

The Board of Commissioners of Fayette County, Georgia, met in an Official Session on Thursday, December 11, 2003, 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
Herb Frady
Peter Pfeifer
A. G. VanLandingham

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
William R. McNally, County Attorney
Carol Chandler, Executive Assistant
Peggy Butler, Executive Assistant

Chairman Dunn called the meeting to order, gave the invocation and led the pledge to the flag.

REZONING PETITIONS:

Kathy Zeitler, Zoning Director, 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 3 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.

Ms. Zeitler 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.

Ms. Zeitler 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.

PUBLIC HEARING:

Zoning Director, Kathy Zeitler, read the petition. Petition No. 1116-03, Mary S. Austin and O.B. Bobbitt, III, Owners, and Chris Hayes of QuikTrip Corporation, Agent, request to rezone 4.5148 acres from O-I and R-20

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to C-H to develop two (2) parcels consisting of: (1) a proposed gasoline station/convenience store, and (2) a sit down restaurant. This property is located in Land Lots 232 and 233 of the 5th District and fronts on S.R. 85 North, S.R. 279, and Old Road. The Planning Commission recommended approval subject to the deletion of condition #2 and condition #1 being revised 4-0. Staff recommended approval with conditions.

Doug Warner, Attorney, 900 WestPark Dr., Peachtree City, came before the Board as a representative for QuickTrip Corporation for a rezoning request. He introduced Nick Cagler who was with his office, Tom Wells, Director of Real Estate for QuikTrip Corp., Brian Corbin, Real Estate Manager.

Mr. Warner said that before he proceeded he wanted to tell the Board a little about QuickTrip. He said he was pleased they retained local council to represent them. He said QuickTrip was a privately held corporation out of Tulsa, Oklahoma. He said they had 413 stores in nine of the United States with 100 of the stores being in the Atlanta area. He said they had \$3 billion in sales last year. He said they were 64th of the top 100 privately held corporations by Forbes and they were 41st by Fortune Magazine in the top 100 best companies to work for. He said they spend \$40,000 per year on their stores for aesthetics. He said they gave 5% of their profits each year for charitable causes. He said they paid \$750,000 in add valorem taxes last year. He said they have a policy not to sell any adult magazines or pornographic or drug paraphernalia type items. He said they probably have the cleanest restrooms around. He said on an average they had 13 times fewer robberies than other convenience stores. He said their employees wore uniforms and they did not lease out the stores to anyone. He said the average store manager made \$50,000 a year. He said they devoted less than 3% of the store area to alcohol products. He said they had secret shoppers to keep up with their stores.

Mr. Warner said the property involved was in the southwest quadrant of the intersection of two state highways, Highway 279 and Highway 85. He said there was a major traffic light at that intersection. He showed the Board an areal photograph of the subject property. He said it showed the BP Station directly across Highway 279. He said directly across the road was Carnage Park which was 17 acres and currently zoned C-H. He said that was the zoning they were asking for. He said QuickTrip planned to build a 4500 sq. ft. convenience store with approximately 10,000 sq.ft. canopy, over 20 gas pumps, and next to that a retail restaurant building in the area of 8,000 sq.ft. He said all of the gas pumps were, as required by Georgia law, within the good, visual range of the store manager. He said the layout plan showed one access in and out of Georgia Highway 85. He said the traffic flow would be in and out of the entrance in the middle and also on 279 and Old Road. He said the access in and out of Old Road was a condition that the Planning Staff did not want. He said the Planning Commission recommended it.

Mr. Warner said the proposal was in compliance with the land use plan of Fayette County which called for C-H on the front and light industrial on the back. He said according to the Staff Report "it complies with the

property's commercial designation and is a step down from light industrial." He said QuickTrip would comply with the conditional use requirements of the automotive service station portion of the Zoning Ordinance. He said the site plan was in compliance with the Highway 85 Overlay Zone. He said that was important because QuickTrip had to buy more property to be in compliance with that plan. He said the plan required QuickTrip to put in more landscaping. Mr. Warner said the Overlay Plan by the County stated restriction of points of access which by tying into Old Road and using that as a point of access instead of having one

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other point of access on Highway 85 actually provided a more workable plan and safer plan and a plan DOT would like better and provided two points of access on Highway 85 instead of three. He said he felt restricting access was good for Fayette County.

Mr. Warner stated the surrounding properties were already zoned C-H and the intersection of the state highways was not a residential or agricultural point. Mr. Warner showed the Board a photometric design which showed the light being kept on the property.

Mr. Warner said the Board's staff and the Planning Commission had recommended the approval of the rezoning. He said QuickTrip was in compliance with the land use plan, there was no adverse effect on the neighbors and there was no burden to roads, utilities or schools. He said this store would add the add valorem tax and sales tax to Fayette County while using little of the County services. He said there were C-H uses all around the property. He said the staff recommended approval with two conditions. He said the Planning Commission took off the lighting condition. He said they recommended approval with a tie-in to Old Road if QuickTrip was willing to improve that intersection up to County standards as far back as the property line. He said QuickTrip was willing to do this which would also save the County money.

Mr. Warner said this property was not in compliance. He said he would contend that the current zoning was not the highest and best use for this property. He said he knew the Board of Commissioners wanted to be in compliance with the 5th and 14th amendments of the U.S. Constitution and the appropriate Georgia provisions. He said he felt by rezoning this property it would bring it into compliance.

He asked that the rezoning be approved.

Chairman Dunn asked if there was anyone who wished to speak in favor of this petition.

Kathy Allgood, 155 Kenwood Road, said she could not object to this petition. She said it did face Georgia Highway 85. She said she would hope this would not open up a can of worms for the rest of this to go on down 279. She said if the rezoning was approved she hoped the Commissioners would hold this outfit to strict standards in regards to the landscaping. She said behind this property was a small residential area. She said she would advocate something done to the back of the property to detour crime.

Mark Alexander, 141 Butler Road, said he was in favor of this petition. He said his street intersected with Old Road. He said in looking at the access points he was concerned that traffic would be heavy on his road.

Chairman Dunn asked if there was anyone else who wished to speak in favor of this petition. No one responded.

Chairman Dunn asked if there was anyone who wanted to speak against this petition. No one responded.

Chairman Dunn then asked Mr. Warner if he would like to rebut those who spoke in favor of the petition.

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Mr. Warner said he would like to make a rebuttal. He said the residents behind the proposed QuickTrip were the petitioners in this case. He said Mrs. Austin owned the property behind this and was petitioning in favor of the rezoning. He said they felt it made sense to have Old Road as part of the traffic flow. He said there was Highway 279 one way, Highway 85 in the middle and Old Road. He asked why would you want three entrances on Highway 85 when two entrances would be sufficient. He said the overlay would limit the points of access and keep the area looking nice. He said having limited points of access and providing nice landscaping would comply with the overlay ordinance.

Mr. Warner said his clients had been asked to and had dedicated 30 feet from the center line of Old Road.

Chairman Dunn said the reason he let Mr. Warner rebut the support was because although there was not rejection of the use of property, concerns were brought up that he thought needed to be addressed.

Chairman Dunn stated that since there was no objection to the petition he would bring the matter back to the Board.

Commissioner VanLandingham stated that on the recommended conditions he liked the way the lighting was portrayed so that none left the property but provided enough illumination to deter crime. He said the at some point and time Old Road may be paved all the way through. He said the Board asking for that right-of-way at the onset was not outrageous. He said that access would not be a great asset to the traffic flow or the customers going in and out of QuickTrip. He said he doubted many people would go onto Old Road unless they lived there.

Commissioner Pfeifer asked what standards the lighting at BP were developed under.

Ms. Zeitler stated that the 85 North Overlay was not in existence at that time. She said there was language in the general state route overlay that applied to properties along 279 and also the 85 North overlay regarding the lighting. It said the lighting needed to be shielded away from the adjacent properties and not bleed over to obstruct the vision of the motorists.

Mr. Warner pointed out that in the information given to the Commissioners one of the bullet points stated that each QuickTrip store had its own photometric design performed to give the utmost attention to the

placement of site lighting.

Mr. Warner said he did not know, without intense engineering studies, how to satisfy the Board as to the intensity of the lighting. He said they were willing to do whatever it took to satisfy the Board.

Commissioner Frady stated he did not have a problem with the lighting as long as it was kept on the premises. He said he did not have a problem with Old Road. He said at some point in time that road would probably be improved and he did not think people would use a residential road to get out onto the highway.

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Motion was made by Commissioner VanLandingham to approve Petition No. 116-03 with the condition that Old Road be paved to the property line, all outdoor lighting be restrained to perimeter and the right-of-way be donated to the County. Motion was seconded by Commissioner Pfeifer.

Discussion followed.

Chairman Dunn stated the one thing he was concerned about was one of the functions of the Board was to try to protect, as much as possible, residential neighborhoods. He said there were some concerns on Old Road that Butler Road goes into a subdivision. He said there were other examples up and down Highway 85 where subdivisions were severely harmed by commercial entities being right on 85 and having a lot of traffic at their entrance and people cutting through their entrance to go to other places. He said because of this upgrading the intersection was critical. He said he questioned whether there should be access to the Butler Road side until there was a decent road there and until decent turns could be made on the highway. He said if you went out on the highway now you could not go north from Old Road. He said this was another problem because motorists would try to scoot across the road and try to turn around to go back the other way. He said there was a safety problem with this along with the residential problem. He said he had no problem with the rezoning or the product introduced tonight but he personally had a problem in accessing Butler Road before something was done to the intersection.

Commissioner VanLandingham said he would like to point out one more thing before the vote. He said a simple fence in the back of the property would keep someone from running through the neighborhood. He said it would put someone out onto the main highway if they did attempt to rob the property. He said he would like that to be considered since he did not think it could be made a condition.

Thomas Wells, Director of Real Estate, stated that a 6 foot wooden fence had been planed to be placed at the edge of the buffer across the rear of the property. He said when they had worked with Ms. Austin that was a concern of hers. He said the fence would be shown on the submittal plans that were coming in.

Kathy Zeitler stated the Kenwood Business Park on Old Road did have a condition of rezoning approval that restricted access to Old Road until Old Road was paved from 85 to 279. She said staff highly recommended

that condition be applied or the one that was originally recommended until this could be studied more and worked out better.

Chairman Dunn said that was the issue he was struggling with. He said some people were aware of other actions on properties in the same area, in particular down Old Road. He said some people were considering selling and developing their properties and some people were not sure at this point.

Chairman Dunn called the question. Motion carried 4-0. Commissioner Wells was absent.

NEW BUSINESS:

Kathy Zeitler read the consideration of an annexation request in the City of Fayetteville by Heritage Community Church for 5.67 acres in Land Lot 7 of the 7th District on Lester Road. She said there was sufficient room for additional septic to accommodate the expansion. She said there had not been a need

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demonstrated to have to annex this for sewer. She said they were not sure for the reason for the annexation but staff reviewed it and commented on it. She said there would be a potential loss of revenue for the County, yet the County would still provide the water service and fire and emergency medical services if the property was annexed. She said they did not have a bonafide land-use objection because it was now a church and would continue to be used as a church if annexed. She said it did not appear that it needed to be dependent on sewer service. She said they disapproved of it being annexed but had no bonafide land-use objection to the annexation.

Commissioner Frady asked Ms. Zeitler how they did an objection without a bonafide reason. Ms. Zeitler said they did not have a bonafide land-use objection which was the way the agreement read but they did not approve of it being annexed because there was not a need demonstrated to have to annex this for a septic system to go in.

Commissioner Frady asked with that being in the record would there be a legitimate reason to take this to arbitration with plenty of reasons to win the case.

Ms. Zeitler responded that the recommendation was no bonafide land-use objection but also disapproval of it being annexed. She said it was not a denial, it was a disapproval of the annexation.

Chairman Dunn stated that one of the points Commissioner Frady was making was that as soon as Ms. Zeitler stated there was no bonafide land-use objection a decision had been made. He said the only way they could object was if there was a bonafide land-use objection.

Commissioner Pfeifer said he agreed that there was no reason for the annexation but under the agreement there was no way to oppose it.

Motion was made by Commissioner Frady to approve the annexation request by heritage community church

for 5.67 acres in land lot 7 of the 7th district on Lester Road. Motion seconded by Commissioner VanLandingham.

Commissioner Pfeifer stated for the record to the media and Mayor Steele, the Board was not requesting this annexation.

Motion carried 4-0. Commissioner Wells was absent.

CONSENT AGENDA: Motion was made by Commissioner VanLandingham to approve the consent agenda as presented. Motion was seconded by Commissioner Frady. Motion carried 4-0. Commissioner Wells was absent.

Sign Request from Fayette Senior Services: Approval of a request from Fayette Senior Services, Inc. to place a sign on the Old Courthouse lawn February 9, 2004 through February 21, 2004 advertising the 8th Annual Music Concert to be held February 21, 2004 from 7:00 p.m. until 10:00 p.m.

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A copy of the letter, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

Limit Access to the Administrative Complex: Ratification of Board of Commissioners' decision to limit access to the Administrative Complex because of security issues. A copy of this document, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

Deny Tax Refund to Taco Bell: Approval of recommendation to deny a tax refund to Taco Bell for the years 2000, 2001 and 2002.

Additional Tax Refund to Texatron: Approval of an additional tax refund to Texatron for the year 2002 in the amount of \$14,745.72.

Sheriff's Department to Transfer Insurance Reimbursement: Approval of request from the Sheriff's Department to transfer insurance reimbursement from the General Fund to the Sheriff's Department-Criminal Investigation Division budget account code 10030321-522233. A copy of this document, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

Approval of Board Minutes: Approval of minutes for Board of Commissioners' meeting held on November 5, 2003.

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.

Kathy Allgood, Fayetteville, GA requested the Commissioners look into the increasing number of charity containers that are being placed throughout the community. They are intended to be places for citizens to drop off items to help those in need, but they are fast becoming dumpsters.

Marc Rogers, Fayetteville, GA asked the Board a question pertaining to an item on tonight's agenda. Chairman Dunn reminded Mr. Rogers that he could not speak during public comment about an item that was on the evening's agenda.

STAFF REPORTS:

COMMISSIONER'S RETREAT: Commissioner Frady asked the Board if they would like to have a retreat. It was the consensus of the Board that Carol Chandler survey the Board for dates available for a retreat.

CANCELLATION OF BOARD MEETING: Carol Chandler stated that in January 2004 the Wednesday and Thursday meetings are scheduled on the same week. It was the consensus of the Board to cancel the Wednesday, January 7th, 2004 Board of Commissioners Meeting.

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EXECUTIVE SESSION: Attorney McNally requested an Executive Session to discuss one legal item.

LARP AGREEMENT FOR TYRONE: Attorney McNally stated he had the LARP list agreement executed by the Town of Tyrone. He said the Board needed to authorize the Chairman to sign Tyrone's LARP list for this year. Motion was made by Commissioner Pfeifer, seconded by Commissioner Frady, authorizing the chairman to sign the LARP List Agreement for the Town of Tyrone. Motion carried 4-0. Commissioner Wells was absent. A copy of the agreement, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

LARP AGREEMENT FOR FAYETTEVILLE: Attorney McNally stated he had the LARP List Agreement executed by the City of Fayetteville. He said the Board needed to authorize the Chairman to sign Fayetteville's LARP list for this year. Motion was made by Commissioner Pfeifer, seconded by Commissioner Frady, authorizing the chairman to sign the LARP List Agreement for the City of Fayetteville. Motion carried 4-0. Commissioner Wells was absent. A copy of the Agreement, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

CONTRACT WITH DESIGN PREVIEWS DOING BUSINESS AS 11 FINGERS: Attorney McNally stated the Finance Department had requested a contract with Design Previews doing business as 11 Fingers to maintain the County website. The Board asked that this issue be tabled until the January 8, 2004 board of commissioners meeting to have more time to review the contract.

EXECUTIVE SESSION: Motion was made by Commissioner VanLandingham and seconded by Commissioner Frady, to adjourn to Executive Session to discuss one legal item. Motion carried 4-0.

Commissioner Wells was absent.

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

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: Motion was made by Commissioner VanLandingham, seconded by commissioner Frady, to authorize the chairman to sign the Executive Session Affidavit affirming that one legal item was discussed. Motion carried 4-0. Commissioner Wells was absent. A copy of the Affidavit, identified as "Attachment No. 6", 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 8:40 p.m.

Peggy Butler, Chief Deputy Clerk

Gregory M. Dunn, Chairman

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The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 8th day of January, 2004.

Peggy Butler, Chief Deputy Clerk