

THE FAYETTE COUNTY PLANNING COMMISSION met on May 3, 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: Pete Frisina, Director of Planning & Zoning
Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Delores Harrison, Zoning Technician
Bill McNally, County Attorney
Sgt. Earl Williams

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.

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1. Consideration of the Minutes of the meeting held on April 5, 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. 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.

2. Consideration of Petition No. UH-001-07, Peach State Land Development, Inc., Petitioner, Donald R. Brandenburg, Agent, request relief for Brooks Crossing Subdivision as per Section 11, Legal Status, 11-3.2 of the Fayette County Subdivision Regulations to reinstate said preliminary plat previously approved on 05/05/05. This property is located in Land Lot(s) 61 of the 4th District, fronts on Price Road, is zoned A-R, and consists of eight (8) lots on 49.56 acres.

Chairman Powell advised that this was the first time that the P.C. had heard this type of request. He explained that the P.C. had approved the preliminary plat on May 5, 2005, and at that time, the P.C. took public comments regarding the technical aspects of the preliminary. He stated that since the P.C. was not considering a preliminary plat tonight, no public input would be taken.

Rod Wright requested the reinstatement of the Brooks Crossing Preliminary Plat which expired in October, 2006.

Jim Graw asked where it was written that the P.C. can re-approve an old preliminary plat once the eighteen (18) months has expired.

Chairman Powell read Section 11-3.2 of the Fayette County Subdivision Regulations to the audience.

Mr. Graw asked under what conditions could the P.C. reinstate/reapprove a preliminary plat.

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Attorney Bill McNally replied an undue hardship.

Mr. Graw asked where the definition of an undue hardship was found in the Subdivision Regulations.

Attorney McNally replied that the petitioner is not claiming that the Subdivision Regulations are the hardship. He commented that he has an approved preliminary plat and he has endeavored to undertake several other different methods of approval because the property he owns is divided by a railroad track. He added that the railroad track is owned by the railroad company and separates his property thereby creating a problem with the road frontage requirements. He said that between attempting to get approval from the railroad to build a street over the railroad tracks and also attempting other methods of development, such as conservation subdivision, the time has expired, since the approval which was not totally in his control. He commented that he is asking the P.C. to consider this a hardship and extend the approval. He reported that he was aware of the situation because on five (5) to six (6) different occasions, Mr. Wright had met with Pete Frisina, Dennis Dutton, and himself to review the problem imposed by the railroad. He confirmed that the railroad track is currently not in use; however, the railroad company is requiring \$176,000 or a bond sufficient to the amount to install mechanical crossing guards in the event the railroad track is re-opened. He said in order to protect the County, he did not want to see a bond posted by the developer for one (1) year because it then becomes the County's responsibility. He commented that plans had been submitted to develop a driveway instead of a road; however, there is not a good answer to the situation. He added that the only thing Mr. Wright can do with the property is basically what was previously approved. He stated that Mr. Wright has had a hard time with the development of the property because of the railroad track and he is asking the P.C. to consider this a hardship and reinstate and extend the preliminary plat.

Mr. Graw asked if there was anything written in the regulations which constitute an undue hardship.

Attorney McNally replied that the decision as to whether or not there is an undue hardship is up to the P.C.

Mr. Graw asked what would happen if the preliminary plat was not re-approved.

Mr. Wright replied that the property would be landlocked and his only option would be to build the road and pay the \$176,000. He said he was also requesting an extension of time.

Attorney McNally clarified that Mr. Wright would have to spend the \$176,000 and would not save this amount if the preliminary plat is reinstated. He added that looking for a way to develop the property without having to spend the money was what took up the time.

Mr. Wright stated that without an ordinance amendment regarding contiguous road frontage that all avenues have been exhausted. He added that a public road is the only option which is the worse case for him.

Mr. Graw stated that with a 24 month extension plus the 24 months which have passed that the preliminary plat would be approved for four (4) years. He expressed concern about setting a precedent for other developers. He said that Mr. Wright was aware of problems with the railroad track.

Mr. Wright remarked that he knew he would have to deal with the railroad company and get an agreement to cross the tracks with a road; however, the agreement sent months and months later was the wrong agreement, because it was an agreement for a private crossing instead of a public crossing. He said when he finally got the proper crossing agreement, he was not expecting to be required to spend \$176,000, plus construction of the road.

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Chairman Powell verified that Mr. Wright now has an approved public crossing agreement.

Mr. Wright replied he did have an approved public crossing agreement; however, he would now be required to re-apply because they also have a time limit for their approval.

Chairman Powell verified that Mr. Wright has also considered access from Autumn Lake Estates Subdivision, but was unable to do so because of the existing lakes.

Mr. Wright replied that he was correct. He added that to do so required ordinance amendments.

Bill Beckwith stated that he also served on the Z.B.A. and there are six (6) criteria points which must be met for granting a variance. He said that Mr. Wright had not created a self-induced hardship and this is an undue hardship which should be considered.

Chairman Powell commented that, to his knowledge, this was the first development of a subdivision dealing with a railroad track. He pointed out that Mr. Wright had explored a lot of routes including annexation and the rezoning of the property. He advised that since the expiration of the preliminary plat, new ordinances which deal with water quality and water runoff issues have been adopted which would impact the subject property. He added that the County Engineer stated that the new stormwater regulations will not have a substantial impact to have stormwater managed at this development. He stated that he is not inclined to approve a two (2) year extension; however, he did not object to eighteen (18) months beginning October 2006.

Al Gilbert concurred with Chairman Powell and added that the development of the property should be monitored to ensure that the project is moving forward. He said that if the property was within a month or two (2) from completion and the preliminary plat had expired that he would be in favor of an extension for that amount of time.

Chairman Graw asked Mr. Wright if twelve (12) months was granted, would the property be developed in that length of time.

Mr. Wright replied that he was not going to develop the property until a number of lots in his other subdivisions are sold.

Chairman Powell stated that Mr. Wright may be postponing the inevitable.

Mr. Graw asked what Mr. Wright would have to do if an extension is approved.

Pete Frisina replied that the road would have to be completed and inspected or have a final plat approved.

Tim Thoms remarked that there is an undue hardship with the railroad track; however, there seems to also be market conditions. He commented that the P.C. could not address the market conditions.

Tim Thoms made a motion to approve an eighteen (18) month extension from the date of the previous expiration to allow Mr. Wright reasonable time to pursue and work out an agreement with the railroad company. Bill Beckwith seconded the motion.

The motion for approval unanimously passed 5-0. The P.C. found that hardships in development occurred which were not caused by the property owner and reinstated and extended the preliminary plat commencing on October 5, 2006. The extension will expire in eighteen (18) months on May 5, 2008.

Chairman Powell said that the ordinance requires an amendment to be sent to the B.O.C. from the P.C.

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Attorney McNally confirmed that his office and Staff would prepare the amendment.

Mr. Graw suggested that Staff prepare criteria for a hardship and present the criteria at a future Workshop.

Mr. Gilbert remarked that Staff could not address every item that could be considered as a hardship.

Mr. Beckwith said that guidelines could be developed with reasonable criteria.

Attorney McNally explained that the P.C. would not have found an answer in the six (6) criteria points for approving a variance because the Z.B.A. is granting an exception to what is written in the ordinance as a requirement to develop property. He confirmed that the preliminary plat had previously been approved by the P.C. once and Mr. Wright has not been able to proceed with the development of the subdivision, due to a third party, which is an undue hardship. He added that the P.C. is only giving Mr. Wright an extension of time. He added that he would try to develop criteria to clarify the situation.

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THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON MAY 3, 2007 AND BY THE BOARD OF COMMISSIONERS ON MAY 24, 2007.

- 3. Consideration of Petition No. 1196-07, James Larry Carlisle, Glenda Sue Carlisle Mullennix, Vickie Carlisle Lassen, and Marcia Carlisle Gwaltney, Owners, and Attorney Jeff Slade, Agent, request to rezone 32 acres from C-C and A-R to M-1 to develop a self-storage facility and small business facilities. This property is located in Land Lot 137 of the 5th District and fronts on S.R. 54 East.**

Attorney Jeff Slade pointed out that the subject property is located between two (2) existing industrial subdivisions. He noted that the property is buffered by S.R. 54 East along the front and along the rear by considerable floodplain. He stated that the development of the property should not create an objectionable amount of noise or activity. He confirmed that the traffic would be controlled by the Georgia Department of Transportation. He advised that the property has been for sale for a number of years. He commented that the property did not lend itself to a strip type shopping center. He said that the M-1 Zoning District is a very advantageous way to develop the property for the County, for the General State Route Overlay, and for the marketing part of it.

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.

Tim Thoms stated that the request did not exactly comply with the Comprehensive Plan; however, the use is very much in keeping with the surrounding uses and it does not impact the neighborhood and a change in zoning would be appropriate.

Chairman Powell asked if a Self Storage Facility was a conditional use under the C-C Zoning District.

Pete Frisina replied that a Self Storage Facility is not a conditional use in the C-C Zoning District; however, there will be discussion in the Workshop immediately following the Public Hearing to add the use under the C-H Zoning District.

Chairman Powell asked if the petitioners were aware of the deficiencies on the Concept Plan.

Attorney Slade replied that the deficiencies will be addressed on the Site Plan.

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Hearing no further comments, Jim Graw made a motion to approve the petition. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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Chairman Powell asked if there was any further business. He advised that a Workshop would be held immediately following the Public Hearing. He also advised that there are no rezoning petitions for the June Public Hearing.

Pete Frisina advised that a preliminary plat may be added to the June Agenda, as well as, ordinance amendments.

There being no further business, Jim Graw made the motion to adjourn the Public Meeting/Workshop. The motion for adjournment unanimously passed 5-0. The Public Hearing adjourned at 7:48 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

DOUG POWELL
CHAIRMAN

ROBYN S. WILSON
SECRETARY