agents, request to rezone 4.76 acres from R-40 and A-R to O-I to develop O-I uses. This property is located in Land Lot 58 of the 7th District and fronts on S.R. 54 West.** *The Staff recommended approval.*

Ricky Gaskins stated that the two (2) tracts of land would be combined into one (1) tract which is located 2.6 miles west of the hospital. He said that the property fronts on S.R. 54 West and will be developed for medical and/or dental uses.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal required, he closed the floor from public comments.

Chairman Powell stated that there are deficiencies on the concept plan which will be addressed on the Site Plan and/or Final Plat.

Al Gilbert made a motion to approve the petition and stated that the request complies with the Comprehensive Plan. Jim Graw seconded the motion. The motion unanimously passed 5-0.

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5. **Consideration of Petition No. 1195-07, Alice Shaffer, Stella Hillsman, Bertha Seegurthalee, and John Luther, Owners, and Gene Strickland of SB2-Butner, LLC, Agent, request to rezone 5.52 acres from A-R to O-I to develop Professional Offices. This property is located in Land Lot 70 of the 7th District and fronts on S.R. 54 West.**
Staff recommended approval.

Tom Hardy of Omni Consultants requested approval of the rezoning petition to allow development of professional offices. He added that he understood that the stormwater needed to be on its own lot.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal required, he closed the floor from public comments.

Jim Graw made a motion to approve the petition and stated that the request complies with the Comprehensive Plan. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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Chairman Powell asked if there was any further business.

Dennis Dutton reminded the P.C. of the Public Meeting/Workshop scheduled for Thursday, April 19, 2007, in the Board of Commissioners Conference Room, First Floor at 7:00 P.M.

There being no further business, Tim Thoms made the motion to adjourn the Public Meeting/Workshop. The motion for adjournment unanimously passed 5-0. The Public Hearing adjourned at 8:07 P.M.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**DOUG POWELL
CHAIRMAN**

**ROBYN S. WILSON
SECRETARY**