

THE FAYETTE COUNTY PLANNING COMMISSION met on October 18, 2012 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

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

MEMBERS ABSENT: Douglas Powell

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Hank Meyers, Marshal

Welcome and Call to Order:

Chairman Thoms called the Planning Commission Meeting to order. Chairman Thoms introduced the Commission Members, Staff, and Marshall. Chairman Thoms also stated that Rick Duncan of the Bank of Georgia, and Dan Davis and Larry Seabolt of Integrated Science and Engineering (ISE) were present.

* * * * *

1. **Consideration of the Minutes for the Meeting Held on October 4, 2012.**

Chairman Thoms asked the Planning Commission members if they had any comments or changes to the minutes. Al Gilbert made a motion to approve the minutes. Bill Beckwith seconded the motion. The motion unanimously passed 4-0. Members voting in favor of approval were: Chairman Tim Thoms, Al Gilbert, Bill Beckwith, and Jim Graw. Doug Powell was absent.

NEW BUSINESS:

2. **Consideration of a Variance request (V/A 003-12) for Watercress Minor Subdivision, Bank of Georgia, Owner and Dan Davis, Agent, Integrated Science and Engineering, Inc. from the Fayette County Subdivision Regulations, Section 8-505.(c). Contiguous Areas for Residential Development. This property is zoned A-R and is located in Land Lot 3 of the 4th District, and fronts on 85 Connector and Mask Road.**

Chairman Thoms asked Dennis Dutton to read the request. Chairman Thoms asked the applicants if they wanted to proceed due to the absence of one Planning Commissioner since it takes three votes to carry a motion and he added that he had recently done a tree identification survey in Morrow for (ISE) but he would not recuse himself from this request as the tree identification survey in Morrow had no bearing on the variance request.

Dan Davis stated the property was located on 85 Connector and Mask Road and was originally a 95 acre tract. He said the property was sold and a developer intended to subdivide the property in 2007

Page 2
October 18, 2012
PC Meeting

and this was at a time when the County did not review the subdivision of property with lots of five (5) acres or greater and the developer sold four lots before losing the property to the bank in 2009. He said the County adopted the contiguous area requirements in 2006 and the requirement for all subdivisions of property to be reviewed by the County in 2010. He said, except of one (1) lot, the remaining proposed lots do not meet the current two (2) acre contiguous area requirements for A-R.

Larry Seabolt stated that he worked with the County on some of these amendments in 2006 and his understanding was there were lots being created in the County with very little buildable area due to floodplain, watershed protection, etc. He added his understanding from Phil Mallon was contiguous area for the typical five (5) acre A-R lot with 250 feet of width minus the setbacks was 2.4 acres of building area with no floodplain or watershed protection and staff recommended two (2) acres.

Al Gilbert said the Planning Commission did not review the contiguous area requirement in the Subdivision Regulations.

Chairman Thoms added that the Subdivision Regulations are not required to come through the Planning Commission.

Jim Graw asked Larry Seabolt if he was involved in the Subdivision Regulations amendments made in 2006. Larry Seabolt said a number of engineers and developers gave input on the amendments.

Dan Davis said, as evidenced by the original plat, lot 1 has the least amount of contiguous area with .43 acres, lot 2 with .74 acres, lot 3 with 1.0 acres, lot 4 with .8 acres, lot 5 with 1.66 acres, lot 6 with 1.83 acres, lot 8 with 2.49 acres, lot 12 with 1.33 acres and lot 13 with 1.43 acres.

Chairman Thoms asked what the contiguous area is on lot 7 that was sold. Dan Davis said that he did not calculate the contiguous area on lot 7 but it was probably between two (2) to three (3) acres.

Dan Davis said lots 1 and 2 were combined to get more contiguous area and the rest of the lot lines were adjusted on the lots fronting 85 Connector and the County's right of way requirement of 50 feet from the centerline of 85 Connector decreased the lots and contiguous area. He said the contiguous area for lots 1 and 2 combined is 1.05 acres, lot 3 is 1.3 acres, lot 4 is 1.37 acres, and lot 5 is 1.47 acres.

Jim Graw said that combined lots 1 and 2 are really .6 acres. Dan Davis said that is correct.

Dan Davis said the Bank of Georgia tried to buy more land to add to these lots but was unsuccessful.

Dan Davis said he had drawings showing where a large house, pool, septic system and a barn could be placed on each of the proposed lots. He said each lot had adequate space for these structures.

Page 3
October 18, 2012
PC Meeting

Jim Graw said combined lots 1 and 2 were the most impacted.

Dan Davis said there is also an issue with the location of the front building lines on lots 12 and 13 as they have to be parallel to the street frontage and that reduces the contiguous area even more. Dennis Dutton confirmed for the Planning Commission that the front building line runs parallel to the street frontage. Dan Davis said now lot 12 has 1.04 contiguous acres and lot 13 has 1.13 contiguous acres.

Bill Beckwith asked when the regulations related to the front building line were changed. Dennis Dutton said he thought it was in 2008, but it was just redefined, not really changed.

Chairman Thoms asked if there was anything else the applicant wanted to add.

Dan Davis said he felt the lots have ample building room.

Jim Graw asked when a bank lends money for a development does the bank check all of the rules and regulations. Rick Duncan said that back when development was happening at a faster rate the banks didn't have time to research each loan but now that things have slowed down the banks do more research now.

Chairman Thoms said now that the presentation is over the request is brought back to the Commission for discussion and he said Dennis Dutton had the definition in the zoning ordinance for the front yard.

Dennis Dutton said the definition of a front building line states that it runs parallel to the street.

Bill Beckwith said it seems that intent of the contiguous area was to provide for room to build on a lot and also give the developer a little bit of flexibility to lay out lots. Bill Beckwith said that what was presented tonight shows him that given the situation these lots have some merit.

Jim Graw asked if the intent of the contiguous area was to provide enough room to build a house and accessory structures such as a pool and out buildings. Dan Davis said he thought it was those lots with floodplain and watershed that sometimes had very little buildable area although they had a total of five (5) acres.

Chairman Thoms said he talked to Phil Mallon and that was the intent to provide ample building area on a typical lot. Chairman Thoms asked was the loan for the original 95 acres and then as lots were sold part of the loan/security was released. Dan Davis replied as the individual lots were sold a warranty deed and survey plat was recorded and then that portion of the 95 acres was released from the loan.

Page 4
October 18, 2012
PC Meeting

Chairman Thoms said the contiguous area was adopted in March of 2006 and the original plat was drawn in August of 2006 so these lots should have met the contiguous area. Larry Seabolt said that the requirement under the old subdivision regulation only applied to Preliminary and Final Plats and didn't apply until 2010 when the Subdivision Regulations were amended to require a the review of lots that were five (5) acres. Dennis Dutton said that the County would not have known if contiguous area was required or not, since it wasn't reviewed.

Jim Graw asked if the lots were good for septic systems. Dan Davis said a soil scientist did a soils study for each lot.

Chairman Thoms asked when the property was foreclosed. Rick Duncan replied in 2009.

Chairman Thoms asked if the Planning Commission denies the variance where does the applicant go next. Dennis Dutton said the applicant can then go the Board of Commissioners and if the Board of Commissioners denies the appeal the applicant can go to court.

Chairman Thoms stated that lots can be combined and some lots have been combined to increase the contiguous area and how far did the applicant go to meet the contiguous area. Rick Duncan said the bank is trying to minimize their loss.

Chairman Thoms asked if the hardship is they are trying to get 14 lots because if they get 10 lots it is not a hardship.

Jim Graw said the applicant has shown that each lot can contain a house, pool, barn and septic system. He said that two (2) acres of contiguous area is required but he doesn't know if two (2) acres is good or one acre or 1.5 acres is good, but .6 acres is not good.

Al Gilbert said that the hardship is the bank got stuck with the property during a time when the County changed their ordinances and while the lots don't have two (2) acres of contiguous area it has been shown that a number of structures and a septic system can fit on the lots, and they did combine two (2) lots.

Larry Seabolt stated that a set of covenants were recorded for these proposed lots and they addressed house size, architecture and landscaping.

Jim Graw asked what makes this a Minor Subdivision Plat. Dennis Dutton replied that it doesn't require a new street and when the Minor Subdivision Plat is submitted it will require Planning Commission approval.

Chairman Thoms asked if right of way was required when the individual lots were recorded. Dennis

Page 5
October 18, 2012
PC Meeting

Dutton replied that since they didn't go through staff review or approval, right of way was not taken. Larry Seabolt stated the individual surveys recorded for the lots that were previously sold indicated an area of possible future right of way.

Jim Graw asked how much property was taken from each lot with the additional 25 feet of right of way on 85 Connector. Dan Davis said the amounts were indicated on the second plat submitted for the variance request.

Al Gilbert made a motion to approve the variance request to reduce the contiguous area on the proposed lots based on submitted plat dated revised on 10/5/12 and Bill Beckwith seconded the motion. Chairman Thoms said if the motion is per the drawing of the contiguous area for lots 12 and 13 are not indicated correctly based on the earlier discussion of where the front building line is located. At this point Bill Beckwith withdrew his second and Al Gilbert restated the motion to approve the variance request to reduce the contiguous area on the proposed lots based on submitted plat dated revised on 10/5/12 excluding proposed lots 12 and 13 and Bill Beckwith seconded the motion. Chairman Thoms said he assumed that lots 12 and 13 would be addressed in a separate motion. Al Gilbert said that would be the case as he didn't want to make this anymore confusing. Jim Graw said a second motion would be needed to address the contiguous are on lots 12 and 13 and the front building line issue. Dennis Dutton stated that the front building line issue was part of the Zoning Ordinance and could only be varied by the Zoning Board of Appeals as the Planning Commission can only vary the Subdivision Regulations. At this point Bill Beckwith withdrew his second and Al Gilbert withdrew his motion.

A discussion ensued as to what was being requested, what the Planning Commission could approve, and how can it be accomplished. It was confirmed from the discussion that any variance to the front building line issue for lots 12 and 13 could only be addressed by the Zoning Board of Appeals

Jim Graw made the motion to approve the variance request for contiguous area based on the plat revised on 10/5/12 and Bill Beckwith seconded the motion. Chairman Thoms called the question and the motion passed 4-0. Doug Powell was absent.

Jim Graw suggested that he would like someone to ask the Engineering Department that when changes are made to the Subdivision Regulations and/or Development Regulations, that involve the Planning Commission in some way, that the Engineering Department bring those changes to the Planning Commission for review and input. Tonight we were asked to approve a variance request to the Subdivision Regulations based on an undue hardship. We didn't have any criteria established in the Subdivision Regulations like we have in the Zoning Ordinance (for a LNS rezoning) on which to make a decision regarding an undue hardship variance. As a result, the variance approval/ denial to the contiguous area is left entirely to our own individual discretion and judgment.

Page 6
October 18, 2012
PC Meeting

Chairman Thoms said that he would like to require drawings of the lots, similar to the ones presented tonight, which indicate a certain numbers of structures can fit on the lot.

Larry Seabolt suggested that flag lots not have a front, side, or rear yard, especially when they are so far off of the road.

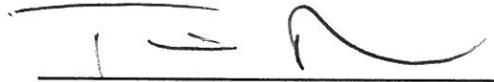
Chairman Thoms asked if there was any further business. Hearing none, Al Gilbert made a motion to adjourn the Meeting. The motion unanimously passed 4-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Bill Beckwith, and Jim Graw. Doug Powell was absent. The Meeting adjourned at 8:40 P.M.

PLANNING COMMISSION

OF

FAYETTE COUNTY

ATTEST:



TIM THOMS
CHAIRMAN
