

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, July 28, 2005, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
Linda Wells, Vice Chair
Herb Frady
Peter Pfeifer
A.G. VanLandingham

STAFF MEMBERS PRESENT: Chris Venice, Acting County Administrator
William R. McNally, County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

Chairman Dunn called the meeting to order, offered the Invocation and led the Pledge to the Flag.

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to three minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

Minutes
July 28, 2005
Page 2

Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

PETITION NO. 1144-05:

Zoning Administrator Aaron Wheeler read Petition No. 1144-05, Cathryn Redwine Stephens and Elizabeth B. Stanley, Owners, and Jeff Ellis and R. M. Boyd, Agents, request to rezone 124.373 acres from R-75 to C-S to develop a proposed subdivision consisting of 46 single-family dwelling lots. He said this property was located in Land Lots 253 and 254 of the 4th District and fronts on S.R. 85 South. He said the Planning Commission recommended approval subject to one recommended condition (4-1) and Staff recommended approval with one recommended condition.

Jeff Ellis remarked that he was representing the property owners as well as developer of the property and one of the builders.

Chairman Dunn asked Mr. Ellis if the property owners were present.

Mr. Ellis replied no they were not.

Mr. Ellis remarked when they first approached this project they proceeded as if it was the two acre zoning. He said when a two acre zoning was used the goal was to maximize the lot yield. He said one would tend to compromise the topographical features in an effort to maximize the lots. He said they then looked at this project as a C-S under the new criteria with the Georgia Stormwater Management Manual and the guidelines that they proposed. He said as they went through the Manual and did the analysis, it became clear that they could find no compelling reason to not go after the conservation subdivision. He commented on the benefits of C-S zoning. He said there would be no increase in density from its present zoning; it would be in compliance with the Land Use Plan; and it was compatible with the surrounding areas. He said there would be fewer impervious areas for streets which would mean less county maintenance. He said they would preserve the undisturbed natural areas, reduce the areas of clearing and grading and avoid the environmentally sensitive areas and the steep slopes. He said this project also fit the design of the terrain and minimize erodible soils and preserve the riparian buffers as well as providing 47% green space. He noted that the one good thing that made such good sense about this approach was the topographical constraints.

Mr. Ellis asked for the Board's consideration to vote in favor of this request as a conservation subdivision. He said he would reserve any time that he had left for rebuttal.

Minutes
July 28, 2005
Page 3

Chairman Dunn asked if anyone wished to speak in support of this petition.

Leon Stinson, 120 Rebecca Court, Fayetteville said his home was located in the Rebecca Lakes Subdivision which was located down S.R. 85 off of Harp Road. He said the school was located just behind his home. He said he wanted a builder who would preserve the trees and the eco system and the basic beauty of the land there. He said after looking into this project and recognizing the Horseman's Run subdivision which was built by this developer, he was in full support of this project. He felt the project would increase property values in the surrounding area.

Chairman Dunn asked if anyone else wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to the project.

Chairman Dunn asked everyone opposed to stand so a count could be taken. He noted that six people stood in opposition.

Richard Braun, 185 Cedar Creek Court, Fayetteville remarked that in September of 2001 a developer approached this Board wanting to rezone this property to R-55 with one acre lots with a minimal 2,500 square foot house. He said at that time the Board did not approve that zoning although the Board did approve the property for R-75 zoning which was a two acre lot and a minimum 2,500 square foot house. He said now less than four years later another developer was seeking to rezone this property and again build this on one acre lots with a minimum house size of 2,100 square feet. He said as a former resident of Clayton County, he had seen this pattern of zoning requests from developers many times in the past. He said they usually had two things in common. He said they dilute the county's zoning requirements and they did not conform to the county's land use plan. He said the property owner and the county had a right to see that property was developed to its highest and best use. He said a two acre lot with a minimal house size of 2,500 square feet seemed to be a higher and better use than a one acre lot with a minimal house size of 2,100 square feet. He said it appeared in order to obtain an amount of designated green space that the zoning requirements were being downgraded. He felt the C-S zoning classification was a developer's dream. He said this would allow them to build on a smaller lot and also a smaller house size. He said the county's land use plan called for lot sizes of two to three acres for this area. He said it appeared that this property could be developed on two acre lots. He asked the Board to maintain the integrity of the county's land use plan and its decision of less than four years ago and uphold the present zoning of R-75. He said he did not know if it was feasible or not but he hoped there would be a blending of one and two acre lots.

Dr. Tom Grant, 195 Cedar Creek Court, Fayetteville remarked that he did not find out about this particular phase of the development until just a couple of days ago. He said he had walked this property many times because it abuts right up to the back of his property. He said he had noticed that even though the developer and the owner were wanting to do the

Minutes
July 28, 2005
Page 4

wetlands conservation type of construction in that area, during the rainy season there was a considerable amount of water runoff in that area. He said the developer would need to do quite a bit of reshaping of the land in order to prevent the runoff that he sees on a regular basis. He said he believed the reality to be that when this construction was started there would be a lot more erosion control problems and a lot more land alterations in order to satisfy the demands of the lot owners and the homes that were going to be built in that area. He said the other issue that he was really concerned about was the additional congestion that was going to be caused in that particular area for schools. He pointed out that the schools were already over crowded and over capacity. He felt the school system was not prepared to handle the overcrowding in a way that would not diminish the educational quality that citizens had come to expect from the schools in that area.

Chairman Dunn remarked that Mr. Ellis could now make his rebuttal statement.

Jeff Ellis remarked that the conservation subdivision helps in handling the stormwater runoff. He stated that Mr. Braun was kind enough to call him at home to ask him about the proposed subdivision. He said he appreciated that very much. He said Mr. Braun's concern was that the house size was 2,100 square feet and the other was at 2,500 square feet. He said after some thought about that, he said they would have no problem in raising the minimum house size to 2,500 for these lots. He said he could understand people wanting to protect their homes and the prices of their homes. He said they had no problem with 2,500 square feet.

Chairman Dunn asked if Mr. Ellis was agreeing to the 2,500 square feet house size. He asked if Mr. Ellis was making a self-imposed minimum house size of 2,500 square feet.

Mr. Ellis replied yes and said he would agree to this and it was not a problem.

Chairman Dunn asked if the Board had any questions.

Commissioner VanLandingham commented that he understood that this was not the final plat but the detention pond under the county's new ordinance was going to have a dedicated right-of-way to it and he did not see one on the proposed plan. He said he was sure that the county's Engineering Department would take care of that but he wanted to bring this to Mr. Ellis' attention.

Chairman Dunn asked if the Board had any further questions and there were none.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to approve Petition No. 1144-05 with two conditions (one recommended condition and one self-imposed condition), discussion followed.

Minutes
July 28, 2005
Page 5

Chairman Dunn asked if the Board could confirm that Mr. Ellis would accept the self-imposed condition for a minimum 2,500 square feet on the houses.

Attorney McNally remarked that Mr. Ellis had already agreed to accept the self-imposed minimum 2,500 square feet and this could be put in the motion.

Chairman Dunn said he wanted to clarify that there would be two conditions on this property.

Commissioner Frady said he wanted to make a comment to Dr. Grant. He said there would probably be fewer houses built on this than two acres. He said he understood that 53 houses could be built less than two acres and there would only be 46 houses now. He said this would not impact the schools and traffic any more than it would being built under the R-75.

Commissioner Pfeifer said he would support the motion but he wanted to comment on conservation subdivisions. He said he was uncomfortable with some of the county's classifications that the Zoning Commission was currently addressing. He said the Board would be discussing the EST classification later in the meeting that would also address lot size. He said he had typically voted in favor of most of the conservation subdivisions that have come before the Board. He said one of the things that he looks at and wanted to make clear was that he was only supportive of them if they make sense and if they fit the character of the area. He said this proposed development made sense to him because it would eliminate a problem that was discussed the last time and that was that it needed a second entrance. He said the only place to put one was down by the school. He said there was a great deal of discussion as to whom actually owned the easement and right-of-way and the issue of an entrance coming through school property. He said he saw now that if that road were extended it would project into the most sensitive runoff area on the entire property. He said this way there would be one entrance and it would still meet the requirements of the emergency services for distance. He felt this was a much better solution for this piece of property. He said he had spoken with Mr. Braun on the phone and he understood his concern was the house size as well.

Commissioner Wells said she wanted to echo what Commissioner Pfeifer had said in many respects. She felt this was a prime area for this type of a subdivision concept. She said she agreed with Commissioner Pfeifer in that she did not address these areas easily and she did not feel that they were a panacea. She felt this proposed development did address many of the issues that were unique to this particular area. She said the open space was right next to the A-R so that the dynamics of the northern part of this parcel were not being changed. She said she would like to respond to Mr. Braun's comments. She said one of his suggestions was to do a blending of one and two acre parcels. She said seven of the 46 lots that were being proposed were larger than one and a half acres. She said there was mixture of this in the development. She said most of the lots were larger than one acre

Minutes
July 28, 2005
Page 6

and seven of the lots were well in excess of one and a half acres. She said there was definitely a blending there. She commented on Dr. Grant's concern with the water runoff. She felt this would be an ideal way for the county to address this. She said this would give the county much more flexibility and a much better product. She commented on the congestion of the schools. She said unfortunately the State did not allow the county to build in anticipation of enrollment. She said if this development was approved at R-75 there could easily be 53 lots. She said now the subdivision would have seven fewer lots and maybe ten to fifteen fewer children. She felt this zoning would give the county the best usage of this particular area. She also stated that the developer had the reputation of being very reputable. She said she could appreciate the concerns of the people who spoke in opposition, but she felt this particular project was going to address those concerns and would be a positive for this community.

Commissioner VanLandingham said he had spoken with Mr. Braun and Mr. Ellis. He said at the time there was no way that he could assure Mr. Braun that Mr. Ellis would agree with the minimum 2,500 square foot home size. He said he did not know Jeff Ellis but he had seen the "foot prints" that he had left in Fayette County. He said Mr. Ellis was very, very particular about the houses that he builds and the quality that goes into them.

Chairman Dunn said he was very keenly aware of this piece of property and commented that he used to live in Whitewater Creek Subdivision. He said he was very concerned about keeping up the area of the county that it was in. He said when this request was previously brought to the Board, applicant had requested a one acre lot subdivision with 79 houses in it. He said it was not in accordance with the Land Use Plan and at that time the Board was not in favor of it either. He said the Board felt the plan consisted of too many houses. He stated there was also a problem with Christopher Road. He said they were going to bring the road directly beside the entrance to the existing subdivision. He said the Board could not deal with either one and it turned down the request. He said applicant has come back four years later but back with a much better product. He said applicant could have asked for 53 lots and they had not done that although it would have been in accordance with the zoning. He felt the Board preferred this application over a cookie cutter subdivision where a lot of homes were just carved out and all looked alike and the builder moves along to the next one. He said a lot more thought had gone into this project and a lot of the problems were solved. He said he felt having gone from the original request of 79 houses down now to 46 was better for everybody. He said he would also like to echo everything that had been said about Mr. Ellis. He remarked that Mr. Ellis' reputation was impeccable and he was certainly one of the better builders. He noted that the owners of this property were some of the older Fayette County families who were very concerned about Fayette County as well. He felt they had done well in making use of their property and not overwhelming the area around it. He said he would support this motion.

Minutes
July 28, 2005
Page 7

The motion carried 5-0. A copy of the one recommended condition and the one self-imposed condition, Staff's Analysis and Investigation, identified as "Attachment No.1", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1144-05, identified as "Attachment No. 2", follows these minutes and are made an official part hereof.

PETITION NO. 1145-05:

Zoning Administrator Aaron Wheeler read Petition No. 1145-05, Reese Developers, Inc., Owners, and Tom Reese, Agent, request to rezone 20.66 acres from A-R to O-I to develop a proposed office park consisting of 20 lots. He said this property was located in Land Lot 253 of the 4th District and fronted on S.R. 85 South and McBride Road. He said the Planning Commission recommended denial of O-I (4-0-1) and Staff recommended denial of O-I and approval of R-40 subject to two recommended conditions.

Tom Reese said he was the developer of the property. He presented a petition to the Board with thirty signatures showing support for this request. A copy of the petition, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He said the property was currently zoned agricultural. He said he was proposing an office park because he felt this was the highest and best use for this area. He said he would like to comment on the surrounding area. He remarked that directly across the street from the proposed development there was a school and a church. He said to the left of the proposed development there were two additional schools and to the left of that there was Kiwanis field. He said there were also two additional churches and down the road was a convenience store, cycle shop and a camper shop. He said in the very center of this property was a convenience store that was already zoned commercial. He said there was residential in the area but most of the residential property was located behind the proposed development. He remarked on the previous zoning discussed tonight and pointed out that subdivision was 850 feet off Georgia Highway 85. He said his proposed project was fronting on Georgia Highway 85.

Mr. Reese remarked that although this was zoned agricultural all of the properties were actually being used as office and institutional which was exactly what churches and schools were. He said the commercial zoning was located South of this project and also directly in front. He felt this area had transitioned over the last ten years. He said ten years ago one would not have seen all of the schools, parking lots, and all of the cars in those parking lots. He said it had just been a natural tendency to transition from agricultural into office and institutional. He said the photograph before the Board clearly demonstrated the transition that had taken place in this area. He pointed out that there were no subdivisions directly off of S.R. 85. He felt the corridor on S.R. 85 was definitely being transitioned into office and institutional and even commercial. He submitted to the Board that this would be the highest and best use for this property. He said the Land Use Plan called for agricultural but remarked that the Land Use Plan was a guideline and can change as this area had changed dramatically over the last ten years.

Minutes
July 28, 2005
Page 8

Mr. Reese further remarked if residential was put directly on S.R. 85 no one would want that. He said no one would buy a house directly behind a convenience store that was already zoned commercial that was directly on S.R. 85. He said this property was not even 850 feet deep from S.R. 85. He remarked that residential would just not be practical at all in this particular development. He said there were issues about traffic. He remarked that S.R. 85 was a major State highway. He said they were not requesting commercial which would increase traffic more than residential. He said they were asking for O-I which was very similar to residential as far as traffic was concerned.

Mr. Reese said he would like to comment on some of the issues that had come up. He said a lot of people were concerned about soils. He said they have had a Level III soils report done on this by a registered engineer. He remarked that the soils were good soils that were very capable of taking the system that they would design which would be a wastewater treatment facility that was a community system. He said that system would be approved by the State E.P.D. who was very stringent in their approval process. He said it would have to be an engineered system and the sewage would be addressed with that particular system on this property. He said this system would also create more green space. He said they wanted a quality development. He presented some pictures to the Board showing six buildings similar to this proposed project. He said some of the conditions that they would put into their restrictive covenants on this project would be that all buildings would be constructed of brick, stone, stucco or a combination thereof. He said vinyl, if used at all, would only be used for the eaves and windows but nothing as far as the exterior or main section of the building was concerned. He said they would have restrictive covenants on this office park. He said those covenants would address all of these issues as far as material and even the approval of the type buildings that they would require in there. He said there would be no vinyl buildings or condo type office buildings but first class office buildings. He said the utilities would all be underground and the lighting would be in there. He said some of the categories that were included in O-I would be colleges, universities, dance studios, health clubs, laboratories, and museums. He said those were businesses that they would not be putting in this building. He said he was looking for first class office space for people who lived in Fayette County and also worked in Fayette County. He remarked that all of the buildings would be built on site and no modular structures. He said it would also be heavily landscaped.

Mr. Reese further remarked that he would like to address the issue of how this proposed project would affect the environment. He said they would be leaving a 30 foot undisturbed buffer with a lot of good trees around this property. He said there was also a lot of green space where the septic system would go. He said there would also be a very nice park in the circle of office space. He remarked that stormwater would be a concern for any project of this nature therefore they would have a very strictly controlled stormwater runoff system that would be approved by the county and meet all of the requirements. He said the buffer would also offer additional protection against stormwater runoff that was a concern the last time. He said they were trying to address the environment. He commented on the noise

Minutes
July 28, 2005
Page 9

level in this area and felt it would be a lot less than what was already in this area. He noted there was the convenience store, all of the schools around it, and Kiwanis Field. He said it would be a positive issue for this to be an office park. He remarked on the issue of traffic. He said most office parks were closed after 5:00 p.m. or 6:00 p.m. and the cars gone. He said from the last submission they had reduced their number of lots by 10%. He said they had 22 lots and had reduced it down to 20 lots so that there would be less density. He said this project would produce more revenue from a tax standpoint than residential. He said these office buildings would be from \$750,000 to \$1.5 million and would not put additional children into the school system. He said this was a tax benefit from a revenue standpoint. He said there had been a lot of articles in the newspaper lately where a lot of counties and cities were looking at what kind of tax revenue this generated so this would be a positive effect from the tax standpoint.

Mr. Reese said people wanted to live and work in their community. He said they already had a lot of people who were interested in coming in to this office park. He stated that the payrolls generated from this type of office park would be really strong payrolls. He said one company who had expressed an interest in coming in had a payroll averaging over \$100,000 a person. He said they wanted people who lived and worked in this community and this could be accomplished by having this type of office park here. He said if the Board would look at what was happening in this area, the transition that was occurring and the fact that this project faced directly on Highway 85, that this would be the highest and best use. He said there were some people here tonight who supported this project and he asked that the Board recognize those people tonight.

Chairman Dunn asked if anyone wished to speak in favor of this request. He noted that 17 people stood in favor and three said they would like to speak.

Richard Dumas, 390 Birkdale Drive, Fayetteville said he had lived in Fayette County approximately 34 years. He said he had known Tom Reese for approximately 15 years or more. He said he was not a developer. He remarked that Tom Reese was a man of good character. He said everything that he knew about Tom was when he developed property or built on it, the project was done in a first class manner. He said it also enhanced the community around it. He said he was in the retail business and of the opinion that property that fronted on Georgia Highway 85 should be commercial or O-I. He said he lived in that general area in Whitewater Creek and it was not far from this project. He said he felt personally that it would be a good choice for the community to build this. He said the biggest issue was the character of the developer and what he had done in the past.

Larry Redding, 159 Hampton Road, Woolsey said he had a personal interest in this development. He said he would like to move his business into this office park. He said his business was currently located in an office park in Clayton County and had been there for the last twenty years. He said he felt after looking in the market place in Fayette County and the price of property around the hospital area or around the new Publix area it was cost

Minutes
July 28, 2005
Page 10

prohibitive for a small business to be able to build and maintain a piece of property and operate in this county. He said the majority of the partners in the company lived in Fayette County and they felt this was where they would like to spend their money and make an investment. He said they felt like the community was moving South. He said he was in a business that needed to follow the customer base and they felt that this area would be very good for them. He said they were currently in an office park and had been there for twenty years. He said pretty much the same thing occurred when they tried to build there. He said there had been some opposition but pointed out that they had been good neighbors. He said office parks were good neighbors for residential. He said they come to work, do their job and then go home. He said they did not loiter or walk through neighborhoods. He said if the Board would look at the direction of growth in Fayette County, it was going down Highway 85 and that was where it should be going. He said that area already looked commercial regardless of what the zoning was. He said they felt this would be a good move for their business and a good move for the county. He said they were familiar with Tom Reese's work and they would not be making this kind of investment if they did not think this was a good move for their company.

Mark Martin, 155 Jericho Lane, Fayetteville remarked that he lived just down the street from McBride Road which comes up right next to this piece of property on the S.R. 92 side. He said they had been through this process before. He said there were some concerned neighbors at the beginning of the construction and he said within a year's time they thanked them for what they had done. He said Tom Reese built very good buildings. He said they were very community oriented. He said he had lived there for the last twenty years and he did not want to devalue the properties in the surrounding area. He remarked that as far as commercial coming South down Highway 85, it was already there. He said there were already offices and institutions all over the place. He said there were three churches, three schools and a piece of property for sale just South of there that was going to be a childcare center. He said also approximately a half mile South of there was a very commercial area with a numerous number of trailers and lights which was basically a strip center. He said an office park would have professional people working there who come to work in the morning and leave around 6:00 p.m. He said people would not be loitering and they would be professionals. He said this development should not bring crime but bring good standing neighbors who care about the people around them. He said he noticed tonight on his way to the meeting that there were already pieces of property for sale just South of the location and just East. He said development was coming and this was the best usage of this area and was much better than having retail centers there.

Chairman Dunn asked if anyone else wished to speak in favor of this request. Hearing none, he asked if anyone wished to speak in opposition. He counted 24 people standing in opposition and eight wanted to speak.

Ann Daniel, 740 McBride Road, Fayetteville presented some pictures of her property for the Board's review. She said her house was the fourth house on the right on McBride

Minutes
July 28, 2005
Page 11

Road. She said she also worked at the US Station. She said Mr. Phillip's service station had been broken into many times and there was a potential for crime there. She said the pictures were from the last rain showing the road flooded out. She said the green space indicated on the map was where the septic, sewage and retention pond was going to be located. She said it was on 2.4 acres. She pointed out that her house was across the street from that and she lived on two acres. She said there was a school behind her house that used to have a lake back there. She said in her sale contract it stated that as long as there was water in that lake they had rights to it. She presented a petition to the Board. A copy of the petition, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

Tony Giordano, 165 Shamrock Drive, Fayetteville remarked that Mr. Reese was a little bit on the erroneous side. He said schools and churches were not commercial. He said he was made aware of this at the last meeting where the Board voted down Mr. Reese's zoning. He said the Land Use Plan was what he wanted to contain tonight. He said he wanted to contain this area to A-R zoning. He asked why State and local elected officials routinely allowed the loudly proclaimed property rights of developers to prevail over the property rights of average Georgians who lived and suffered downstream of developments. He said it was time that the property values and the rights of all Georgians and not just those of developers trying to maximize their profits at the expense of the people who lived downstream. He said he had two lots. He said one of the lots he wanted for his daughter to build a home. He said he had an engineering report that listed the type of soils that were in the ground. He said due to the water table, flooding and/or drainage problems there was a high probability of failure for conventional systems. He said a qualified soil classifier on site could best determine suitability based on specific site characteristics on a case by case basis. He said a regular septic tank would not be used on that property. He said the ground would not take it anymore. He presented the Board with photographs showing standing water on the property. He asked who was going to be responsible for the additional ground water tests after the project was completed to reassure and protect families against possible ground water contamination from this project.

Chairman Dunn said he assumed the pictures were taken after the last huge rain storm and Mr. Giordano replied yes that was correct.

Mr. Giordano questioned if the Board approved this request as presented if Mr. Reese could build anything he wanted to such as a three or four story building.

Chairman Dunn replied no, Mr. Reese could not do that and he would not do that.

Minutes
July 28, 2005
Page 12

Mr. Giordano asked to see the pictures of the proposed building that Mr. Reese wanted to build instead of the ones that were similar. He pointed out that the Board had voted this down six months ago and questioned why Mr. Reese was even here tonight. He did not feel that Mr. Reese had changed anything and he felt the Board should vote it down again.

Commissioner VanLandingham interjected that Mr. Reese had made a change and remarked that two lots were taken out of the proposal.

Mr. Giordano felt that would make no difference and remarked that there would still be 300 to 400 people working there. He expressed concern with the septic system handling this and the water runoff to the surrounding area.

Commissioner Frady asked Mr. Giordano if he had a septic tank and Mr. Giordano replied yes.

Mr. Giordano pointed out that the house next door to him sold in twelve days. He said he disagreed with Mr. Reese's comment that houses just would not sell in that area. He said people moved there for the Whitewater Creek schools.

Debbie Mathews, 740 Harp Road, Fayetteville said she had lived in Fayette County for over thirty years. She said she worked for a physician who was looking to purchase land to build a home in that area. She said that was until she found out that this project was being proposed. She said she disagreed that commercial buildings were in that area. She said they did not have to come down Highway 85 and they were not there. She said there were a lot of churches, schools and homes on Highway 85. She pointed out that the US gas station had been there since she moved there. She said she had children in school in that area and the traffic was just terrible. She said the residents in that area did not want the Highway 85 area to look like the Highway 85 Riverdale area. She said nobody wanted to live among commercial buildings and restaurants. She said this area along Highway 85 was just not like that and they did not want it to be like that.

Brenda Evans, 195 Shamrock Drive, Fayetteville said she had lived in Fayette County since 1966. She said in contrast to Tom Reese's statement that he had a petition with thirty signatures in favor of this project, the Board also had a petition with a little bit more than thirty signatures opposing this request. She said she would like to thank the Board of Commissioners for serving the voting citizens of Fayette County. She said she wanted to remind the Board that the health, safety and welfare of the voting citizens of Fayette County were at stake. She said the proposed rezoning would only increase or possibly make worse the situation and the area would not pass the perk test. She clarified that State Code 290-5-26-05 stated that septic systems shall be located down grade from wells or springs and the proposed community system would not be located down grade from a single well in the adjoining neighborhood. She said there was also a possibility that if this request was granted that construction could uncover gasoline or other contaminants in the

Minutes
July 28, 2005
Page 13

ground and have an even greater detrimental effect on the groundwater runoff. She said the proposed rezoning would be in direct conflict with the Fayette County Land Use Plan. She said the Fayette County Comprehensive Plan stated that the highest level of development intensity should be located in the unincorporated areas of Fayette County that offer a full range of infrastructure and a concentration of population densities. She said the proposed rezoning would create a burdensome use of Georgia Highway 85 and McBride Road resulting in approximately an additional 57,000 trips per day not to mention the traffic that was currently generated from the schools that was across the street from the property. She said 57,000 additional trips per day could have a major impact on the safety of the children and the staff at these schools. She said the Fayette County Comprehensive Plan also stated that the Board shall protect and enhance the existing neighborhoods by insuring that infield development is of compatible use, density and/or intensity and that adverse impacts on public facilities and transportation systems, the environment and the surrounding area would not occur. She said since this proposed petition for rezoning was not a natural transition, and result in an increase in traffic resulting in 57,000 trips each day, possibly uncover gasoline and other contaminants in the ground and potentially increase crime in the area, probably fail the perk test, contaminant the water supply of an entire neighborhood and most importantly not comply with the Land Use Plan that had afforded every voting citizen in this room the quality of life that they had found here in Fayette County. She said the voting citizens of Fayette County humbly and respectfully request that the Fayette County Commissioners elected by the people to represent them and to protect the zoning laws base its decision on what was right and not on dollars. She asked for the Board's consideration in denying this request.

Chairman Dunn asked Ms. Evans for the source of the 57,000 figure for trips.

Ms. Evans said this figure had come from Fayette County's Planning and Zoning Department.

Chairman Dunn remarked that the Planning and Zoning Department was in gross error. He said there was no way in the world that there was 57,000 trips per day. He said that figure should be somewhere between 1,000 and 2,000 trips per day. He said the Planning and Zoning Department had made a mistake and had amended this in the documents that the Board has.

Ms. Evans said she would also like to submit some photos of some drainage that comes straight down that area.

Commissioner VanLandingham questioned Ms. Evans about the comment she made regarding gasoline contaminant. He asked her where she had gotten that information.

Ms. Evans said there was the possibility of gasoline contamination from the gasoline station that was located there because all of that area sloped down hill. She said it was there

Minutes
July 28, 2005
Page 14

probably many years before all of the E.P.A. rulings were put in place. She said there was a possibility that it could be there after digging and uncovering takes place.

Commissioner VanLandingham said it would be a benefit to find that and keep it from the surrounding wells.

Ms. Evans said that was her point for asking the Board to deny this request.

Commissioner Frady interjected that if houses were built there, it could do the same thing.

Ms. Evans said she agreed that there might be that possibility.

Commissioner VanLandingham said this would be a moot point because the development would be one way or the other.

Kim Apodaca, 1502 Highway 85 South, Fayetteville said she lived in the house next door to this proposed office park facing Highway 85. She commented that the service station was pretty far away from her driveway and the trees so that did not bother her. She said it appeared that the driveway for the proposed development was going to be directly next to her driveway and mailbox. She said she did not feel that the buffer was enough between the project and her property. She said she just did not think this project fit there.

Dr. Tom Grant, 195 Cedar Creek Court, Fayetteville said he lived across the street from the gas station in The Woods Subdivision. He said he was not opposed to office parks and he commented that his office was located in an office park. He remarked that the issue he was concerned with were the businesses that an office park would attract and also the clientele that would come into that area. He said the office park that his practice was located in until just recently had three probation offices next door and the clientele frequenting those establishments were not savory. He said the kind of businesses that could locate there could not be mandated. He said while it was a place of commerce, no one could know for sure what might locate there. He said he was concerned about that too. He said he was also concerned about the increased traffic on Georgia Highway 85. He remarked that the traffic was already heavy in that area.

Wayne Evans, 195 Shamrock Drive, Fayetteville said he lived directly down stream from this proposed project. He commented on two issues that he was really concerned about. He said one was surface runoff and the other was runoff from underneath the surface. He remarked if the recent photos were compared to the 1994 flood, there was no comparison. He said there was a lot more pavement in the area and this was causing a lot more runoff. He said he was a direct neighbor of this property. He said he had two wells because when he built the house there was no county water. He noted that there was county water partially down the street now. He said one of his wells was a surface water well which was a shallow well and the other one was a deep well. He said he did not want these

Minutes
July 28, 2005
Page 15

contaminated and did not want to worry about it when these get contaminated. He said he was different from every person here tonight who was supporting this project to the point that he was a neighbor. He said he understood that Mr. Reese did not even live in Fayette County and Mr. Dumas lived in another area. He said he certainly hoped that the Board of Commissioners would support the Land Use Plan.

David Wilson, 754 McBride Road, Fayetteville said when he was present during the discussion the last time this was being considered, he had remarked on the reasons that he had chosen this area. He said he and his neighbors moved there because they liked being in a viable urban situation yet still being connected to things other than where they work. He said he really was not worried about what was going to occur eventually in that area and commented that everybody today would determine what happened in that area in the future.

Jasson Blackstock, 185 Shamrock Drive, Fayetteville said his home was located directly behind the septic tank. He said even with the 30 foot buffer zone, nobody would want to purchase their home. He said there would be lights shining from the office park through the buffer to their home. He said in the evening he and his friends sit outside and talk and with all of the trees that would be cut down there would be a lot of noise. He said his mother had asked him where he wanted to live and he had picked this house out of the twelve houses that they looked at. He remarked that his brother attended Whitewater High School and it would take him longer to get to school with the added development. He said there would be 22 offices in a small compact area.

Tim Thoms, 625 McBride Road, Fayetteville said he lived approximately a half mile down from Georgia Highway 85. He said people had spoken their heart tonight and said why everyone loved Fayette County and why they moved here. He said he did not care if there were 57,000 trips or 3,000 trips, but it was a lot more trips than if it was A-R zoning. He said the Board had just added 600 trips per day through another rezoning earlier tonight on this already Georgia Highway 85 and McBride Road. He said currently it was hard to come off McBride Road and onto Highway 85 in the morning unless somebody from Fayette County comes by and lets you out. He remarked there were also problems with the people traveling from Coweta County. He said the citizens were looking to the Board of Commissioners to stick with the Land Use Plan that he and a lot of his neighbors looked at when they purchased property here. He said he had lived here for 20 years and he had looked around here for ten years to find a spot that was going to be rural residential so he could farm. He said the property was developable and there were A-R properties being bought, sold and built on Highway 85 now. He said the petitioner had the opportunity to develop the property as it was zoned. He asked for the Board's consideration in this matter.

Chairman Dunn remarked that Mr. Reese would now have the opportunity for rebuttal.

Minutes
July 28, 2005
Page 16

Tom Reese commented on the concern regarding stormwater. He said this had been addressed with the water being detained on the property. He said the retention pond was engineered so that it would not affect anyone below the development. He said the people who commented on the stormwater were on the other side of the road and were being affected more by the school systems. He also commented that churches, schools, institutions were all office and institutional and not commercial. He said he was not asking for commercial in this area. He commented on the soils. He said he had done a Level III soils report here and these were good soils. He said the gentleman who discussed the soils has two lots with one having a house on it with a septic system and directly next door the soil was not good. He said this was the nature of soils. He said a person could have good soil and next door the soils could be bad. He said they had done a complete soils analysis on this project and there were a lot of good soils on this project and that was coming from an engineer.

Mr. Reese further remarked that he also discussed a transition. He said there was a transition. He said ten years ago there were no schools and only a couple of churches. He said since then there was a brand new church, three new schools, Kiwanis Field, cycle shop, convenience store and all of that had come up in just the last seven to eight years. He said there were no new houses being built on Highway 85 within this area. He said those were further South from this. He said Highway 85 was not conducive for residential use. He said the gasoline leakage contamination was also a concern for him. He said they had a Level I and a Level II environmental impact study done and there was no contamination around that onto this property from the service station. He pointed out that the buildings would not be leased buildings but would be owner occupied buildings. He said even though the Land Use Plan was agricultural there had been a transition in that area. He said he appreciated everyone's concerns but because of this area being on a major State highway and because of the transition that had occurred over the last ten years, there was no way he would ever put a residential area directly on Highway 85. He asked for the Board's consideration in approving his request.

Chairman Dunn asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to deny O-I and to approve R-70 for Petition No. 1145-05, discussion followed.

Commissioner Pfeifer agreed that there was A-R and R-40 bordering this piece of property and there was the one piece of C-H that was out of place where the convenience store was located. He said he did not believe this property should be C-S or O-I. He said it was true that there had been some growth coming down Highway 85 and if the Board approved this office park it would be guaranteeing that this would continue. He said this was how Riverdale started. He said some of the people speaking tonight about having offices in Clayton County and wanting to move to Fayette County. He said there was a reason for that. He remarked that was because Clayton County allowed this to go on and on and on.

Minutes
July 28, 2005
Page 17

He said this area was described as being transitioned and that was only if the Board says it gets transitioned. He said for the Board to turn this request down was for the future character of Fayette County. He said the reason he was recommending the zoning of R-70 was because the lots bordering this property were two acres to six acres. He said R-70 was a two acre minimum which he felt would give a transition from the commercial zoning.

Commissioner Frady said he had a problem with this. He said the citizens did not even want to see an office park and they certainly would not want to see the back of a service station. He said he certainly would not want to live there.

Commissioner Pfeifer said he lived across the street from a school and a service station and a golf course.

Commissioner Frady asked him if he had moved there before or after those businesses came in.

Commissioner Pfeifer replied that he moved there before.

Commissioner Frady said he was not in favor of land using property for something that did not bother anyone now for something that would have to go there in the future.

Commissioner VanLandingham said he disagreed with Commissioner Pfeifer on the basis of conversations he has had with developers. He said he had asked them if they would consider building houses behind a service station on Highway 85 South and he found none who would do it. He said that did not mean one could not sell a house down there but first there would have to be somebody willing to speculate and build a house and they would not do that. He felt it was strange that people would say that they did not want to live behind an office park but houses could be built there and they could be living behind a service station. He said it just did not seem quite fair to approach it from that direction. He said he had not changed his mind since the last time but he sees a little bit clearer the transition that could develop. He said there was development in that area now that just was not thought of ten years ago but it had happened and it had changed that neighborhood. He remarked that he had also grown up next to a school but it did not have a lighted ball field or ball games every night. He said these were things that were happening in that neighborhood now. He commented on the attraction of crime and said an office park would not be nearly as bad as what could be in a neighborhood. He said the Pavilion and Summit Point were places that attracted crime because that was where the money was. He said the businesses that were there were not going to transact cash transactions so there would not be a high crime area built in this neighborhood in an office park. He said he would support this request and he felt it would be a transition and be one of the best things that could happen in that area. He said an office park was a lot better than something that could go in there. He said A-R would allow many things that could be

Minutes
July 28, 2005
Page 18

built and this was the reason for the transition in that area. He said he felt the O-I would be a transition between the highway and the development that was behind it.

Commissioner Wells asked for clarification from Mr. Reese for the total approximate square footage for the twenty buildings.

Mr. Reese replied that they would probably range from 5,000 to 10,000 to 12,000 square feet per building. He felt it would be an average of 10,000 square feet per building.

Commissioner Wells said this would be 10,000 square feet per building and there were a total of twenty buildings.

Chairman Dunn remarked that the Zoning Department's estimates of traffic were based on each building being 5,000 square feet so their estimates would be substantially higher if the average building was 8,000 square feet.

Mr. Reese said the 8,000 square feet was just an estimate and interjected that it could be 5,000 square feet.

Chairman Dunn said it could be 5,000 square feet but it could be higher.

Commissioner Frady said he was concerned about the traffic situation and questioned if the office park would open their doors after school had started. He said most offices usually opened their doors after children go to school. He said he was trying to determine if there would be a conflict of traffic.

Commissioner Wells said this was really a difficult situation. She pointed out that Mr. Reese was known in the community for building quality buildings. She said she did not want anyone to think that what she was about to say was any reflection upon Mr. Reese's quality of building because it definitely was not. She said her biggest concern was whether or not one goes to the nuisance or the nuisance comes to them. She said the citizens who had already built there and have been living there because of a certain anticipation of a quality of life with a certain density. She said therefore they purchased their homes and moved there and that was something that drew them to the area. She said she would have to weigh very carefully if the Board would be voting to bring a nuisance or something different from what these citizens anticipated to their area once they had already purchased their property and have a certain expectation. She said on the other hand this could be a nice step down area and it could be a way for controlling the growth down Highway 85. She said Mr. Reese made some very important observations in that there has been a lot of development there and something that was not there ten years ago. She said that was called progress. She felt it was incumbent upon this Board to be very careful as to how that progress developed and what it looked like. She said the Board had been very careful in not creating a second Riverdale down Highway 85. She said Mr. Reese's building had

Minutes
July 28, 2005
Page 19

always been very high quality and could never be misconstrued for Riverdale, but what happens next would have to be considered. She said if twenty different offices were built here and five to ten years from now some of them were not rented and some of them were rented. She said Mr. Reese had stated that he was going to prohibit such things as an art gallery, college or university, dance studios, school, health club, fitness center, laboratory, medical or dental offices, museum or performing arts theater. She said that was wonderful and commented that Mr. Reese wanted to be a good neighbor. She said if someone purchased this building or another building and some time in the future those constraints could no longer be placed on it or Mr. Reese decided not to build on the property and it was already zoned O-I. She said somebody could then come in and build a school, performing arts theater or something that would have a tremendous impact on the community. She said the Board would have to weigh that very carefully because once this property was zoned O-I it could be developed O-I.

Commissioner Wells further remarked that the most compelling issue that got her attention was the fact that if each of the twenty buildings was 8,000 square feet that would be approximately 160,000 square feet. She said if it was developed as an R-70, an R-40 or even A-R the maximum square footage would probably be 24,000 square feet. She also commented on parking spaces and parking lots. She said according to Mr. Reese's statistics she believed that he said that 60% of it was going to be parking lots or impervious surfaces. She said added to the runoff of the water and the standing water and septic systems and wells in that area, she had a great deal of concern that this was going to have a tremendously negative impact on the people who were already there. She said these people had moved in that area anticipating a certain density and a certain lifestyle and now something wanted to come in that was very much different from that. She said the impact of the impervious surfaces would also be added to that with the possibility of runoff that would affect them and possibly their wells. She said she had a real sense that maybe this was not the right place to put this particular development regardless of how much of a quality development it would be. She said she had very, very serious concerns about the 60% paving of the total area and the runoff that could impact the area and the fact that these people were already there with certain expectations. She said Mr. Reese had said that the water runoff that would be retained was mostly coming from the schools. She felt that could not be guaranteed but she assumed the schools thought they were doing the same thing and there was negative impact. She said obviously all of the water could not be contained. She felt the impact was going to be too intrusive along that area. She pointed out that the surrounding area was zoned R-40 although most of that was not one acre but mostly two acres. She questioned if a step down would be R-70 or R-40 and said it was a hard decision to make. She said she just could not support O-I.

Commissioner VanLandingham said Commissioner Wells had brought up a very important point about bringing a nuisance in or moving next door to a nuisance. He said he wanted to make it perfectly clear that if he felt this would be a nuisance or a deterrent to this neighborhood, he could not vote for it. He said he strongly believed that it would not be and

Minutes
July 28, 2005
Page 20

that it would be a step down from the commercial from the highway to the existing neighborhood. He said he would not vote for this if he thought it was a nuisance.

Commissioner Wells clarified that nuisance was a legal terminology. She said it meant that something was being brought in that was not a general expectation whenever one moves there. She said this would be a wonderful development and she had no doubt of that, but if a wonderful development was brought into the center of something where it did not belong then it becomes a nuisance for the people who were already living there. She said the term nuisance was not meant to denigrate the development per se just the location of the particular development.

Commissioner Pfeifer said he did not know Mr. Reese but he knew a lot of people who did and they speak very highly of him. He said nothing he has said should be a reflection of Mr. Reese and the job that he does. He said he understands that his development was first class. He clarified that when he said this was about the future of Fayette County he was talking about what Commissioner Wells spoke about. He said once the Board awarded a zoning, all legal control was lost over what would go there. He said somebody could promise the Board all day long about what they would allow there and what they would not but if it was allowed by the approved zoning and they want to proceed in doing it then they could. He said there was a situation right now in the northern part of this county where land was zoned commercial to allow the use of a home for children. He said the land was now zoned commercial and he read in the newspaper today that they were considering selling that property for half a million dollars to a commercial operation. He said there would be nothing that the county could do about it. He said this Board would have to be quite careful about what was allowed because no one knows what could happen in the future.

Commissioner Frady said he agreed with Commissioner Pfeifer that no one would know what could happen in the future. He remarked that Mr. Reese had mentioned deed covenants in there and these individuals would not be allowed certain things. He said he could not imagine anyone in this room who would want to purchase a home behind the service station. He said this was inconceivable to him. He said he would like to have the remarks that he made at the December 9, 2004 Board of Commissioners' meeting be made a part of these minutes. A copy of the minutes for the December 9, 2004 Board of Commissioners' meeting regarding Petition No. 1133-04, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

Chairman Dunn remarked that six months ago the Board had a 3-2 vote for denial of this request. He said it was a difficult decision for the Board then and it was difficult for several of the Board members now. He said he knows Mr. Reese and also is familiar with his work. He said the county was fortunate for this area of the county to have two of the best developers in the region wanting to develop there. He said no one would know what would go in anywhere in the future in the county if the Board did not adhere to the long term comprehensive planning. He said when this land was purchased it was A-R and it was land

Minutes
July 28, 2005
Page 21

used for future development as residential and a little more dense than A-R. He said the Board had approved all of those plans, helped develop them and helped update them on an annual basis. He said this Board had a reputation in most cases adhering to long term planning. He said that was the thing that distinguished this county from almost every other county in the metro area of Atlanta. He said that was why the quality of life was maintained here as well as it was. He said when there was a compelling reason to change zoning or land use, this Board had to be aware of that and should take that into consideration. He said at this point in time in the development of this County he did not find a compelling reason to change the Land Use Plan. He said he felt residential was still appropriate in that area and many people who lived there now wanted to stay there.

Chairman Dunn said the other question was what was appropriate on this property. He said A-R was a minimum five acre lot and a zoning category that a lot of people would use to put in an executive home. He said this particular piece happened to fall between an area zoned R-40 and a piece of commercial property and he felt like the current zoning was probably not the best zoning. He felt it would be difficult to have someone put in an executive property there because of the closeness to commercial and land zoned for one acre homes. He questioned if O-I was the right step down from commercial. He said he found no reason to change the Land Use Plan tonight. He felt residential was still appropriate there. He commented that people certainly buy homes near schools. He said every single school in this area that had been built had ended up with developments being built near by. He said he did not feel that churches or schools in that area would stop residential development from coming in. He said the gas station had been there for many years and predated the planning. He said as this County was developed it was not envisioned for the Highway 85 South corridor to be like Riverdale and it also did not anticipate offices and commercial from Fayetteville all the way to Senoia. He said that was never what this County nor the people of this County envisioned as the future here. He said the plan here was to have less density as one leaves the cities and goes to residential. He said residential could be one acre lots, two acre lots, three acre lots, or five acre lots with nothing less than one acre. He said the citizens of the County did know what they wanted for this area and it was in the planning. He said he would need a lot more information to convince him that the long term planning needed to be changed and therefore begin changing the whole nature of the Southside of Fayette County. He said this Board for many years had tried to maintain all of the different ways of life in this County. He said there was a way of life in the McBride Road area that was envied by many people in the metro area of Atlanta. He said there was no intent to burden that area with too much commercial or O-I. He said the planning that had been over the years was very specific about where commercial was allowed to be. He said under certain circumstances it allowed O-I but did not dictate it. He said he could not support O-I for this property either. He said he saw nothing different from the concept that he voted on six months ago except two less buildings. He said the question was if he would support R-70.

Minutes
July 28, 2005
Page 22

Commissioner VanLandingham remarked that people did build homes near schools and churches. He said there was a large O-I complex built right next door to Spring Hill Elementary.

Chairman Dunn said he was not challenging the fact that O-I could be built near a school but the conjecture here was that if there were schools, nobody wanted to build houses next to them. He said he disagreed with that.

Commissioner Frady commented that if it was zoned R-70 the citizens would be gaining a two acre lot and 1,500 square foot homes as opposed to A-R which was five acres and a 1,200 square foot house minimum.

Commissioner Wells said a decision had to be made and pointed out that this could not stay A-R because it really was not appropriate for that area.

Chairman Dunn called the question for the vote.

The motion carried 3-2 with Commissioner VanLandingham and Commissioner Frady voting in opposition. A copy of the Ordinance and Resolution approving Petition No. 1145-05 as R-70 zoning, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

PETITION NO. 1146-05:

Zoning Administrator Aaron Wheeler read Petition No. 1146-05, Nancy Y. Morris, Owner, and Robert L. Outlaw, Agent, request to rezone 5.18 acres from A-R to R-75 to develop two (2) single-family dwelling lots. He said this property was located in Land Lot 31 of the 5th District and fronts on Harp Road. He said the Planning Commission recommended approval subject to one recommended condition (5-0) and Staff recommended approval with one recommended condition.

Robert Outlaw said he was the agent for Nancy Morris and was requesting a rezoning from A-R to R-75 for a five acre tract that they would like to divide into two single dwellings. He said this meets the County's Land Use Plan. He said this was family owned land with two sisters moving back to Fayette County. He said they had read Staff's recommendations and did agree with the recommended condition. He asked for the Board's consideration in approving this request.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to this request. Hearing none, he asked for the Board's pleasure in this matter.

Minutes
July 28, 2005
Page 23

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to approve Petition No. 1146-05 with one recommended condition, discussion followed.

Commissioner Wells said she had a problem with this rezoning request. She remarked that all of the surrounding area once a person passed over Harp Road in this area was A-R zoning. She expressed concern with approving an R-75 and felt it would just cause a domino effect down the rest of the A-R portion. She said she liked to use Harp Road as the demarcation before continuing down the A-R. She felt this was a "donut" in the middle of the A-R zoning. She said she had a problem with spot zoning even though she understood that this was in keeping with the Land Use Plan it was not zoned for that. She said she was not sure that this was in keeping with her intent of what was moving forward in that area. She said this was nothing against the family but she just did not want to start the domino effect down that part of the county. She said she realized that there was some R-45 zoning in that area and along side of it but that was not encroaching in this area. She said there was a line of demarcation for that area that she liked. She felt if this request was approved, then the remainder of the properties would start falling in place and pretty soon the entire section would be R-45, R-40 and R-75. She said she was not sure if that was the right thing to do.

Commissioner Pfeifer said he was leaning toward supporting this until he heard Commissioner Wells' comments on the subject. He said he agreed with Commissioner Wells on this request.

Commissioner Frady said he was in support of this request. He said the Land Use Plan had already been changed once tonight.

Chairman Dunn and Commissioner VanLandingham interjected that the Board was not changing the Land Use Plan.

Commissioner Frady said he would support this and pointed out that it was all residential.

Chairman Dunn said he did not see anywhere tonight where the Board had changed the Land Use Plan. He said if the Board approved this request, it would not change the Plan at all.

Commissioner VanLandingham agreed.

Chairman Dunn said he had difficulty with this rezoning request. He said there was an A-R lot, an R-20 lot, the subject property, A-R property, then a subdivision consisting of 300 houses and across the road there were one acre lots. He said he could not support this if it did not comply with the Land Use Plan but since it did comply with the Plan and there were already so many smaller lots in this area. He said he could support this request.

The motion carried 3-2 with Commissioner Pfeifer and Commissioner Wells voting in opposition. A copy of the recommended condition, Staff's Analysis and Investigation, identified as "Attachment No. 7", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1146-05, identified as "Attachment No. 8", follow these minutes and are made an official part hereof.

ORDINANCE NO. 2005-17 - ADOPTION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VII. CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS, B. CONDITIONAL USES ALLOWED, 14. DEVELOPED RESIDENTIAL RECREATIONAL/AMENITY AREAS:

Zoning Administrator Aaron Wheeler remarked that this was the consideration of proposed Amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, B. Conditional Uses Allowed, 14. Developed Residential Recreational/Amenity Areas. He said the Planning Commission recommended approval (5-0).

Chairman Dunn asked if anyone wished to speak in favor or in opposition to this change to the county's regulations. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adopt Amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, B. Conditional Uses Allowed, 14. Developed Residential Recreational/Amenity Areas, discussion followed.

Chairman Dunn asked what the reason was to change activity and lighting from 10:30 p.m. to 10:00 p.m.

Mr. Wheeler remarked this would make it in compliance with the new noise ordinance that was recently adopted.

The motion carried 5-0. A copy of Ordinance No. 2005-17, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

E. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VI. DISTRICT USE REQUIREMENTS, SECTION 6-2. EST ESTATE RESIDENTIAL DISTRICT:

Zoning Administrator Aaron Wheeler remarked that the Planning Commission recommended approval (4-1).

Acting Director of Planning and Zoning Pete Frisina remarked that recently there had been a lot of A-R subdivisions in the lower part of the county which was land used for agricultural residential. He said it had come to staff's attention that there were a lot of uses in A-R that

Minutes
July 28, 2005
Page 25

they did not feel were conducive to subdivision development such as livestock, commercial greenhouses, barns, conditional uses, kennels and this sort of thing. He said staff was trying to come up with a solution to developing the A-R property in a manner other than using agricultural residential zoning. He said there was an existing Estate Residential zone that was almost identical to A-R that required five acre minimums, setbacks were the same, house size was 4,000 square feet and the lot width was 200 instead of 250. He said unfortunately that was not enough incentive to get people to go through the rezoning process to go from A-R to Estate Residential to develop a subdivision. He said it was much easier to stay with A-R, not have to rezone, not have to waste two months, then go straight to the final plat and the subdivision was developed.

Mr. Frisina further stated that he was proposing was to redo the Estate Residential zone totally to give people an incentive to go through the rezoning process. He said he had patterned it after the C-S zoning district. He said the applicant would still have to go through a yield plan process to determine how many five acre tracts could legally be put on the property. He said at that point the number of lots that would be allowed on the property would be established. He said those would then be reduced by 50% to 2.5 acres. He said it was the same percentage developed and undeveloped. He said it was 60% developed and 40% undeveloped. He added that all of the subdivisions that the county has had with C-S come in slightly higher than 40% open space. He said when some of the constraints of the site were taken into consideration it was never a one to one yield. He said the same benefits would apply with this one as with the other one. He said there would be less roads, less waterlines, less infrastructure for the developer to put in and less for the county to maintain in the future. He said there would be less land disturbance which would result in less impervious surfaces which results in less storm water to deal with. He said it was basically the same concept but in the A-R area.

Chairman Dunn asked if anyone wished to comment on this proposed change to the regulation.

Rod Wright said he was a citizen and a subdivider. He said he had built numerous five acre subdivisions and he hoped the Board would support this. He said this would be good for his business but also good for the county and its citizens.

Randy Boyd, 325 South Lee Street, Fayetteville said he wanted to comment from a designer's standpoint. He said he had done the work on the project that Jeff Ellis had presented tonight. He said this type of zoning would give someone the opportunity to not have to utilize all of the property when there were environmentally sensitive areas. He said this would give someone the opportunity to avoid the flood plains, wetlands and the open space areas provided and just gives an engineer an opportunity to come up with a better design. He said it also doubles the Governor's green space area that was lifted five years ago and had been amended since then. He asked for the Board's consideration for approval of this ordinance.

Minutes
July 28, 2005
Page 26

Jeff Ellis said this ordinance was just good common sense and would put everyone on the same page. He said this was a good thing for everybody concerned and if the citizens understood how good this concept was he did not feel that they would be opposed. He asked for the Board's consideration in approving this ordinance.

Chairman Dunn asked if anyone else wished to speak.

Commissioner Pfeifer requested that items E. and F. be tabled to the August 11, 2005 Board of Commissioners' meeting. He said he generally supported this type of thing. He said the current C-S zoning needed some review. He said there were some objections brought to him late in the process that he did not have a chance to find out precisely what their objection was. He said he needed clarification.

Mr. Frisina asked if the objection was to this zoning or to the C-S.

Commissioner Pfeifer replied it was to this zoning. He asked if this was tabled to the next Commission meeting would it be a public hearing.

Attorney McNally replied the Board had now held the public hearing and if it wanted to table the vote it could do so provided the vote was taken at an open and public meeting.

Chairman Dunn interjected that the Board had a policy if a Commissioner wanted to table an item it would be automatic.

Attorney McNally said the Board could table this item to an agenda for a vote to be taken.

Chairman Dunn said one problem right now was if someone purchased lots in five acre subdivisions and they did not rezone it to C-S, one person could have a beautiful estate and the next person could have hogs. He said the Board was in favor of people who wanted to have five acre estates, people who wanted to purchase a large tract of land to develop a nice upscale subdivision of five acre lots, and if people in the county wanted to continue to purchase five acre lots and have animals that would be alright too. He said the Board was not excluding people from having some livestock on a five acre lot.

Mr. Frisina said staff was trying to get away from this in the residential subdivision setting.

Chairman Dunn said this would just pertain to subdivisions and the Board was not trying to amend the normal A-R rules.

Mr. Frisina said this was a category that currently existed. He said staff was basically taking the existing Estate zoning and amending to follow the same pattern as C-S.

Minutes
July 28, 2005
Page 27

Chairman Dunn said when this happens there would be lots smaller than five acres in C-S. He asked what the minimum size would be.

Mr. Frisina replied 2.5 acres.

Chairman Dunn remarked that the density would remain the same as if they were all five acres and a lot more green space would be saved for the county.

Mr. Frisina said he had distributed a concept of a subdivision that was being proposed if this zoning was approved. He said due to constraints they would actually be conserving approximately 51% of the site in green space.

F. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY COMPREHENSIVE PLAN TEXT AND MAP REGARDING LAND USE ELEMENT, AGRICULTURAL RESIDENTIAL AND THE LAND USE PLAN MAP LEGEND AGRICULTURAL-RESIDENTIAL (1 UNIT/5 ACRES). THE PLANNING COMMISSION RECOMMENDED APPROVAL (5-0).

It was Commissioner Pfeifer's recommendation to table items E. and F. to the August 11, 2005 Board of Commissioners' meeting.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the consent agenda as presented. The motion carried 5-0.

ELECTIONS - CITY OF FAYETTEVILLE: Approval of request from the City of Fayetteville for the Fayette County Board of Elections to conduct the City's election scheduled for November 8, 2005 as in prior years with the City agreeing to be responsible for all costs associated with the election. A copy of the request, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

MALLET CONSULTING, INC. - PROJECT MANAGEMENT SERVICES FOR PHASE I OF TRANSPORTATION PROJECTS: Approval to retain Mallet Consulting, Inc. to provide Project Management Services for Phase I of transportation projects funded by Fayette County Special Purpose Local Sales Tax. A copy of the Agreement, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

TAX ABATEMENT: Approval of a tax abatement request as recommended. A copy of the tax abatement request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

MINUTES: Approval of minutes for Board of Commissioners meetings held on July 6, 2005 and July 14, 2005.

PUBLIC COMMENT:

Members of the public are allowed up to five minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

Brenda Evans: Brenda Evans, 195 Shamrock Drive, Fayetteville asked the Board to reconsider the time period that a person or developer must wait before reapplying for a rezoning request be changed from six months to one year.

STAFF REPORTS:

PAY FOR PERFORMANCE ELEMENT: County Administrator Chris Venice remarked that the Pay for Performance Element was part of a new Employee Appraisal System adopted by the Board on July 14th. She said this Element would allow the Board to determine the amount of money to be dedicated to performance pay each year. She said the Board had included money in the fiscal year '06 budget for merit pay under the previous evaluation system. She said it was staff's proposal for this transition year to utilize this money already in the budget identified for merit pay less 10% for this new program. She asked for the Board's consideration in approving staff's proposal.

Chairman Dunn asked how much money would that save the taxpayers if the Board approved it now instead of waiting.

Ms. Venice replied it would save approximately \$56,000.

Commissioner Frady said he had a problem with this. He said the county had changed from giving merit increases which had gone on for approximately twelve years at 5% across the board which, quite frankly, he had tried to stop for many years. He said the County was not giving a C.O.L.A. at that time. He said the County stopped giving the 5% merit increase last year and started giving C.O.L.A.'s. He said he had a problem in giving out \$546,000 of taxpayers' dollars which was what this amounted to. He said previously all the employees received from the 5% merit increase which would amount to approximately \$1.4 million. He said the C.O.L.A. amounted to \$858,000 now on the payroll and for the County to give another \$500,000 would mean it was raised to \$1.3 million. He said he could not see any benefit to the taxpayers by doing this. He said he could support \$80,000 to \$100,000 that would give the top people in a division a bonus for doing something that was super extraordinary in their job. He said he was in favor of giving employees an incentive to work and he felt this should be up to the department heads. He said he could not support putting that much money into an incentive program that the County just stopped because it was too high. He said if the County gives a C.O.L.A. and the incentive as well

Minutes
July 28, 2005
Page 29

they would both amount to almost the same thing the County gave as 5%. He said the County currently had 700 employees and the payroll was \$26 million and that came to \$37,182 per employee. He said he would match that figure with any company or any business in this area for average salaries. He said the County was not behind in salaries and he did believe in paying employees an incentive to improve their condition on some sort of basis. He said employees would be getting a C.O.L.A. every year now and he just could not support this large amount of money.

Commissioner Wells asked what the total amount was minus the 10% that the Board had budgeted.

Ms. Venice replied the amount currently budgeted was approximately \$564,739 less 10% would be the \$56,474.01.

Commissioner Frady said when the Board put this in the budget he felt everyone had discussed this and asked why was this going into the budget. He said it was to put it there because the Board did not know what would be done with it. He said this money was not put in the budget to be passed out in the manner in which was being discussed except that it would be an incentive or a merit increase to people who were doing an outstanding job. He said just because the money was in there, it did not all have to be used for that specifically.

Chairman Dunn said he agreed with most of what Commissioner Frady was saying and he also had some slight disagreement. He said when most of the people on this Board assumed their positions, the County had only merit pay and almost all employees were getting 5% merit pay every year which most of the Board members felt was inappropriate. He said the Board had searched for ways to make this more fair. He said there was no C.O.L.A. at that time and one of the things that the Board determined a couple of years ago was that a C.O.L.A. was necessary to make sure that an employee's purchasing power would not go down if they continued to work for Fayette County. He said even if this was just simply a satisfactory employee, the Board felt like they should be kept at the same level of purchasing power that they had the year before. He said the Board had then implemented a C.O.L.A. like many other governments and businesses have. He said then it became necessary to eliminate the automatic 5% pay raise since the C.O.L.A. had been averaging 2% and 3%. He said if the County paid both there would be employees getting almost 8% raises every year and this would be too much for the taxpayers. He said this Board had been trying to change that system. He said the Board had arrived at a system where there was a C.O.L.A. for everybody in the county who was going to be employed by the County for the next year. He said employees were gradually being weaned from this merit system which became automatic. He said the Board wanted to maintain some form of merit pay. He said the Board wanted merit pay on behalf of the taxpayers to only go to those employees who were truly deserving and not everybody. He said previously every employee was receiving this because that was the only way in the system there was to give

Minutes
July 28, 2005
Page 30

them an increase. He said the Board wanted to give the employees a C.O.L.A. and then give a certain number of people a merit raise. He said the County had just transitioned the system during the last few weeks. He said the Board approved the separation of the systems at their meeting a couple of weeks ago. He said evaluations and merit pay were not directly linked now. He said the Board was trying to get away from this because the Board did not want to bring in the C.O.L.A. and then still have the policy that said they would also get the merit pay increase automatically. He said during the last few years the Board had been weaning merit pay down. He said in the past it used to be 5% almost exclusively and now it was now 3% over the last couple of years. He said the Board felt it should even be lower than that now that the C.O.L.A. was in place. He said by the Board determining each year how much would go into this program, the amount of money that goes into this could be controlled. He said if there was a merit pay associated with evaluations then a lot of people just inflate the evaluations and then everybody receives the top dollar.

Chairman Dunn said the question tonight was really what was fair during this first year since the Board had broken this system. He said the Board had already started to ramp it down and now was disassociating itself from the direct policy. He said initially he was thinking like Commissioner Frady and felt the Board really had to drastically reduce it right away. He said then his feeling changed as he analyzed the data. He said the County was paying employees merit pay for what they did last year and last year the policy was different. He said by reducing it a little bit the employees would know this was coming. He felt by reducing it a little bit this year and more each subsequent year eventually would get the system totally transitioned. He said he could support the 10% deduction this year as long as this was followed up with a substantial reduction each of the next couple of years. He said he did not want to see one 10% reduction and then forget about it.

Ms. Venice interjected that the Board would be setting that number during the budget hearings and it would have total control over that.

Commissioner Wells asked how many employees were eligible for this out of the 700 plus employees.

Ms. Venice replied that she did not have that exact number. She noted that employees who were at the end of the scale were not eligible.

Commissioner Wells asked if supervisors would receive merit pay.

Ms. Venice replied yes and stated supervisors would be eligible for merit pay.

Commissioner Wells asked who would determine that.

Minutes
July 28, 2005
Page 31

Ms. Venice responded that she would make this determination for some of the Directors/Division Heads.

Commissioner VanLandingham said when the Board had discussed this during the budget hearings the Board had given some direction to Human Resources to come up with this new program. He said Chairman Dunn had said this was for past performance that would now be evaluated under a new program. He said that had no correlation whatsoever. He said the Board's concern was the misuse of merit pay. He said this would apply to an employee who does more than what their job called for them to do. He said it did not mean the employee that showed up on time every day and went about his normal duties in a normal way would be affected at all. He said this employee would be considered normal and had not earned anything greater than what was expected of him. He said if the Board agreed to evaluate employees with a new program on last year's performance with the same money, then the Board had not accomplished one thing. He said \$56,000 when compared to \$1.5 million was not very much money.

Chairman Dunn said he understood what Commissioner VanLandingham was saying. He pointed out that the Board had voted on a new system two weeks ago but the employees would still be evaluated for the work they had done last year and this would continue for some time. He said people were evaluated on their anniversary dates rather than any specific date during the year. He said in the future there would not be a problem because every employee would be evaluated at the same time.

Ms. Venice remarked that all evaluations would be due on December 31st.

Chairman Dunn remarked that this year between now and December 31st there would still be evaluations of people from last year. He felt this year the program should be ramped down but nothing major done. He said some employees have expectations and knew exactly what they were going to get because until two weeks before it was automatic.

Commissioner VanLandingham said that was what was wrong with the program and stated the employees knew exactly what they were going to get.

Chairman Dunn said this was exactly why the Board had changed this. He said the Board had ramped down the merit pay to average 3% today and not 5% as before.

Commissioner Wells asked for an estimate of the 724 employees who would be eligible for merit pay.

Ms. Venice replied that based on her old department for example it would probably be between 30% and 35% as ineligible with employees being at the end of the scale.

Minutes
July 28, 2005
Page 32

Chairman Dunn felt it important to note that they would be part of the highest paid employees because they had been here long enough to max out their pay. He said this was the reason they would no longer be eligible.

Ms. Venice said it was her understanding that employees who were at the end of the scale were not figured into the merit pay that was in the current budget and they were already removed.

Chairman Dunn clarified that Human Resources Director Connie Boehnke had the exact figures for those employees who were eligible. He said \$565,000 had been budgeted and that amount plus a C.O.L.A. was absurd this day and age. He said this was the reason the Board had changed it. He said the Board had started changing this a couple of years ago and this was the next logical step of ramping it down. He felt by this time next year there should be much more visibility as to when employees get evaluated and everybody would be under the new program.

Commissioner Wells asked what the average salary of the employees was.

Ms. Venice interjected that Commissioner Frady had estimated approximately \$37,000.

Commissioner VanLandingham pointed out that the Board had received a request from just one County Department where eight of the employees were receiving a 5% merit pay.

Chairman Dunn said there were abuses and this was another reason why the Board had to separate the automatic evaluation from the automatic number.

Commissioner Wells asked if 30% of the county's employees were not eligible that would leave 490 who were eligible. She said if 490 was divided into the \$565,740 that was budgeted that would come to approximately \$1,114 per person that has been budgeted. She said basically the Board had set aside approximately \$1,114 per employee to give the average employee a 3% increase.

Commissioner VanLandingham said the only problem he could see with that was that was assuming that every employee was going to receive a merit increase and that was not the case.

Commissioner Frady remarked that Commissioner Wells stated that in her estimate she had eliminated 30% of the employees who were ineligible.

Commissioner Wells said now there was the possibility for really good employee to get 5% or 6%. She said the percentage that an employee would receive would depend upon the supervisor's determination.

Minutes
July 28, 2005
Page 33

Chairman Dunn said the responsibility would be on the directors to evaluate their personnel and also reward their best employees. He said Ms. Venice had been charged with evaluating the directors and how they used this program to help develop their subordinates would be part of their evaluation. He said if the Board saw abuses in this program by any of those people, then they would probably be evaluated a little bit differently.

Commissioner Wells said if a supervisor just decided to give all of their employees a 3% raise, then there would be measurements to know that these supervisors or department heads were not doing their job of (1) identifying performance that was better than what someone was getting a pay check for every month and (2) who was not bringing their employees along. She said this would give the Board an indication of how the supervisors also do their jobs. She felt this program had to be phased in for it to be fair for everyone.

Commissioner Frady said he had a problem with this and could not vote in favor of it. He said the County would be putting out more cash than when employees received the 5%. He said he could support a system being put in place but not the dollar figures.

Commissioner VanLandingham suggested the Board recall why this was being done. He said this was to make the playing field level for every employee. He noted that this was not the case before. He said there were employees who were not getting a fair shake and this was the Board's attempt to clear that up but unfortunately it involved money. He said nobody could come to this Board and say that it had not been fair to the employees. He said this Board had been very, very fair to the employees. He said since some employees had already been evaluated this year, then this program would have to continue for the remainder of the year.

Chairman Dunn pointed out that one of the reasons that the Board was having to change this system was because everybody was not being treated fairly. He said the best employees were not being treated fairly. He said they were receiving a certain amount and so were the employees who were not performing and that was not fair to the good employees. He said there would be no incentive pay for employees who had not shown that they wanted to do more than the bare minimum.

Commissioner Wells felt the \$565,739 figure that the Board had budgeted for merit pay less the 10% was a good place to start.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve \$564,739.80 less 10% for performance pay in the FY 2006 budget. The motion carried 4-1 with Commissioner Frady voting in opposition.

INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF FAYETTEVILLE FOR THE DIVISION OF S.P.L.O.S.T. FUNDING: Attorney McNally remarked that the City of

Minutes
July 28, 2005
Page 34

Fayetteville had executed the Intergovernmental Agreement for division of the S.P.L.O.S.T. funds. He asked for the Board's consideration in authorizing the Chairman to execute the Intergovernmental Agreement with the City of Fayetteville for the division of S.P.L.O.S.T. funding.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to authorize the Chairman to execute the Intergovernmental Agreement with the City of Fayetteville for the division of S.P.L.O.S.T. funding. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No.13", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss six legal items.

Commissioner VanLandingham requested an executive session to discuss one personnel matter.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to adjourn to executive session to discuss six legal items and one personnel matter. The motion carried 5-0.

LEGAL: Attorney McNally and Chief Jack Krakeel discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Attorney McNally updated the Board on a legal item.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

LEGAL: Attorney McNally discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Attorney McNally discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Attorney McNally discussed a legal item with the Board.

The Board took no action on this matter.

Minutes
July 28, 2005
Page 35

LEGAL: Attorney Davenport updated the Board on a legal matter.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

PERSONNEL: Commissioner VanLandingham discussed a personnel matter with the Board.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Chairman Dunn to authorize the Chairman to execute the Executive Session Affidavit affirming that six legal items and one personnel matter were discussed in executive session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 11:30 p.m.

Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 25th day of August, 2005.

Karen Morley, Chief Deputy Clerk