

THE FAYETTE COUNTY PLANNING COMMISSION met on September 19, 2013 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

MEMBERS ABSENT: Bill Beckwith

STAFF PRESENT: Dennis Dutton, Zoning Administrator

Welcome and Call to Order:

Chairman Gilbert called the Planning Commission Meeting to order. Chairman Gilbert introduced the Commission Members and Staff.

* * * * *

1. Consideration of the Minutes of the Meeting held on September 5, 2013.

Doug Powell made a motion to approve the minutes. Jim Graw seconded the motion. The motion passed unanimously 3-0-1. Tim Thoms abstained from the vote as he was absent from the September 5th meeting. Bill Beckwith was absent.

NEW BUSINESS

2. Consideration of Minor Subdivision Plat of Amercani Acres Subdivision, Mahmoud Amercani, Owner. The property is zoned A-R and is located in Land Lot 26 of the 5th District and fronts on Harp Road.

Mr. Amercani said he is subdividing his property to build a house for his son. He added that when he built his house on the property the pond was not recognized as State Waters and the pond is not fed from a creek.

Doug Powell asked if the house for his son is proposed on lot 2.

Mr. Amercani said yes.

Doug Powell said there are currently a house on lot 1 and a house on lot 3. Doug Powell said the acreages listed on the individual lots and the acreages listed in the notes do not match and for the purposes of this plat they need to match. He added that the plat shows a shared driveway on lot 2 and it provides an easement to lot 1 per Note number 17. Doug Powell asked Dennis Dutton what the Development Regulations say about shared driveways.

Page 2
September 19, 2013
PC Meeting

Dennis Dutton said each lot must have a driveway however the County Engineer can grant a shared driveway on a property where there would be an environmental impact or a sight distance issue.

Jim Graw said it has been indicated that lot 2, where the shared driveway is located, will be given to a family member, but the problem in the future could be that the lot is sold to a non-family member they could deny access over their lot.

Doug said if we lock the easement in here tonight it's permanent.

Jim Graw said there is no easement here.

Doug Powell said it says on the plat "The 17,806.648 square foot driveway easement is for ingress and egress across tract 2 to the property on tract 1. The driveway is to be a common use driveway for both tract 1 and tract 2."

Jim Graw said but where does it show this driveway is an easement.

Doug Powell said it is shown on tract 1 and it says driveway easement.

Jim Graw asked whose driveway is it now.

Tim Thoms said currently the driveway is on lot 1 but when the plat is approved it subdivides lot 1 and creates lot 2 and then the driveway will be located on lot 2.

Jim Graw asked if this was the correct vehicle for creating an easement for this driveway by just putting it on the plat and in the future can the owner of lot 2 say I am rejecting the easement and cut off access.

Dennis Dutton said staff had spoken to Patrick Stough, the County Attorney, and he said if the easement is indicated on the plat it is legal. Dennis Dutton said the property owner could also record a separate deed of easement.

Jim Graw said he thinks they need a legal document like a recorded easement.

Doug Powell said the current owner who is subdividing the property is signing the plat and creating the easement.

Jim Graw said but he is giving his driveway away.

Mr. Americani said while he is building a house for his son he is keeping ownership of the property and in the future he will deed the property to his son.

Page 3
September 19, 2013
PC Meeting

Al Gilbert said if the lot is acquired through some kind of tragedy by someone else they may not have the same relationship with you as your son, so we are looking at all the possible situations to protect all of the land owners in the future.

Mr. Americani said the deed will be that if a tragedy happens the property will come back to him.

Doug suggested to Mr. Americani that when you transfer ownership of tract 2 that the warranty deed contain a legal description of the easement.

Tim Thoms said there is no legal description of the easement on the plat.

Mr. Americani said he can get his surveyor to produce a legal description of the easement and then it could be recorded.

Jim Graw asked who will maintain the driveway.

Tim Thoms said Phil Mallon signed off on the plat and he wanted to make sure that Phil caught that the driveway has to be on a 20 foot wide driveway easement.

Doug Powell said the Development Regulation require a 20 foot wide all weather surface approved by the engineering department, a permanent cross access easement agreement shall be recorded, the easement reflected on the plats for both properties, and the addresses shall be clearly marked at the road and at the fork of the shared driveways.

Tim Thoms said he sees the County Engineer's approval on the plat but he wants to make sure that all of the requirements Doug mentioned are met and there is nothing on the plat that indicates those requirements.

Doug said there is no indication of the width of the driveway or the width of the easement on the plat.

Tim Thoms asked Dennis Dutton if he knows if the requirements Doug Powell just stated are current.

Dennis Dutton said no, there was a 2010 amendment to the regulations but he doesn't have a copy tonight.

Doug Powell said both Dennis and Pete have told him that a shared driveway could be allowed for environmental reasons and if Phil Mallon signed off on the plat then he doesn't have a problem with the plat. He added that he would want the acreages corrected on the plat.

Page 4
September 19, 2013
PC Meeting

Dennis Dutton said there is no requirement to list the acreages in the notes, as long as they are indicated on the lots that would be enough.

Doug Powell made a motion to approve the plat with a condition that the acreages be corrected on the plat so they match.

Jim Graw suggested that a condition be added to the motion that a deed easement will be required.

Doug Powell said since it is required by the Development Regulations a condition is not necessary.

Tim Thoms seconded the motion.

Jim Graw said that there is an existing structure in watershed area and the County is recommending that the building stay but any additions are not permitted and his question is since that is a State buffer are there any State laws that require that building to be removed. He said Dennis Dutton told him there really is no State law as such and it is only the County Watershed regulations that apply.

Doug Powell said he assumes the building was there before Watershed Protection regulations were in place.

Tim Thoms said since the plat does not reference a property description of the easement and did the easement require that on the plat.

Doug Powell said the Development Regulations he has which are old, require a permanent cross access easement agreement shall be recorded and the easement reflected on the plats for both properties.

Jim Graw said if we are not sure if the current Development Regulations require the easement then why don't we make it a condition of plat approval.

Tim Thoms said we are operating on the assumption that staff has looked at the plat and it meets current regulations.

Doug Powell said that is correct based on Phil Mallon's signature.

Tim Thoms asked Doug Powell if he could restate his motion.

Doug Powell said his motion is that the plat be approved with the conditions that the acreages be corrected so they match.

Page 5
September 19, 2013
PC Meeting

Al Gilbert called the question and the motion unanimously passed 4-0. Bill Beckwith was absent.

Chairman Gilbert said he would entertain a motion to adjourn the meeting.

Doug Powell said so moved.

Chairman Gilbert said the meeting was adjourned at 7:32 pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY



AI GILBERT, CHAIRMAN

ATTEST:

