

THE FAYETTE COUNTY PLANNING COMMISSION met on December 2, 2004 at 7:07 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Jim Graw, Chairman
Douglas Powell, Vice-Chairman
Bob Harbison
Bill Beckwith
Al Gilbert

MEMBERS ABSENT: None

STAFF PRESENT: Aaron Wheeler, Director of Zoning/Zoning Administrator
Chris Venice, Director of Planning/Community Development Division
Director
Delores Harrison, Zoning Technician
Ali Cox, Assistant County Attorney
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Sgt. Earl Williams

Welcome and Call to Order:

Chairman Graw called the meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present. He welcomed the students from Fayette County High School.

Chairman Graw and the other P.C. members wished Bob Harbison well since this was his last public hearing as he is retiring soon.

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1. Consideration of the Public Hearing Minutes of the Planning Commission meeting held on November 4, 2004.

Chairman Graw 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. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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2. Consideration of the Workshop Minutes of the Planning Commission meeting held on November 4, 2004.

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

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

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON DECEMBER 2, 2004 AND BY THE BOARD OF COMMISSIONERS ON JANUARY 13, 2005.

3. **Consideration of Petition No. 1134-04, Clayton O. Carmack, Owner, and Mukut Gupta, President of Crown Development, Agent, request to rezone 40.55 acres from A-R to C-S to develop a single-family residential subdivision consisting of 18 lots. This property is located in Land Lots 4 and 29 of the 5th District and fronts on Old Senoia Road.**

Al Gilbert stated he would be abstaining from any discussion and voting on the subject petition.

Mukut Gupta stated he was applying for a Conservation Subdivision on a 40 acre tract. He said that Staff had prepared a wonderful Staff Analysis and that he did not have much to add. He confirmed that the proposed development exceed the Land Use Plan classification of Low Density Residential 1 unit/1-2 acre. He reported that the proposed density is 1 unit per 2.08 acres which is beyond the upper limit of the Land Use Plan. He commented that the Conservation Subdivision was a wonderful designation which the County has adopted as it maintains roughly 50% of the property which will not be touched. He noted that the greenspace/conservation area will either be deeded to a Homeowner Association or to the Southern Conservation Trust. He added that the proposed development would not adversely affect the existing use or usability of adjacent or nearby property nor would it result in a burdensome use of roads, utilities, or schools. At this time, he introduced Becky Morris who is a Landscape Architect and Land Planner and would be presenting the rendering of the proposed development.

Becky Morris stated that in order to get the Conservation Subdivision (C-S) zoning, a yield plan must be approved which requires the subject property to be subdivided under the R-70 zoning district requirements. She explained that the yield plan would indicate the number of two (2) acre lots which could be yielded on the subject property and this would be the number of one (1) acre lots which could be requested under the C-S Zoning District. She said there would be walking trails, a gazebo, and picnic areas in the greenspace. She advised that the price of the homes would be in the upper \$300,000 range which is an addition to the community. She confirmed that there is only one (1) lot fronting Old Senoia Road and the other lots are shielded by the natural greenspace areas. She pointed out the drainage area on the subject property.

Chairman Graw 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.

Greg Powell stated that he lived north of the proposed development. He asked what was the original intent of the two (2) acre zoning in the County because this is one of the reasons he moved to this location since he felt protected. He said that the tracts in the area were two (2) acres and more. He commented that he would not have spent \$150,000 on an addition to his house had he known he was not going to be protected. He remarked that approval of this petition would do a disservice to the residents on Old Senoia Road. He stressed that he was totally opposed.

Delores Crowder stated that she lived across the street from the proposed entrance to the subject property. She asked what has changed from the prior request. She said that originally Mr. Gupta wanted to develop 28 single-family dwelling lots and now he is requested 18 one (1) acre lots. She remarked that the soils are unacceptable for septic systems and that the property in the area of the stream floods which she has witnessed. She commented that a 25 foot buffer along the stream is not sufficient. She said that there are wetlands directly across the street on the east side which flood into this area during rains. She stated that the picnic area, gazebo, and trails will probably be under water if there are substantial rains. She added that Lots 2, 3, and 4 would also probably be flooded. She reported that the density has not changed and the Commission previously reported that 85% of the adjacent property is zoned A-R. She confirmed that the one (1) acre lots will have a considerable impact on the adjacent A-R properties.

Ms. Crowder stated that her subdivision contains 29 lots and 41% are over three (3) acres, 55% are between two (2) and three (3) acres, and one (1) acre lots are not in the character of Old Senoia Road. She said that most of the existing houses are located approximately 400 feet off Old Senoia

Road and the proposed setback from Old Senoia Road is 75 feet with no buffer which is also not in character with the neighborhood. She added that she did not remove any trees on her property unless she had to because she wanted a buffer. She reported that Old Senoia Road is a minor thoroughfare which is used for a cut thru or short cut for motorists from the Redwine Recreation Center and the Bellmeade Subdivision which will consist of 88 lots which will make the traffic worse. She stated that the C-S zoning district was suppose to be designated for Low Density Residential 1 unit to 2 acres or Rural Residential 1 unit to 2-3 acres but there are five (5) acres to the side where this is being proposed. She stressed that nothing has changed since the previous petition. She pointed out that even if the property was developed under the A-R zoning district that the houses could not be located in the immediate front portion of the property because it floods. She reported that the Conservation Manuals state not to put any trail near a stream because it adversely affects the stream. She went on to say that this stream is not an intermittent stream because there is water in the stream all the time. She added that there is an underground spring on the back of the property where the lots are proposed that flows into the stream which is not even mentioned. She further added that the stream flows into Perry Creek which is protected greenspace because it empties into Whitewater Creek which is a main water supply stream for the County and the City. She commented that the septic tanks could have an effect on the stream especially if it floods.

Marshall Pritchett stated he had lived on Old Senoia Road for 22 years and owns a little over three (3) acres. He said that his house was constructed in 1982 and sets approximately 400 foot off Old Senoia Road. He expressed concern about increased traffic. He commented that he loved the country and the existing zoning should be maintained.

Theresa Durant stated that she lives adjacent to the proposed subdivision. She said that the property is swampy and she does not see how it will pass a perc test. She commented that even though she lives on a hill that her basement has been flooded five (5) times, two (2) times from septic backup and three (3) times from hurricane waters. She remarked that she was very upset about the proposed rezoning which would completely destroy her way of life on Old Senoia Road. She went on to say that she did not know how this many lots could be supported because it would increase traffic and school attendance. She asked the P.C. to disapprove the petition.

In rebuttal, Mr. Gupta stated that the proposed development complies with the Land Use Plan which is produced by the County. He said that the State and County has their own regulations for septic systems and a Level III Soil Study would be required prior to the issuance of any building permits. He added that the study would determine the water table and if it is coming from the spring or the 100 year flood. He confirmed that traffic would increase due to the development of 18 houses but according to the Department of Transportation or engineering standards there are acceptable and unacceptable standards. He added that based on the Staff Analysis, there are no detrimental affects.

At this time, Chairman Graw closed the floor from public comments.

Bob Harbison asked how a yield of 18 lots were determined.

Ms. Morris replied that a yield plan was developed under the R-70 requirements which resulted in 18 lots.

Mr. Harbison asked if lot which were unbuildable were excluded because of the wetlands.

Ms. Morris replied no because the lots were designed larger in the area of the bad soils to provide each lot with one section of good soils.

Mr. Harbison said that he did not have a problem with the concept but sees a problem because if the R-70 lot was unbuildable then it should not be considered.

Ms. Morris advised that the flow of the creek was placed between the lot lines so the drainage area did not flow through the middle of the lots but to the side or back as shown on Lots 2,3, and 4. She added that a Level III Soil Study would be required.

Mr. Gupta added that the R-70 lots met all the County standards and criteria and the yield plan has been reviewed by the Staff. He said that the yield plan indicated the setback from the floodplain and creek had been considered including the required storm drain retention area. He added that this was addressed in the Staff Analysis.

Doug Powell asked Mr. Gupta if he agreed to the recommended condition regarding access to Old Senoia Road.

Mr. Gupta replied yes sir.

Bill Beckwith commented that the Technical Review Committee Minutes state that the stream is an unnamed stream per the Engineering Department and according to their review, there is no indication of floodplain or wetlands so he is conflicted about the stream, but if the review is correct, Mr. Gupta has taken this into account in their proposed development.

Chairman Graw explained to the audience that the subject property is not going to stay A-R forever and will be rezoned at some point in the future. He commented that the P.C. tries to see that the rights of the owner/developer and the citizens is balanced. He confirmed that the developer is allowed to take the same number of houses yielded under the R-70 zoning district and petition to rezone to C-S with the same number of one (1) acre lots with open space.

Bill Beckwith made the motion to approve the petition subject to one (1) recommended condition. Doug Powell seconded the motion. The motion was approved 4-0-1 with Al Gilbert abstaining from the vote.

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4. Consideration of Petition No. 1135-04, Charles M. and Judith R. Wood, Owners/Agents, request to rezone 1.42 acres from A-R to R-40 to develop one (1) single-family dwelling lot. This property is located in Land Lot 120 of the 5th District and fronts on Callaway Road.

Charles Wood requested to rezone his nonconforming lot of record which is zoned A-R. He explained that he had previously filed for a Variance to construct a single-family dwelling since the setbacks for A-R are so great and was denied but advised to attempt to rezone the property to allow more lenient setbacks. He said that the subject property is unique in that it is pie-shaped and with the A-R setbacks would cause the proposed house to be located far back into the woods. He confirmed that his property abuts a subdivision which is zoned R-40. He reported that the subject property meets the R-40 guidelines and requested approval of the petition.

Chairman Graw 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.

Al Gilbert asked Mr. Wood if he agreed to the one (1) recommended condition concerning dedication of additional right-of-way.

Mr. Wood replied yes sir.

Doug Powell asked how the dedication of 40 feet from the centerline would affect the construction of the proposed single-family dwelling.

Mr. Wood replied that the 40 foot dedication is already indicated on the submitted plat.

Bob Harbison made a motion to approve the petition subject to the recommended condition. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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5. **Consideration of Petition No. RP-028-04, DMD Properties, LLC, Owner, and Mark Darby, Agent, request to subdivide Lot 3 of Bylock Acres into a 1.717 acre tract and a 1.513 acre lot. This property is located in Land Lot 34 of the 5th District, fronts on Redwine Road, and is zoned R-40.**

Mark Darby requested approval to subdivide Lot 3 into two (2) single-family dwelling lots. He confirmed that the petition had been approved by Staff.

Chairman Graw 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.

Lorraine Musselman stated that she lived next door to the subject property which was a seven (7) acre lot at the time. She explained that the subdivision of the seven (7) acres had changed the neighborhood since the tracts in the area ranged from five (5) to 25 acres. She asked if the subject property would meet the road frontage requirement.

Nickie Jantzen stated that there was a lot to the south located in between her property (Lot 1) and the subject property. She said she did not know if she was in opposition but wanted to know what is planned and what the impact would be since Mr. Darby has not contacted anyone in the neighborhood of his plans.

In rebuttal, Mr. Darby commented that the subject property is zoned R-40 which allows a one (1) to one and one-half (1.5) acre minimum lot sizes. He confirmed that the subject property meets and exceeds all of the R-40 standards including road frontage. He reported that there would be a 1.513 acre tract and a 1.717 acre tract.

At this time, Chairman Graw closed the floor from public comments. He asked why the subject property was being subdivided.

Mr. Darby replied to produce an additional building lot which could have been done with the original subdivision of the tract. He remarked that the house on Lot 3 will be rebuilt, remodeled, or refurbished. He added that the existing old sheds will be removed and the lot will be cleaned up.

Doug Powell asked if the existing house is vacant.

Mr. Darby replied yes sir.

Mr. Powell asked Mr. Darby about the encroachment of the existing septic field once the subject property is resubdivided.

Mr. Darby replied that either the septic fields will be rerouted or a new septic system will be installed.

Mr. Powell asked if there should be a condition placed on the petition regarding the septic field or will the technical review handle the situation.

Aaron Wheeler replied that the technical review would take care of the situation, however a condition is acceptable.

Mr. Powell replied that he did not want to add a condition if it is not necessary.

Mr. Darby confirmed that he was in agreed to the one (1) recommended condition regarding the dedication of additional right-of-way.

Bill Beckwith made a motion to approve the petition subject to the one (1) recommended condition. Al Gilbert seconded the motion.

Bob Harbison said he was hesitant to approve the petition since the property owners purchased their lot in a platted subdivision with a defined number of lots and he could not support the request.

Chairman Graw concurred.

Mr. Beckwith pointed out that none of the property owners were present to express their concern.

Mr. Wheeler stated that it would be possible to have off-site septic and requested that the motion be amended to add a condition to require on-site septic.

Al Gilbert withdrew his second.

Bill Beckwith revised his motion to approve the petition subject to the recommended condition by Staff and the following condition: That the applicant agrees to provide on-site septic for each lot prior to the recordation of the Revised Final Plat.

Al Gilbert seconded the motion.

Chairman Graw asked Mr. Darby if he understood both recommended conditions.

Mr. Darby replied yes sir.

Chairman Graw called for the vote. The motion passed 3-2 with Chairman Graw and Bob Harbison voting in opposition.

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6. Consideration of proposed amendments to the Fayette County Zoning Ordinance, Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1.B. Conditional Uses Allowed, 34. Self-Storage Facility.

Aaron Wheeler explained that the proposed amendment had been discussed at a previous Workshop. He advised that the amendment would permit covered storage of vehicles, boats, and trailers for a Self-Storage Facility.

Chairman Graw asked if there was any public comments. (Only Staff was present).

Hearing none, Bob Harbison made a motion to approve the proposed amendments. Doug Powell seconded the motion. The motion unanimously passed 5-0.

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7. Consideration of proposed amendments to the Fayette County Zoning Ordinance, Article V. General Provisions regarding Carports, Detached.

Aaron Wheeler explained that the proposed amendment had been discussed at a previous Workshop. He explained that the proposed amendment would regulate the placement of this type carport which is currently not permitted.

Chairman Graw asked if there was any public comments. (Only Staff was present).

Al Gilbert stated that he had ran into a person who installs this type carport and asked how this proposed amendment would affect him. He said that the person replied that it would not affect him because in the contract the homeowner is advised to permit the structure. He commented that the homeowner will not know that this ordinance exists, just like the mailbox ordinance, which makes him uneasy.

Doug Powell added that the County does not know about them until after they are built.

Chris Venice advised that the structure could be located in the setbacks, be over property lines, could reduce property values, and could be a potential hazard.

Mr. Gilbert replied that anything constructed in someone's yard could be a potential hazard.

Sgt. Earl Williams asked who will know if the structure is there prior to the ordinance and said that he has one in his back yard. He stated that people put this type structure beside their swimming pools all the time and it is used for outings in the summertime. He remarked that the Marshal's Office would be instructed to investigate a complaint about this type structure and the property owner would state that the structure has been on his property for the past five (5) years and asked why no one has been out before.

Mrs. Venice stressed that if this type structure was constructed five (5) years ago and they were not permitted then it must be removed. She added that this proposed amendment would provide regulations and provisions for them to keep the structure if it is in compliance.

Bob Harbison stated that there is no good answer, however the proposed ordinance provides some sort of control.

Chairman Graw concurred.

Mr. Harbison asked if this type structure could be permitted if it existed prior to the ordinance.

Mr. Wheeler replied that a building permit would have to be obtained and the structure brought into compliance if it was not in compliance.

Sgt. Williams stated that you do not get taxed on this type structure nor does your assessment go up.

Mr. Wheeler replied that it did not matter.

Mr. Harbison stated that it is not going to be perfect either way, however the proposed amendment does provide a better handle on the situation. He explained that if someone was required to remove their structure then they could report all of the other existing structures which should also be required to be removed and everybody is going to be mad.

Bob Harbison made a motion to approve the proposed amendment. Doug Powell seconded the motion. The motion passed 4-1 with Al Gilbert voting in opposition.

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8. Presentation to Bob Harbison.

Chairman Graw and the other P.C. members presented a Patsy Gullat matted and framed picture of a collage of historic Fayette County sites. The picture was presented on behalf of the P.C., the Planning Staff, and the Zoning Staff to Mr. Harbison for his past eight (8) years of dedicated and professional service. Chairman Graw said that for many years Mr. Harbison had been the voice of

reason on the P.C.

Mr. Harbison thanked everyone for the gift and stated that it has been a pleasure working with the P.C. and Staff. He said he would miss everyone but was looking forward to retirement on his lake. He added that this presentation meant a lot to him.

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Chairman Graw asked if there was any further business.

There being no further business, Doug Powell made the motion to adjourn the meeting. Al Gilbert seconded the motion. The motion for adjournment unanimously passed 5-0. The meeting adjourned at 8:12 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

JIM GRAW
CHAIRMAN

ROBYN S. WILSON
SECRETARY