

THE FAYETTE COUNTY PLANNING COMMISSION met on April 7, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

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

MEMBERS ABSENT: None

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Bryan Keller, Environmental Programs Engineer
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Sgt. Earl Williams

STAFF ABSENT: Pete Frisina, Director of Community Development

Welcome and Call to Order:

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

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1. Consideration of the Public Meeting/Workshop Minutes held on March 3, 2011.

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Al Gilbert made the motion to approve the Public Meeting/Workshop Minutes. Doug Powell seconded the motion. The motion unanimously passed 5-0.

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2. Consideration of the Public Meeting/Workshop Minutes held on March 17, 2011.

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Doug Powell made the motion to approve the Public Meeting/Workshop Minutes. Bill Beckwith seconded the motion. The motion passed 4-0-1 with Chairman Thoms abstaining from the vote due to being absent from said Public Meeting/Workshop.

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3. **Consideration of Petition No. 1221-11, Storage Xxtra Hwy. 85, LLC, Owner, and Fred Rickman, Jr., Agent, request to rezone 18.139 acres from M-1 to PUD-PSBC to allow a mixture of uses within the O-I, C-C, C-H, and M-1 zoning districts. This property is located in Land Lot 200 of the 5th District and fronts on SR 85 North.**

Fred Rickman stated the revised information was included in the Staff Analysis. He added he had addressed the required corrections as requested by the Fire Marshal, the Planning Commission, and staff on the Development Plan and within the Letter of Intent.

Dennis Dutton confirmed the required correction had been addressed.

Chairman Thoms 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 pointed out this is the first request for the newly adopted zoning district. He advised the PC had previously held a Pre-Recommendation Meeting to discuss the proposed rezoning petition. He confirmed the items had been addressed.

Al Gilbert made a motion to approve the petition. Doug Powell seconded the motion.

Doug Powell commented the PC had discussed the newly adopted zoning district since 2005, and this zoning district seems to be a good fit as a business incubator and is a good product.

Chairman Thoms stated Mr. Rickman has been very forthcoming and has worked with both staff and the PC to come up with a very good product.

Hearing no further comments, Chairman Thoms called for the vote. 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.

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PC Public Hearing

4. **Consideration of Floodplain Variance No. 001-11, Flat Rock AME Church, Owners, and Bobby Bullard of Bullard Land Planning, Inc., Agent, request to reduce the minimum finished floor elevation (MFEE) less than three (3) feet above base flood elevation (BFE) of the detention pond. This property is located in Land Lot 26 of the 7th District, fronts on Old Chapel Road, and is zoned R-40 as presented by the Stormwater Management Department.**

Bobby Bullard, Agent, reported Flat Rock AME Church is the oldest African American congregation in Fayetteville and is a historical asset to Fayette County. He presented a power point presentation and pointed out the property is unusually shaped, is very long and narrow, and contains a cemetery on the east side of the church. He said there is only 3.5 feet of vertical difference in elevation in which to design a stormwater facility in order to reduce the peak flow to the downstream property owners. He stated the church wants to add a wing to the west side of the church to be utilized as a fellowship hall. He noted a detention facility is proposed for the downside of the building and the drain inlet in the front. He reported he had to determine what the 100 year flooding event is for both structures which have elevations of less than three (3) feet. He said the difference between the flood elevation and the proposed finished floor of the building is less than three (3) feet. He confirmed it would be very difficult to reduce peak flows and to treat stormwater quality and provide channel protection which is holding the one (1) year storm and then letting it out slowly over the next 24 hours. He commented the issue is the upstream water coming in from the adjacent four (4) acre tract is coming into the area where the addition is proposed. He noted the study indicated the elevation difference between the 100 year flood elevation of the detention pond and the proposed finished floor elevation of the building was 1.09 feet. He assured the PC the proposed design would not flood the building. He remarked the water flowed from the north to the south and the proposed detention pond would be downstream from the building. He commented the water will be held by the detention pond. He confirmed the wall of the detention pond is 220 feet long and lower than building. He reported the maximum flood elevation is 953.14 and the building elevation is 954.21. He said under the most extreme circumstances water flowing over a 220 foot wall could not rise up to the elevation of the building.

Mr. Bullard said the second draining source was the drain inlet in the front of the church. He commented the pipe and slopes would be designed for the capacity of the water coming to it. He reported the design was for a 100 year storm. He pointed out the study addressed what would happen if the weir box was clogged. He noted the study indicated the swales would be adequate to channel the water around the front of both buildings in an east and west direction.

Mr. Bullard suggested, if the variance was approved, that the following conditions be required: 1) detention pond as-built certification verifying the 100 year ponding elevation is at least one (1) vertical foot below the finished elevation of the building; 2) require storm line as-built certifying the 100 year ponding elevation is at least one (1) vertical foot below the finished floor building and the pipes are constructed at a minimum of at least one-half (1/2) percent; and 3) require grading certification verifying that the as-built swales constructed around the building are at least a one (1) percent slope or greater.

Chairman Thoms asked if there was anyone to speak in favor of the petition.

Ron Bishop, a member of Flat Rock AME Church, on the Trustee Board, and on the Building Committee stated he was in favor of the approval of the variance. He noted the church has never had any standing water from all the rain. He said the church is built on a slab and the water drains freely around the church.

Chairman Thoms 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.

Doug Powell asked Mr. Bishop how much experience he had with the church.

Mr. Bishop replied he had been with the church for at least six (6) years. He added he was a former industrial art teacher with some engineering background.

Bill Beckwith asked staff what the liability would be for the County if the PC approved the variance and water floods the building.

Bryan Keller replied he was unsure about the liability; however, the records must be maintained as part of the FEMA standards. He confirmed FEMA standards are one (1) foot above the floodplain elevation.

Doug Powell instructed Mr. Keller to ask the County Attorney for his ruling.

Mr. Keller replied he would ask the County Attorney.

Jim Graw pointed out the applicant stated: "The required three (3) feet FFE above the Area of Special Flood Hazard not obtainable." He asked what would need to be done to comply with the FFE.

Mr. Keller replied the floor could be raised to reach the three (3) feet which would include items like the air conditioning unit.

Mr. Graw asked what the hardship was because he did not understand if the building could be built at three (3) feet FFE.

Mr. Bullard replied the building is very close to the existing road and parking lot. He said if raised three (3) feet, the flood elevation would be an issue for the existing building. He noted it was real critical to the church that the addition be constructed at the same elevation. He added if the addition is raised, it would look like it is on stilts. He said the church is applying for more variances. He reported the hardship was the property is flat and topographic and the extreme unusual shape of the property. He commented aesthetically and functionally, if the building is raised three (3) feet off the ground it would not work. He pointed out the building could not flood because the wall is lower than the 100 year event. He reiterated the hardship is topographic and the shape of the property itself.

Mr. Graw asked if a ramp or stairs could be constructed between the two (2) buildings.

Mr. Bullard replied ADA accessibility would be required and a ramp would be eight (8) feet and 100 feet with a flat area every 30 feet of five (5) feet. He said the size of the building would have to be reduced plus the access would have to be relocated.

Mr. Powell confirmed the current FFE is 1.9 feet and there would be a 34 percent difference to comply with the three (3) foot requirement.

Mr. Bullard reported the separation is typically three (3) feet for residential and typically one (1) foot for commercial. He said you do not get into FEMA type floods until there is 100 acres and the abutting lot is only four (4) acres and it could not flood the building.

Al Gilbert asked what other variances were being requested before the ZBA.

Mr. Bullard replied: 1) enlargement of a legal nonconforming structure due to reduction of setbacks because of the dedication of right-of-way; 2) a 14 foot Variance to reduce the west side yard buffer from a minimum of 50 feet to a minimum of 35 feet; 3) a 17 foot Variance to reduce the rear yard buffer from a minimum of 50 feet to a minimum of 33 feet to allow required parking; and 4) an 11 foot Variance to reduce the rear yard setback from 25 feet to 14 feet to allow placement of the enhanced swale/detention facility.

Mr. Graw pointed out that there are three (3) criteria for granting a variance. He asked what the exceptional hardship was if the variance was denied.

Mr. Bullard replied because of the shape of the property and the slopes which would be required from the existing building and the existing parking lot along with the access to the building. He said functionally, you would not be able to get into the building. He added the lot has only a 3.5 foot slope which also makes it very difficult. He reported the building is 30 feet X 120 feet.

Ron Bishop explained it was very critical for the elevations of both buildings to be the same because there is no room for a ramp. He said the space allocated for the addition needed to be utilized for the congregation. He commented there is not a fellowship hall currently.

Chairman Thoms asked Mr. Bullard to expand on the residential vs commercial separation for 100 year flood elevations.

Mr. Bullard replied typically the 100 year flood elevation separation is one (1) foot for commercial but three (3) feet for residential.

Mr. Keller replied the North Metropolitan Watershed District Model Ordinance recommends a three (3) foot variation and the FEMA Model Ordinance requires a one (1) foot variation.

Mr. Gilbert asked Mr. Keller if he felt comfortable with the proposal.

Mr. Keller replied the detention pond is a constraining factor along with the required landscaping behind the detention pond. He said the study was very good; however, there is always a chance of flooding.

Mr. Powell commented the Floodplain Management Variance Procedures require requests to be heard and decided in accordance with procedures to be published in writing by the Stormwater Management Department. He asked if a report had been published.

Mr. Keller replied the Stormwater Management Department had denied the request.

Mr. Powell reiterated he wanted the County Attorney's answer regarding County liability if the variance is approved.

Mr. Beckwith concurred and suggested tabling the petition pending a ruling from the County Attorney.

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Mr. Gilbert concurred; however, if the PC was going to deny the petition for other reasons then the petition should not be tabled.

Chairman Thoms concurred.

Mr. Bullard stated the PC should feel very comfortable with the self-imposed conditions.

Mr. Graw questioned the PC being able to place conditions on a variance approval.

Mr. Keller advised the conditions are part of the requirement for the Stormwater Maintenance Plan which has to be signed by the Chairman of the BOC.

Chairman Thoms confirmed the PC makes the final decision on the variance request.

Mr. Keller replied he was correct.

Doug Powell made a motion to table the petition until the County Attorney can determine if the County would be held pecuniary liable for flood damage if the variance is approved. Bill Beckwith seconded the motion.

Robyn Wilson advised the petition should be tabled to a certain date so the public would know when it would be considered. She stated the PC has a Workshop scheduled for April 21, 2011, and the other variance requests would be heard by the ZBA on April 25, 2011.

Mr. Keller noted he would contact the County Attorney first thing Friday morning.

Doug Powell withdrew the motion. Bill Beckwith withdrew the second.

Doug Powell made a motion to table the petition until April 21, 2011, at which time the PC will expect to receive input from the County Attorney detailing any pecuniary liability for the County in the event of a flood. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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Chairman Thoms asked if there was any further business. He advised a Public Meeting/Workshop would be held after the Public Hearing.

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There being no further business, Jim Graw made the motion to adjourn the Public Hearing. Al Gilbert seconded the motion. The motion for adjournment unanimously passed 5-0. The Public Hearing adjourned at 7:57 P.M.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**TIM THOMS
CHAIRMAN**

**ROBYN S. WILSON
SECRETARY**