

BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman
Edward Gibbons, Vice Chairman
Eric K. Maxwell
Charles W. Oddo
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. Smith, County Clerk
Marlena Edwards, Chief Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

September 22, 2022
5:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 5:00 p.m.

Call to Order

Chairman Hearn called the September 22, 2022 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present.

Invocation and Pledge of Allegiance by Commissioner Charles Rousseau

Commissioner Charles Rousseau offered the Invocation and led the Board and audience in the Pledge of Allegiance.

Acceptance of Agenda

Commissioner Oddo moved to accept the agenda as written. Vice Chairman Gibbons seconded. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

PUBLIC HEARING:

- 1. Consideration of Petition No. 1321-22A, Lyssa M. Sampson, Trustee under Madelyn J. Chennault Living Trust, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road.**

Planning and Zoning Director Deborah Bell stated that the first request consisted of three separate petitions that were a part of the same project proposal. As a result, items 1-3 were related. She stated that she would provide a brief overview of each petition, but each parcel would be the subject of its own public hearing. Mrs. Bell stated that the request to annex this property was denied by the City of Fayetteville under the annexation step one process. The Council was not in support of the Applicant deeding a 10' strip of land along the property frontage to avoid establishing an unincorporated island to the north. She stated that the request was to rezone all three parcels, a total of 37.915 acres, from R-70 to C-C to construct a car dealership and service center. These parcels front on South Sandy Creek Road and State Route 54 and the current zoning of all three parcels, was R-70 single-family residential two-acres. Mrs. Bell stated that the parcels along Highway 54 are non-conforming single-family properties that have existing single-family residential building now. They are non-conforming primarily because they do not meet the current minimum lot size and setback requirements for R-70. Mrs. Bell stated that the adjacent parcels included a one-acre, non-conforming, residential parcel also on State Route 54 and is sandwiched in-between the subject property and the City of Fayetteville property. She added that there was also a vacant 15-acre parcel to the north which was zoned R-70. Mrs. Bell noted that a change to commercial zoning and uses would isolate that one-acre parcel along State Route 54 in-between commercial property and the City of Fayetteville and would similarly isolate the 15-acre property to the north. Mrs. Bell stated that the current

land use along this area was for office- institutional uses. She reiterated that the applicant request was to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center. Mrs. Bell stated that staff recommended denial of the request because the request was inconsistent with the Fayette County Comprehensive Plan.

County Attorney Dennis Davenport provided an overview of the Public Hearing process. He stated that there would be a series of public hearings in which the petitioners would have the opportunity to provide the request to the Board of Commissioners. Subsequently, anyone who wished to speak in favor of the petition would be invited to come forward. He added that each side, in favor and in opposition, would have twenty-minutes total to speak. He noted that if there are commenters with similar arguments or thoughts, they may want to designate a spokesperson to make comments for the group. Mr. Davenport stated that after the petitioner and those in favor have spoken then anyone wanting to speak in opposition to the petition would have their opportunity to do so. He asked that each commenter fill out a public comment card provided, which helped to keep a record of who was speaking. He continued that once arguments for those in opposition are made, if the petitioner wished, they would have the opportunity to rebut if time remains. At the conclusion of the rebuttal, if any, the public hearing would be closed as signified by the Chairman and the item would be brought to the Board for discussion by the Board only.

Richard Lindsey representing David Burnett and Christopher Chitwood provided the Board a brief overview of the proposal. Mr. Lindsey stated that Mr. Burnett was the owner of Fayetteville Ford and Mr. Chitwood was the manager of the dealership. He stated that the request was to rezone about 40-acres on the northeast corner of Sandy Creek Road and Highway 54 from R-70 to C-C, with the desire to relocate the Fayetteville Ford dealership. As noted, this project did consist of three different parcels. Mr. Lindsey stated that he would be willing to combine all three public hearings into one discussion, although he was aware that a vote for each was required.

Mr. Davenport stated that the Board would call for three public hearings, to the extent that there were no comments on the second or third hearing that would be fine.

Mr. Lindsey continued that the property in question consisted of about 40-acres and included three separate parcels and was on Sandy Creek Road across from the Fayette Piedmont Hospital. He stated that this was an area that was largely commercial. He stated that there was a hotel, a bank, a large retail shopping center, and not far from the Trilith Studios and development. Mr. Lindsey stated that the current residential zoning was out of touch with current reality and the current use of the surrounding properties. He stated that the County recognized this and in 2017 identified it in the Future Land Use Plan as being office-institutional. However, there were other parcels along this corridor on Highway 54, both in the County and City of Fayetteville, that were already zoned for office- institutional and some of which had been developed but large portion of which was not. He stated that the reality of the marketplace was that there was an excess of office-institutional properties available and would not be conducive to add more to this area of the county. He stated that Mr. Chitwood and Mr. Burnett were proposing to relocate the dealership from its current, rather old facility to this subject property. The use of the dealership would produce less traffic than a medical office. He noted that the traffic from the dealership would be far less than what would be seen from a medical office. Mr. Lindsey stated that the plan was to heavily landscape the property to situate the dealership on the property to minimize the impact on Highway 54 and Sandy Creek and to make the dealership an attractive asset to this area of the county. He stated that the old view of dealerships with acres of asphalt and tons of parked vehicles, was an antiquated image of the past. Mr. Lindsey stated that the more modern dealerships have less asphalt, and more transactions and viewings are done online with the ability to have vehicles shipped to the location for an in-person viewing and purchase. He stated that Mr. Chitwood and Mr. Burnett envisioned developing a modern dealership with attractive landscaping and building design and would like to have, franchise rules pending, a multi-dealership facility. This would create a centralized location where the various dealerships could share services, making it more cost effective. He stated that the overall goal was to create a facility that was a destination for car enthusiasts. He noted that some of the new trends was to add recreational opportunities to the dealership sometimes on the inside, however at this property, an outdoor attraction would be the better option. Mr. Lindsey stated that his clients were considering including walking trails, dog parks, a putting green, and possible pickleball court. Things that customers and their children can do while at the dealership during the car-buying process or while waiting for their car to be serviced. He stated that these were some of the features the new modern dealerships throughout the country were including in their design. Mr. Lindsey stated that with the desire to move to a more modern design, the current location did not work and would be mix-matched considering the desired design, features, layout and logistics of the current property in the downtown Fayetteville area. He stated

that during the Planning Commission meeting there were citizens who spoke in opposition of this development expressing concerns regarding water run-off from the dealership and its effect on the environment traffic concerns. He noted that the State of Georgia, the Federal government, as well as local government had strict laws and ordinances that regulate and address water run-off. He briefly outlined water run-off regulations and procedures that would have to be followed. Mr. Lindsey stated a major citizen concern was the lake that was stationed downhill from the subject property. He highlighted that his clients wanted to ensure that nothing happened to the lake or any of the properties in the area. He stated that those who violated state law would be penalized and fined heavily. As a result of all these factors, designs would go into place to make sure that the water run-off was maintained and treated properly, and no pollutants would be allowed off the site. He stated that the other major concern from the Planning Commission meeting was related to an increase in traffic. Mr. Lindsey reiterated that traffic studies would show that the number of vehicles that would be generated from the dealership would be far less in comparison to that of a medical office facility on 40-acres. He stated that Fayetteville Ford wanted to work with the surrounding community and citizens to ensure this was a successful project and added that it lived and died based on its reputation in the local community and had been a tremendous corporate citizen of the community for decades and this would not change. Mr. Lindsey stated that it was the goal of his client to develop a first-class high-end dealership that would be an asset to the community. Mr. Lindsey concluded his statement, that he was aware that if approved, there were a few conditions in place, which his clients did review and were agreeable to.

The following citizens spoke in favor of the request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road. John Donadeo, Jason Character, Mike Starr, Steven Gallucci, and Shawn Braxton. Comments in favor of the rezoning request included the current over saturation and underused office-institutional zoning, Fayetteville Ford reputation as a "good" neighbor, the growing desire to develop an area where citizens can live, shop, work, and play in Fayette County, Fayetteville Ford would build the property with care and concern for the environment and community, the draw of a world class facility, the convenience for residence this dealership would provide, and growth in commerce and diversity.

The following citizens spoke in opposition of the request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road. John Sciera, Henry Jackson, Vanessa Smith, Dr. Williams, Robert Barham, JD Holmes, and Sandra Carpenter. Comments in opposition of the rezoning request included the fact that this rezoning would go against the Fayette County Comprehensive Plan, water runoff issues, potential lake contamination, environmental concerns, noise and site lighting concerns, traffic concerns, less than ideal location for car dealership, and the subject property could be better used as a medical office.

Mr. Davenport stated in highlighting a location map of the subject property, included in the agenda package, that the big area that the arrow was pointing to, shared the same tax parcel ID as a smaller parcel on the other side of Sandy Creek Road. He stated that the smaller triangular parcel was not a part of this rezoning request, only the larger portion. Mr. Davenport stated that procedurally, the Board had an anomaly that normally did not occur with respect to rezonings. He continued that the Board had case authority in Fayette County that required the Board to hold public hearings for multiple parcels of the same development. There were two additional parcels within this development, so it would probably be appropriate to read the next item and start the next public hearing.

Chairman Hearn asked if it would be appropriate to continue the discussion of item #1 with the Board and take the voter or should the Board wait until after the Public Hearing of the remaining two items for discussion and vote by the Board.

Mr. Davenport stated that the reason he brought it up now was because whatever vote decided on for item #1 by the Board would influence the subsequent items related to this project. As a result, the best course of action would be to handle the public hearing of all three before the Board took a vote.

Commissioner Gibbons stated that he would prefer moving forward with the discussion and vote for item #1, rather than moving on to the proceeding items first.

Commissioner Maxwell moved to have all three public hearings before any vote was taken by the Board of Commissioners. He stated that he would like to follow the advice provided by the County Attorney.

Commissioner Maxwell moved to have all three public hearing before any vote was taken by the Board of Commissioners. Commissioner Rousseau seconded. The motion passed 4-1, with Vice Chairman Gibbons voting in opposition.

Mrs. Bell stated that item #2 was Petition No. 1321-22B, Evelyn Morgan, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West.

Vice Chairman Gibbons stated that he disagreed with the one-minute extension, provided to each side at the end of the previous public hearing. He stated that he felt that should be a one-time occurrence and not something that would set a precedence going forward.

Mr. Lindsey stated that he had nothing further to add as it related to the petition. He stated that it would be his position that there not be continuation of public hearings.

The following citizens spoke in favor of Petition No. 1321-22B, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West. Lela Peterson, David Garthan. Comments included being open to change and growth and working with the dealership to build a facility that the community could be proud of.

The following citizens spoke in opposition of Petition No. 1321-22B, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West. Matthew Astrata, Phil Deets, Angela Hall, Dion Thomas-Stalis, Dr. Williams, Christina Astrata, Varner Holmes, Nancy Barham, Diana Deets, Comments included the loss of the beauty of the area, reiteration of this rezoning going against the Fayette County Comprehensive Plan, the desire for additional medical facilities in the area; specifically one that services veterans, residents present are directly affected by this project, reiteration of potential lake contamination and environmental concerns, and who was the county growing for; the commercial interest or the residents the Board claimed to support.

Mr. Davenport stated that if the petitioner would like to rebut, he could do so at this time.

Mr. Lindsey stated in response to some of the comments that his client would still own the current Fayetteville dealership location and if this request was approved that dealership would be redeveloped and would not become a blighted property in Fayetteville.

Mrs. Bell stated that item #3 was Petition No. 1321-22C, Estate of Leonard R. Ebert and Judith Ebert, c/o Leslie Noles, Owners; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.210 acres from R-70 to C-C to construct a car dealership and service center in Land Lot 128, 5th District; fronts on S.R. 54 West and South Sandy Creek Road.

Mr. Lindsey stated that he had nothing further to add.

Chairman Hearn asked for those who wanted to speak in favor of the petition.

No one spoke in favor.

The following citizens spoke in opposition of Petition No. 1321-22C, Estate of Leonard R. Ebert and Judith Ebert, c/o Leslie Noles, Owners; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.210 acres from R-70 to C-C to construct a car dealership and service center in Land Lot 128, 5th District; fronts on S.R. 54 West and South Sandy Creek Road. Sandra Carpenter, Matthew Astrata, and David Applegate. Comments included a reiteration of the loss of the beauty and quiet and tranquility of the area, site lighting disturbance concerns, potential for more commercial development to come to the proposed area.

Mr. Lindsey had no rebuttal.

Commissioner Oddo asked if the property was zoned C-C what could go there besides an auto dealership.

Mrs. Bell stated that the C-C zoning had a long list of permitted uses as well as some additional conditional uses that was allowed.

Commissioner Oddo asked how far the Highway 54 overlay district extend?

Mrs. Bell stated that the Highway 54 overlay covered the entire Highway 54 corridor of 54 West between the City of Fayetteville and the City of Peachtree City. It imposes additional buffer requirements, setback requirements, and architectural standards.

Commissioner Oddo asked if any property in the overlay district had been rezoned as something other than O& I.

Mrs. Bell stated that she was not aware of the history of rezonings along highway 54, in terms of time frame.

Commissioner Oddo asked if there was anything being considered for the smaller parcel that was not a part of the rezoning request.

Mr. Lindsey stated that parcel was not under contract, and he was not allowed to even consider it as an option.

Commissioner Oddo stated that there were a lot of points being made on both sides that were worthy of discussion, but it was really the type of discussion that should take place when discussions are being had about changing the Land Use Plan, because they may have merit at the point in the conversation. He stated that his biggest concern was rezoning to something that is not there and how it would affect the area in the future. Commissioner Oddo stated that the Board had been in situations in past where properties had been rezoned outside of the Land Use Plan and the Board ended up being sued, which caused him concern. He stated that personally, although not familiar with auto dealership development, he loved the proposal. Commissioner Oddo stated that he had been a customer of the dealership and appreciated the Fayetteville Ford. His concern was related to going against the Land Use Plan. Commissioner Odd stated that he was not against discussion and considerations of changing the Land Use Plan, but that would need to be done first. He stated that if the dealership had conformed to the Land Use Plan that was in place it would be a no-brainer but approving it now would be making a big change.

Vice Chairman Gibbons asked a procedural question and noted that no motion had been made but discussion was occurring and suggested that a motion should be made.

Commissioner Oddo moved to deny Petition No. 1321-22A, Lyssa M. Sampson, Trustee under Madelyn J. Chennault Living Trust, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road. Commissioner Rousseau seconded.

Vice Chairman Gibbons thanked everyone that attended the meeting and spoke, both for and against this project. He stated that he was sympathetic to the petitioners request to move the dealership to the proposed location, with the desire to build a more modern facility. He stated that he was all about maintaining successful business in Fayette County especially when owned by residents of Fayette County.

Vice Chairman Gibbons reminded those who spoke in opposition that the subject property was zoned office-institutional and would not remain wooded forever. Eventually that property would be developed and have a parking lot of some sort. He noted that the same concerns that was relayed regarding the car dealership about Flint River would apply to the next potential development. Vice Chairman Gibbons stated he was a veteran and loved Fayette County, which was why he served on the Board. He stated that he did support staying consist with the County's Land Use Plan but he was also very certain that when the

next commercial/institutional development that made a request in this area, the same audience would be present at the Board meeting in opposition and his response would be, "What does the County Land Use Plan say?"

Commissioner Rousseau asked the County Administrator in response to some of the comments to investigate claims of violations, silt run-off issues, and chemical contaminations if associated with the County to make sure the dealership was adhering to county ordinances. Commissioner Rousseau stated that his colleagues had expressed some of the things the Board had to consider in terms of the Land Use Plan. He encouraged the citizens to attend the meeting related to the Land Use Plan and its review so they could be a part of the discussion of how "good growth" was developed. He stated that he echoed the comments of his colleague to the Ford dealership, noting that the Board did not want to see them leave and appreciated them for their services. Commissioner Rousseau stated that he would like to see an alternate location because this one created a hurdle for the Board in respect to land use.

Commissioner Oddo moved to deny Petition No. 1321-22A, Lyssa M. Sampson, Trustee under Madelyn J. Chennault Living Trust, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road. Commissioner Rousseau seconded. The motion failed 2-3, with Chairman Hearn, Vice Chairman Gibbons and Commissioner Maxwell voting in opposition.

Vice Chairman Gibbons moved to approve Petition No. 1321-22A, Lyssa M. Sampson, Trustee under Madelyn J. Chennault Living Trust, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 37.915 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on South Sandy Creek Road, with four (4) conditions. Commissioner Maxwell seconded. The motion passed 3-2, with Commissioner Oddo and Commissioner Rousseau voting in opposition.

2. Consideration of Petition No. 1321-22B, Evelyn Morgan, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West.

Vice Chairman Gibbons moved to approve Petition No. 1321-22B, Evelyn Morgan, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West, with outlined conditions. Commissioner Maxwell seconded.

Mr. Lindsey stated that his clients did agree to the outlined conditions.

Vice Chairman Gibbons moved to approve Petition No. 1321-22B, Evelyn Morgan, Owner; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.769 acres from R-70 to C-C to construct a car dealership and service center; property located in Land Lot 128, 5th District and fronts on S.R. 54 West, with five (5) conditions. Commissioner Maxwell seconded. The motion passed 3-2 with Commissioner Oddo and Commissioner Rousseau voting in opposition.

3. Consideration of Petition No. 1321-22C, Estate of Leonard R. Ebert and Judith Ebert, c/o Leslie Noles, Owners; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.210 acres from R-70 to C-C to construct a car dealership and service center in Land Lot 128, 5th District; fronts on S.R. 54 West and South Sandy Creek Road.

Vice Chairman Gibbons moved to approve Petition No. 1321-22C, Estate of Leonard R. Ebert and Judith Ebert, c/o Leslie Noles, Owners; Richard P. Lindsey, Attorney, Agent for Christopher Chitwood and David Burnett, request to rezone 1.210 acres from R-70 to C-C to construct a car dealership and service center in Land Lot 128, 5th District; fronts on S.R. 54 West and South Sandy Creek Road, with five (5) conditions. Commissioner Maxwell seconded. The motion passed 3-2, Commissioner Oddo and Commissioner Rousseau voting in opposition.

4. Consideration of amendments to the Land Use Element and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay at S.R. 74, S.R. 85 and Padgett Road intersection.

Mrs. Bell stated that this request was related to a unique situation in the Starrs Mill Historic District. She stated that the intersection at State Route 74, State Route 85 and Padgett Road had a unique land element called Limited Commercial One. She continued that a few months prior five parcels on the northern corner of this intersection had been rezoned commercial. That rezoning was the catalyst for the amendment currently before the Board. Mrs. Bell stated that this amendment would bring the Land Use Plan into alignment with the previously approved rezoning. She stated that the recommendation was to change the element Limited Commercial One in the Land Use Plan to Commercial, which would then be in alignment with the previously approved commercial rezoning on the corner.

Chairman Hearn as a point of clarification and in looking at the site map, asked which parcels were currently zoned commercial.

Mrs. Bell stated that in looking at the site map provided in the agenda packet, the property noted in red on the northwest corner was currently zoned commercial. She stated that this rezoning was led by the previous Planning and Zoning Director, Pete Frisina and it was his recommendation to follow up and amend the Land Use Plan. She stated that the discussion had been to change Limited Commercial One in this district, to Commercial. The Starrs Mill Overlay would still be in place as it related to the buffer, architectural standards. This amendment would not change the overlay standard but simply change the land use element.

No one spoke in favor.

Jimmy McCollugh expressed his frustration and urged the Board to remain consistent in how they adhered to and applied the Land Use Plan, this would help the citizenry know what to expect.

Commissioner Maxwell asked why this was being done.

Mr. Davenport stated that it was his understanding that this was before the Board as it related to the actions taken by the Board several months prior, where property that was land used for Limited Commercial One was not supportive of the rezoning because the Board, at that time decided that the area should be looked at to handle a more intense use, which was reflected in the vote. Mr. Davenport stated that the Planning staff was then charged to go back and evaluate and bring back to the Board what they perceived the direction to be, which was currently before the Board for consideration. Mr. Davenport continued that the northwest, northeast, southwest corner, all land used at Limited Commercial One, with the northwest corner rezoned to a commercial designation which was not supported by Limited Commercial One. The thought process was to take those three nodes of northwest, northeast, southwest, and change the Land Use Plan to support a commercial use which was more intense than the Limited Commercial One zoning and supported Board action from several months ago and laid the foundation for that intersection to support a more intense use.

Commissioner Maxwell stated that he was one of the Board members that pushed for this several months ago. He stated that the reason he was willing to do so was because this area had changed so much over the past 50 years. Commissioner Maxwell stated that from his recollection there had been some special conditions placed on the deed restrictions of about four or five lots on the northeast corner in this area. He asked if those same conditions would transfer to these properties as part of this new zoning.

Mr. Davenport stated that there were no restrictions, to his knowledge, that were placed upon the prior rezoning that would impact any property other than what was the subject of the rezoning. He stated that there was an overlay for architectural standards that would not change and were still in place.

Commissioner Maxwell stated that he thought there was a restriction on the number of pumps, as it related to a gas station.

Mr. Davenport stated that he believed that there were restrictions placed on the number of pumps, however those were conditions specific to that rezoning.

Commissioner Maxwell asked if the Board approved this amendment would this create a situation that would allow another applicant to make a request for a gas station with more pumps than was previously restricted by the Board in the same district.

Mr. Davenport stated that he could not say with certainty that the Board would be creating that type of problem. He continued that the county's zoning ordinance covered that use, and that use was regulated by either it being a permitted or conditional use. Mr. Davenport stated that to his understanding a gas station was a permitted use with applicable regulations. He added that when architectural standards were added, it gave the Board the ability to further regulate what was already in the zoning ordinance. Mr. Davenport stated that if it was the desire of the Board to further regulate the area due to something that was going to impact the entire area, it was not going to happen with respect to the Land Use but with respect to an overlay or on an individual basis. The tension on the individual basis scenario was that if someone had the right to an 8-pump gas station it would be difficult to condition them to a 4-pump gas station if the zoning ordinance allowed it.

Commissioner Maxwell stated that this was his point. This was essentially destroying the plan they approved a few months prior.

Commissioner Oddo moved to deny amendments to the Land Use Element and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay at S.R. 74, S.R. 85 and Padgett Road intersection. Commissioner Rousseau seconded.

Commissioner Oddo stated that he had the benefit of history as it related to this item. He stated that at that time the idea was to preserve the historic appearance of the area and the way they did it was to utilize the two commercial (LC1 and LC2) districts. He stated that when this was voted on in 2016 it was a real issue. He noted that he had been in favor of a gas station with more of an historic appearance and even provided pictures, but he ultimately was out voted. Commissioner Oddo stated that 6-months ago the Board could have made it an LC2 district, which would have allowed the gas station. He stated that he wanted to do as much as possible to maintain the historic appearance of that area, keeping Starrs Mill as the focus.

Vice Chairman Gibbons asked Mr. Davenport if the Board moved to deny this item would that render item #5 moot.

Mr. Davenport stated no.

Commissioner Oddo moved to deny amendments to the Land Use Element and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay at S.R. 74, S.R. 85 and Padgett Road intersection.

Commissioner Oddo moved to deny amendments to the Land Use Element and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay at S.R. 74, S.R. 85 and Padgett Road intersection. Commissioner Rousseau seconded. The motion passed 4-1, with Chairman Hearn voting in opposition.

5. Consideration of Petition No. 1322-22, Robert C. Shell, Owner; LDO Fayette, LLC, represented by Patrice Frady, Agent; request to rezone 12.582 acres from A-R to C-C to develop a convenience store with fuels sales and with retail tenant space; property located in Land Lot 8 of the 6th District and fronts on Padgett Road and S.R. 85/74.

Vice Chairman Gibbons moved to table Petition No. 1322-22, Robert C. Shell, Owner; LDO Fayette, LLC, represented by Patrice Frady, Agent, request to rezone 12.582 acres from A-R to C-C to develop a convenience store with fuels sales and with retail tenant space; property located in Land Lot 8 of the 6th District and fronts on Padgett Road and S.R. 85/74 to the October 27, 2022 Board of Commissioners meeting.

Commissioner Oddo asked, before considering a table, if the Board could make a motion to approve this item to a LC2. He stated that it would accommodate those in the area.

Chairman Hearn stated that the Board had to resolve the table motion first.

Vice Chairman Gibbons moved to table Petition No. 1322-22, Robert C. Shell, Owner; LDO Fayette, LLC, represented by Patrice Frady, Agent, request to rezone 12.582 acres from A-R to C-C to develop a convenience store with fuels sales and with retail tenant space; property located in Land Lot 8 of the 6th District and fronts on Padgett Road and S.R. 85/74 to the October 27, 2022 Board of Commissioners meeting. The motion passed 4-1, with Commissioner Oddo voting in opposition.

PUBLIC COMMENT:

Melody Williams of Fayetteville stated that she was a part of the Homeowners Association for Haddonstone subdivision. Ms. Williams stated that she was requesting an extension of the golf cart path from her subdivision into Fayetteville.

Anthony Smith of Fayetteville reiterated the desire of the residents of Haddonstone subdivision to have the golf cart path extended into Fayetteville.

CONSENT AGENDA:

Vice Chairman Gibbons moved to accept the Consent Agenda as written. Commissioner Oddo seconded. The motion passed 5-0.

6. **Approval of staff's recommendation to award Contract #2125-P, Development Impact Fee Study, to Ross Associates in the amount of \$77,400.00 and to fund the contract through transfer of \$77,400.00 in the mid-year budget adjustments.**
7. **Approval of staff's recommendation to adopt final supplemental budget adjustments for the fiscal year ended June 30, 2022, and authorization to adjust and close capital projects, moving remaining funds to project contingency.**
8. **Approval of the September 8, 2022 Board of Commissioners Meeting Minutes.**

OLD BUSINESS:

NEW BUSINESS:

9. **Request to award Contract #2167-B to Amwaste of Georgia, LLC for operation of Fayette County's Municipal Solid Waste (MSW) Transfer Station located on First Manassas Mile Road.**

Public Works Director Phil Mallon stated that this request was seeking Board approval to award Contract #2167-B to Amwaste of Georgia, LLC for operation of Fayette County's Municipal Solid Waste (MSW) Transfer Station. Mr. Mallon stated that there was, what some may consider, substantial changes to the fee structure at the transfer station. Mr. Mallon provided the Board a brief overview of the new operations. He stated that the hours would remain the same; Monday- Saturday, 7:00 a.m. to 4:30 p.m. He noted that similar to the current operations, the new contractor was responsible for everything in the transfer station area. This included signage, directing traffic, customer service, assessing fees, fee collection, handling waste, recyclables, and hauling the trash off to its ultimate disposal. Mr. Mallon stated that the County would continue to maintain the yard waste/green waste areas. The contractors would collect the fees and reimburse the County once a month based on the materials delivered. He stated that there would continue to be a non-scaled flat rate for minimal quantities (two cubic yards), but that rates had increased. No cost recycling would continue for those that bring in clean recyclable material. Mr. Mallon stated that this was a five-year contract with options for one-year renewals if both parties agreed. As owner of the facility, Fayette County was entitled to a host fee per state law. He added that this fee was negotiated through the bid process and would be \$2 per ton of waste regardless of value. Mr. Mallon added that the contractor had agreed to make \$100K worth of improvements to the facility. He added that if approved, the County would work with Amwaste to develop and implement a safety plan to include safety improvements, property aesthetics, and/or operation improvements. Mr. Mallon briefly reviewed the new fee structure. He stated that currently customers could pay as little as \$4 to dispose trash. Under this new contract, the flat rate began at a minimum of \$15. He stated that the fee increase was partly intentional because, at \$4, the rest of the county had been subsidizing those users for several years because the service cost more than what was being charged. Mr. Mallon stated that the cheap cost at the transfer station was attracting

customers from neighboring counties, creating a high traffic volume. Mr. Mallon stated that it was not unusual to have wait times of 1-2 hours to dispose trash. He stated that the scale rate was \$43 per ton plus fees. Fees were roughly \$11. Mr. Mallon added that this rate was subject to change. Green waste would be set at a flat rate of \$15 per vehicle and a scale rate of \$43 per ton. Tire and/or mattress disposal would be at \$20 each. "Other" items included furniture, computers, televisions, appliances, and trampolines to be set at either a flat rate or scale rate and would be set at the discretion of the contractor.

Chairman Hearn asked what the "fees" were as it related to the scale rate.

Michael Cosmin with Amwaste stated that the fees included fuel surcharges, environmental fees, and the host fee.

Commissioner Rousseau stated that he was disappointed that the contract did not outline in detail what the \$100K improvement would consist of. He asked if Amwaste operated in the metro area.

Mr. Mallon stated yes, they have a presence in Fayette in the local area and a stronger presence out of Alabama.

Mr. Cosmin stated yes, Amwaste had a landfill in Lamar County, and hauling companies in Zebulon, West Point, LaGrange, and noted that they were also just awarded the Newnan contract.

Commissioner Rousseau asked if there had been any analysis done on costs for running the Transfer Station in-house.

County Administrator stated yes, they did about 10-12 analysis regarding the logistics and operations of running the Transfer Station in-house and partially in-house.

Commissioner Rousseau asked that, if approved he would like to have a public education campaign be put in place to educate the public regarding the changes at the Transfer Station. He also asked, if approved was there an official start date for the new vendor.

Mr. Mallon stated that, if approved it would be a 24-hour transition. He added that the County had been pleased with both the existing vendor and Amwaste and was confident in their ability to quickly transition. Mr. Mallon stated that, if approved the Transfer Station would be closed Saturday, October 1st to facilitate the transition with operations resuming Monday, October 3rd.

Mr. Rapson reminded the Board that the current service in place with Waste Management had been extended and was set to terminate at the end of September. October 1st had always been scheduled to serve as the transition date of service. Mr. Rapson added that, if approved the \$100K worth of improvement would go towards signage, aesthetics, and logistics which would improve the customer experience at the Transfer Station.

Commissioner Rousseau stated that he would like to see analysis on the flow of traffic for customer only dumping recyclables and encouraged increased signage to help decrease wait times and potentially creating a lane specifically for these customers. Commissioner Rousseau asked if the Transfer Station accepted large appliances.

Mr. Mallon stated yes those had always been accepted, except for refrigerators.

Vice Chairman Gibbons moved to approve Contract #2167-B to Amwaste of Georgia, LLC for operation of Fayette County's Municipal Solid Waste (MSW) Transfer Station located on First Manassas Mile Road. Commissioner Oddo seconded.

Vice Chairman Gibbons asked if the safety plan was included in the original proposal.

Mr. Mallon stated that it was a condition of the bid.

Vice Chairman Gibbons also asked if the County was the approvers of the final safety plan.

Mr. Mallon stated that the County reviewed and provided comments to ensure a thoughtful plan was in place, but specifically wrote it so that the County was not the approvers. The Transfer Station was their operation and responsibility.

Vice Chairman Gibbons stated that it was his suggestion for the future that the detail site safety plan be included as one of the evaluated items in a proposal. He outlined the process of having the vendors visit the site to comprise the plan, during the proposal process. This would allow the County to know in advance what was included in the safety plan prior to approval. He also noted that this was not a seamless transition because there was downtime where the Transfer Station would not be operational. He suggested considering a transition plan in future procurements.

Chairman Hearn stated that he was thrilled to have a new service vendor for the Transfer Station. He stated that he looked forward to working with Amwaste creating a good partnership.

Vice Chairman Gibbons moved to approve Contract #2167-B to Amwaste of Georgia, LLC for operation of Fayette County's Municipal Solid Waste (MSW) Transfer Station located on First Manassas Mile Road. Commissioner Oddo seconded. The motion passed 5-0.

10. Request to award Task Order 07 (not to exceed value of \$227,063) to POND for design of a roundabout at the intersection of Veterans Parkway and Eastin Road (project R-5I) and allocation of \$128,000 from the 2004 SPLOST project I-13 to pay for design.

Commissioner Rousseau moved to approve to award Task Order 07 (not to exceed value of \$227,063) to POND for design of a roundabout at the intersection of Veterans Parkway and Eastin Road (project R-5I) and allocation of \$128,000 from the 2004 SPLOST project I-13 to pay for design. Commissioner Oddo seconded. The motion passed 5-0.

ADMINISTRATOR'S REPORTS:

A: Contract #2150-S: FlowCam Monitoring Software

Mr. Rapson stated that the Ebenezer Church Road bridge reopening had to be delayed until October 28th due to a delay in the guardrail installation even though the bridge was complete.

He reiterated that the Transfer Station would be closed Saturday, October 1st to facilitate the on-boarding of Amwaste and would be fully operational Monday, October 3rd. He added that a detailed list of the \$100K worth of improvement would be provided to the Board in the coming week.

ATTORNEY'S REPORTS:

Notice of Executive Session: County Attorney Dennis Davenport stated that there was one items for Executive Session. One item involving threatened litigation.

COMMISSIONERS' REPORTS:

Commissioner Rousseau

Commissioner Rousseau apologized to Chairman Hearn for the confusion during the vote of Public Hearing items 1-3. He stated that he thought the Chairman Hearn had misstated. He added that he was truly surprised and discombobulated by the vote.

EXECUTIVE SESSION:

One item involving threatened litigation. Commissioner Oddo moved to go into Executive Session. Vice Chairman Gibbons seconded. The motion passed 5-0.

Commissioner Rousseau left the Board meeting prior to Execution Session.

The Board recessed into Executive Session at 7:58 p.m. and returned to Official Session at 8:06 p.m.

Return to Official Session: Commissioner Oddo moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Vice Chairman Gibbons seconded. The motion passed 4-0.

ADJOURNMENT:

Chairman Hearn moved to adjourn the September 22, 2022 Board of Commissioners meeting. Vice Chairman Gibbons seconded. The motion passed 4-0.

The September 22, 2022 Board of Commissioners meeting adjourned at 8:07 p.m.

Marlena M. Edwards, Chief Deputy County Clerk

Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 13th day of October 2022. Attachments are available upon request at the County Clerk's Office.

Marlena M. Edwards, Chief Deputy County Clerk