

**THE FAYETTE COUNTY PLANNING COMMISSION** met on February 7, 2013 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

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

**STAFF PRESENT:** Dennis Dutton, Zoning Administrator  
Pete Frisina, Director of Community Services  
Hank Derbyshire, Marshal

**Welcome and Call to Order:**

Chairman Gilbert called the Planning Commission Meeting to order. Chairman Gilbert introduced Hank Derbyshire of the Marshal's office and the Commission Members and Staff.

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1. **Consideration of the Minutes for the Meeting Held on January 17, 2013.**

Tim Thoms made a motion to approve the minutes. Doug Powell seconded the motion. The motion passed unanimously 5-0.

**PUBLIC HEARING**

2. **Consideration of Petition No. 1226-13, Pauline D. Boyd, Owner, and James Babb, Agent, request to rezone property from A-R: Agriculture-Residential to R-70: Single-Family Residential District to develop one (1) single-family dwelling lot. This property consists of 2.17 acres located in Land Lot 19 of the 9th District and fronts on Barsi Point.**

James Babb stated that he was Pauline Boyd's son and agent for the rezoning and that she resides in Tallahassee Florida. He said the intent is to rezone the property to R-70 for a two (2) acre lot that will be given to his son, Pauline's grandson. Brian Babb introduced himself to the Planning Commission stating that he would be the recipient of the lot and asked that the rezoning be given favorable consideration.

Chairman Gilbert asked if anyone would like to speak in support of the petition, hearing none, he asked if anyone would like to speak in opposition of the petition, hearing none, he stated that he will bring the item back to the board.

Doug Powell stated that he initially thought this was an existing non-conforming two (2) acre A-R lot. He added that the Planning and Zoning Department had cleared up that it was not an existing

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non-conforming A-R lot, but it will be a new two (2) acre R-70 lot. This request meets the land use plan all of the zoning requirements. He said there is one (1) unit per two (2) acres. He added there is one (1) recommended condition.

Chairman Gilbert asked Doug Powell to read the condition.

Doug Powell read the conditions as follows:

The owner/developer shall dedicate, at no cost to Fayette County, via quit claim deed, thirty (30) feet of right-of-way as measured from the centerline of Barsi Point prior to the approval of the Minor Subdivision Plat and said dedication area shall be shown on the Minor Subdivision Plat. *(This condition is to ensure the provision of adequate right-of-way for future road improvements.)*

Chairman Gilbert asked if the petitioner agreed with the condition.

Mr. Babb stated they agreed with the condition.

Tim Thoms made a motion to approve the petition with one (1) condition. Bill Beckwith seconded the motion. The motion passed unanimously 5-0.

3. **Consideration of Petition No. 1227-13, D. Michael Travis & Linda H. Travis Owners, and Alvin Williams, Agent, request to rezone property from R-40: Single-Family Residential District to G-B: General Business to develop a Movie and TV Production Studio. This property consists of 24.03 acres located in Land Lot 198 of the 13th District and fronts on S.R 138.**

Alvin Williams stated that it was his intent to build a TV and film studio on the property.

Chairman Gilbert asked if anyone would like to speak in support of the petition, hearing none, he asked if anyone would like to speak in opposition of the petition, hearing none, he stated that he will bring the item back to the board.

Doug Powell stated that there is one (1) recommended condition.

Chairman Gilbert asked Doug Powell to read the condition.

Doug Powell read the conditions as follows:

That the owner/developer connects the development to the Fayette County Water System for fire protection as required by the Fire Marshal.

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Chairman Gilbert asked Mr. Williams if he agreed with the condition.

Mr. Williams stated that he agreed with the condition.

Doug Powell stated that a lot of work had been put toward this in workshops and that the General – Business zoning district is a sound zoning district and it will serve the residents with a non-retail operation.

Doug Powell made a motion to approve the petition as stated in the agenda. Jim Graw seconded the motion. The motion passed unanimously 5-0.

Chairman Gilbert recognized David Brill from the audience.

David Brill stated that he was President of the North Fayette Community Association and he wanted to thank the Planning Commission and staff for working with the Association.

The Planning Commission thanked David Brill and the Association for their input.

Jim Graw stated that he wanted to rescind his second to the motion because the condition was not included in the motion.

Doug Powell restated the motion to approve the petition with one (1) recommended condition. Jim Graw seconded the motion.

Tim Thoms said he wanted to thank Mr. Williams for working with the neighborhood to address their concerns.

Jim Graw thanked Mr. Williams for his cooperation.

Chairman Gilbert called the question. The motion passed unanimously 5-0.

**OLD BUSINESS**

Chairman Gilbert said that before the Commission gets into the next item he wanted to say that the Commission will not have the County Attorney at every meeting. He added that at this time the County is contracting with an outside firm for legal services and if they attend a meeting the County has to pay by the hour and so in the interest of saving County funds, Pete Frisina, as the department head, will determine if an attorney is needed. Chairman Gilbert stated that he had spoken to Mr. Frisina and recommended that he and Mr. Frisina get together before the Planning Commission meeting to determine if a County Attorney is needed at the meeting and he said if any of the Planning

Commission members thought a County Attorney was necessary at a Planning Commission meeting the contact him so he could discuss it with Mr. Frisina.

Chairman Gilbert stated that he wanted to discuss another issue. He said that as a citizen, he knew that the County Attorney was reviewing the NLS procedure and as a tax payer, he felt the problem of non-conforming lots need to be addressed especially where the County has been at fault in issuing any permits. He said that he didn't feel his tax dollars should be spend defending that in court.

Doug Powell said he agreed with Chairman Gilbert concerning the County Issuing a permit in error. He said the County issued a permit in his neighborhood and not wanting to pull the permit back as it could have resulted in legal action, but it triggered the Georgia's Safe Dam Act costing the property owners on the lake a significant amount to upgrade the dam.

#### **4. Discussion of Variance Criteria for the Subdivision Regulations.**

Pete Frisina said the Planning Commission had a copy of the proposed variance criterion based on the input from the last meeting. He added the proposed criterion contained sections that required discussion as the Planning Commission would need to make a decision as in number 1 where either "peculiar" or "unique" should be used, what the Planning Commission wanted included on the drawings in the case of a variance to contiguous area, and the last statement that indicates that surrounding non-conforming lots would not be considered in variance requests. He added in terms of a variance for contiguous area, what structures did the Planning Commission want shown on the drawing (residence, accessory structure, pool, tennis court, etc.) and what should be the structures' size.

Jim Graw asked if Mr. Frisina was suggesting that the last statement about what should not be considered in a variance request be eliminated.

Pete Frisina said that is a Planning Commission decision. He added non-conforming uses and structures would not have much bearing the subdivision procedure.

Bill Beckwith asked if it was superfluous.

Pete Frisina said the only thing that is related to a subdivision request would be surrounding non-conforming lots and not structures and uses.

It was the consensus of the Planning Commission to eliminate the last statement.

Doug Powell said the Chairman had brought up a criterion to be considered would be if the County had issued some type of permit in error which exacerbated the situation.

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Jim Graw said that criterion is used in the non-conforming lot procedures in the zoning ordinance and probably wouldn't apply in a subdivision.

Pete Frisina stated the Planning Commission has variance authority in the Subdivision Regulations which mainly with the subdivision procedure, but there were a few requirements in the regulations.

Jim Graw suggested amending the following section as such:

Upon consideration of the factors listed above and consistency with the purposes of the Subdivision Regulations, the Fayette County Planning Commission may attach such conditions ~~to the granting of variances as they deem necessary or appropriate~~ **in order to protect the health and safety of the residents of the community.**

Bill Beckwith said that is a given and does it need to be stated.

Pete Frisina said it is a given that public regulation has a purpose of the protection of health, safety and welfare.

Bill Beckwith said he didn't have a problem of amending the statement as Jim Graw proposes.

Pete Frisina suggested leaving the sentence as is and add "to the protection of the health, safety and welfare of the residents" at the end of the statement.

Tim Thoms agreed with the suggested amendment as Mr. Frisina has proposed. Tim Thoms said concerning the footprint size for the residences shown on a drawing for a contiguous area variance, he suggested a residence of a size representing surrounding residences or residences in the general area or the maximum house size.

Bill Beckwith asked if it should be the minimum house size for that zoning category.

Tim Thoms said he would prefer it be based on the houses in the area.

Bill Beckwith said a builder could put in any residence as long as it meets the minimum house size for the zoning district.

Tim Thoms said the applicant from the last variance request put a big home, a barn, and swimming pool on the drawings which made him feel comfortable with the variance request.

Doug Powell said if all of these structures could be put on the property, he questioned how the County came up with the two (2) acre contiguous area requirement.

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Jim Graw said to keep in mind that a variance request could be for any zoning category from one (1) to five (5) acres.

Bill Beckwith said the only thing we have to go on is the minimum square footage of a house and if the applicant wanted to show a bigger house that would be fine.

Doug Powell said the representation of the bigger house made the point that the lots were buildable and that got the point across.

Jim Graw said the applicant showed a residence that was the same size of the residence that was already built on the property before it was subdivided.

Bill Beckwith asked if you would have felt differently if the residence the applicant had shown was smaller but met the zoning district minimum house size.

Tim Thoms asked what size accessory structure should be shown on these drawings.

Bill Beckwith asked why the applicant should show an accessory structure.

Jim Graw asked if the County should be concerned with the accessory structures.

Tim Thoms said that gets back to the problem that created the need for the Contiguous Area requirement; those lots lacked the room to build much anything but a residence.

Jim Graw said the answer is the lot can't contain anything but a residence.

Doug Powell said that if a smaller residence is shown and it fits there is no reason to disapprove the request, but the person should be aware that there is little room for any accessory structures.

Bill Beckwith asked whose responsibility is it to do that, the County or the builder.

Doug Powell said that one (1) acre was big enough for a huge house, pool and outbuilding, so why not approve the request.

Bill Beckwith asked if it is our job to try and sell the lot.

Doug Powell said it is our job to consider the variance.

Bill Beckwith said we should consider the variance with the minimum house size for the zoning category.

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Pete Frisina said the intent of the Contiguous Area was to create lots with room for a residence and accessory structures as there were examples of five (5) acre lots where all you fit on the lot was a residence and nothing more and what the planning Commission had seen was a representation of lots that could contain a large house, barn and swimming pool because that was common to the large lots in this area.

Bill Beckwith said it was good to see but it went beyond what is required by the zoning.

Doug Powell asked if the Planning Commission approves a Contiguous Area variance is there any requirement to indicate that on the plat so a buyer will be aware that the lot is less buildable for accessory structures.

Bill Beckwith said that it is not the County's responsibility to require that on the plat.

Jim Graw said that the last plat indicated the contiguous area on each lot and was it also indicated that the minimum Contiguous Area for a lot was two (2) acres.

Pete Frisina said he was not sure but there was a table with a listing of the Contiguous Area for each lot. He added that the situation is if the Contiguous Area can't be met the County can't approve the plat without a variance. He said since the intent of the Contiguous Area requirement was to provide more area than just a house, approving a variance which only allows room for a house is probably not a good idea.

Bill Beckwith asked why is it not a good idea to approve a variance for Contiguous Area which only allowed enough room for a house.

Pete Frisina said again the intent of the Contiguous Area was to create a certain amount of buildable area on each lot.

Bill Beckwith asked to build what on each lot.

Pete Frisina said normally what we see is a house and an accessory structure and sometimes a recreational amenity such as a pool or tennis court.

Bill Beckwith asked if it is our job to place the structures on the lot.

Pete Frisina said the variance request is to reduce the Contiguous Area on the lot so the Planning Commission is basing your decision of granting the variance based on this proposed criterion.

Doug Powell asked if there is any requirement that if a variance for Contiguous Area is approved, the lot is labeled with an indication that the lot does not meet the minimum Contiguous Area.

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Pete Frisina said the Planning Commission approves the plat and does the Planning Commission want that note on the plat as a condition of approval.

Doug Powell said we should do that.

Bill Beckwith said we should not do that.

Doug Powell said if the Planning Commission approves a variance we should have the plat indicate that lots that receive a variance do not meet the minimum requirements.

Bill Beckwith did not agree with labeling the plat as Mr. Powell stated.

Doug Powell said labeling the plat would warn a potential buyer that the lot does not meet the minimum standards.

Bill Beckwith said it has always been a buyer beware situation and why should the Planning Commission require the label on the plat when the developer should do that.

Doug Powell said because the Planning Commission serves the citizens.

Bill Beckwith said the developer is the one who is in business.

Doug Powell said the developer is the one who has come to the Planning Commission to ask for the variance and if we don't label the plats I won't approve a variance again.

Bill Beckwith said if we approve a variance for Contiguous Area all it means is you can put a house there.

Doug Powell said when someone sees a plat where a variance has been approved for Contiguous Area, all that person sees is that they have five (5) acres and they don't realize that there is less than required building area on the lot.

Chairman Gilbert said the County can't responsible for everything when it comes to lots.

Doug Powell said that lots should be labeled when the Planning Commission approves a variance for the lot.

Pete Frisina said the Contiguous Area has to be indicated on the plat, either on the lot or in a table and the buildable area would be shown on the drawing and you would see that the buildable area is



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eaten up by setbacks, watershed, floodplain, etc. and we can't guarantee that someone looks at the plat before they buy the property.

Doug Powell said on the Longboat Final Plat the Planning Commission required the plat indicate that the dam could be subject to the Safe Dams Act which would warn potential home buyers.

Jim Graw said this issue can up many years ago and the County Attorney at that time advised not to label the plats as has been discussed.

Doug Powell asked why it is the Planning Commission's responsibility to consider variances.

Chairman Gilbert said the County has to allow some relief mechanisms in its ordinances.

Doug Powell asked why it can't be labeled on the plat.

Jim Graw said a past attorney advised against doing that.

Doug Powell suggested that the County Attorney be contacted for an opinion.

Chairman Gilbert asked Pete Frisina to get with the County Attorney and get his opinion.

Tim Thoms said the Planning Commission has not made a decision what size house or if accessory structures need to be shown on the drawings and the reason I liked those structures shown on the drawings is what made me comfortable with the variance request.

Bill Beckwith asked if Mr. Thoms would feel comfortable if the drawings showed only room for a house.

Tim Thoms replied that he wouldn't be comfortable because the house he saw in the area was greater than the minimum and the reason for the Contiguous Area was to require room for more than just a house.

Bill Beckwith said he liked the drawings that showed more than a house could fit on the lot but do we need to require that.

Pete Frisina said just for reference, a one (1) acre lot would require 13,068 square feet of Contiguous Area.

Doug Powell suggested that the applicant put the minimum footprint based on the minimum house size required in the zoning district and if they want to add additional structures that's fine.

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Tim Thoms said that you have to at least indicate that there ample room for the house.

Doug Powell said accessory structures may not fit on the lot and he would like the plat to indicate that.

Tim Thoms said maybe we need to eliminate the drawing requirement.

Bill Beckwith suggested showing a house that is appropriate to the zoning category.

Pete Frisina said each zoning district has a minimum house size.

Doug Powell said a ranch house has a larger footprint than a two story house.


Chairman Gilbert again asked Pete Frisina to get with the County Attorney and get his opinion.

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Tim Thoms made a motion to adjourn the meeting.

Chairman Gilbert said the meeting was adjourned.

**ATTEST:**

A handwritten signature in black ink, appearing to be "JL", written over a horizontal line.

**PLANNING COMMISSION  
OF  
FAYETTE COUNTY**

A handwritten signature in black ink, appearing to be "Al Gilbert", written over a horizontal line.  
**AL GILBERT  
CHAIRMAN**