

THE FAYETTE COUNTY PLANNING COMMISSION met on March 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
Patrick Stough, Interim County Attorney
Barry Baney, Marshal

Welcome and Call to Order:

Chairman Gilbert called the Planning Commission Meeting to order. Chairman Gilbert introduced Barry Baney of the Marshal's office and the Commission Members and Staff. Chairman Gilbert stated that he was not feeling well tonight and he would ask Jim Graw to chair the meeting.

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1. **Consideration of the Minutes for the Meeting Held on February 7, 2013.**

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

PUBLIC HEARING

2. **Consideration of Petition No. 1228-13, ARC Enterprises, LLLP, Sandy Creek Holdings, LLC & Fayette Property Holdings, LLC, Owner, and James I. Pace, Jr. Agent, request to rezone property from A-R Agriculture-Residential and R-70: Single-Family Residential District to G-B: General- Business to develop a Media Production and Educational Campus. This property consists of 288.50 acres located in Land Lot 10 and 11 of the 7th District and fronts on Veterans Parkway and Sandy Creek Road.**

Jim Pace stated that it was a privilege to be before the Planning Commission tonight with this rezoning request. He said to give some background as to how this opportunity has come about; it started about five years ago when the production of Drop Dead Diva started in Peachtree City and an effort to get five more sound stages in that area for a major motion picture studio company. He stated that the company did not like the location due to noise of the airport, but liked Fayette County and wanted to locate here. This company has been looking for a US location for ten years and they have facilities in London, Berlin, Toronto, Malaysia and the Dominican Republic. He added that the economic impact of this type of business on Fayette County will be great as they bring

in additional vendors to serve the motion picture business. He said that this is the best project with the most benefit in which he has ever been involved.

Chairman Gilbert said that since this was such a big project the Planning Commission would give everybody time to speak tonight.

Bill Foley (project architect) said this is a great opportunity and the subject property is approximately a half mile wide and a mile long and the location meets the company's need to be in a quiet area with room for expansion and back lot locations. He stated that the site design consists of a buffer area along Sandy Creek Road and Veterans Parkway with a multi-use path and the studio entrances. He added that this facility is not the type that has tours for the public; it will be a secured site allowing only authorized personnel. He said the traffic pattern would be limited and would produce some truck traffic and these vehicles will be on site for the duration of a shoot. He said based on the experience of this company the resulting traffic flow for phase one consisting of five (5) sound stages and two workshops will only need about 380 parking spaces. The second tier of development will be the studio service provider area with the vendors, script writers, editing companies, technology firms, etc. providing support services for the studio and not open to the general public. The studio portion of the development, including the back lots, will be fully contained and gated for security. The property has a lot of mature trees and the southern portion of the property contains Sandy Creek which will be maintained in a natural state. Architectural controls have been proposed for each of the areas. The buffer area will be the first 100 feet along Sandy Creek Road and Veterans Parkway, studio service provider area would extend 200 feet from the buffer area, and beyond that will be the studio area. The buffer along Sandy Creek Road and Veterans Parkway will contain the multi-use path and berms to screen the parking and buildings. The character for the buffer area would be rural with an equestrian fence and vegetation and materials would be wood, brick and stone. The cemetery on site will be fenced off with access provided to the families. The service provider area will have office type buildings with limited materials, no metal façades, and a building height limitation of 35 feet. The studio portion will contain large scale buildings where sets will be built and used for shooting. The façade of the sound stages could be changed periodically and used as back drops for shooting. The elevation of the studio area drops up to 40 or 50 feet below the elevation of the roads which will shield the view of the buildings. The schedule for shooting television shows normally shuts down in November and December and starts up in January.

Matt Forshee, President and CEO for the Fayette County Development Authority, thanked the Planning Commission for their service. He said he was recommending approval of this rezoning as it is his job to promote Fayette County as a location for new and expanding businesses, especially those businesses that match the socio-economic demographics of the County or where the County's workforce can adapt to a company's needs. He added that for the last seven years the Development Authority has been working with film projects and in 2009 Drop Dead Diva starting shooting in Peachtree City. He stated that over the last five years this program has purchased materials for sets, housed actors and crews in our hotels, hired locals with good wages, seen persons from out of state

purchase homes in our communities and pay rent and property taxes on four soundstages and a back lot area as they have made this community their home. He said we need to make Fayette County the home of the movie industry in Georgia by helping an international company to spend millions of their dollars to build a state of the art facility that will be like no other in Georgia and for millions of Hollywood dollars to be spent in our county. He added that this will give the support businesses that supply resources to the movie industry a reason to locate in Fayette County. He said it is estimated that 170 citizens could be employed next year alone in the film industry in Fayette County and 1,700 employed within 15 years. He added that this project will give the plumbers, electricians and carpenters who were building houses a few years back an opportunity to transition into building movie sets. He said as this is an international company that will be operating the facility, the project is actually a local project as the development group, architects, and engineers are local businesses and this rezoning request is about jobs, investment and quality. He said his group has looked at long term and short term fiscal impact of this development. He added that in the first five years the direct investment of construction is almost 100 million dollars, in operations another 100 million dollars and the output locally, and as the movie businesses spend money in existing businesses, the effect will be 500 million dollars in economic impact. He said the employment impact could be up to 2,000 jobs in the first five years in the region and over the next 15 years an economic output of 1.5 billion dollars from this project. He said in terms of local tax revenues in phase one, direct tax revenues of close to 10 million dollars, which could require additional operational expenditures of about seven million dollars for increased services, leaving a net revenue of 2.7 million dollars to the county and in six to 14 years a net revenue of over 12 million dollars. Matt Forshee thanked the Planning Commission for their time and asked for approval of the rezoning.

Jim Graw asked for those who wished to speak in favor of the rezoning.

Bob Ross said he was excited and he thinks Fayette County is excited about this project. He added that Fayette County needs to look out for the best interest of the County with this project. He stated that Fayette County hasn't seen an opportunity like this in his 16 years of living here and it is a clean industry. He asked that the Planning Commission and staff to work to preserve the rural character of the County and from what he has heard tonight he appreciates the effort of the developer in proposing to preserve the character. He said he initially had a concern with the venders but Senoia has had good success with this and it has not created a problem. He said that he understands that this could set precedence and he would not want to see lesser projects coming in and harming the County. He said that the project could employ Fayette County citizens and he recommends approval of the rezoning.

Brenda Torbush stated that the movie "Joyful Noise" was made locally in her church and she thinks movies are wonderful opportunities for Fayette County. She said that she has one item and that is her family has relatives in the cemetery on the site she understands that an archeologist has to define the location of the graves.

Jim Pace stated that an archeologist had done an initial study of the cemetery

Brenda Torbush asked if she could get a copy of the study.

Jim Pace stated that she could get a copy of the study when it is finished and the developer will preserve and improve the cemetery and provide access to the family members.

Brenda Torbush thanked Jim Pace.

Jim Graw asked for those who wished to speak in opposition to the rezoning.

Donald Fowler said there are residents in this area that will be affected by this project even with the restrictions that were discussed tonight. He said the residents will hear the new noise, the new traffic, and the air conditioning towers and see the floodlights. He stated that he has enjoyed the borrowed view of this farm for 45 years and now this is the beginning of the end of one of the few farms in Fayette County and he would publically like to thank the Rivers family, especially Paul and his late father, for hanging on as long as they have to the farm. He considering all of the things that could have been put on this property and the movie studio will be a win for the County and the neighborhood. He said that he is realistic and would have liked the farm to continue as the residents will have increased lights, noise and traffic but Fayette County will be better for the development. He added that some of the traffic noise could be reduced by closing South Sandy Creek Road to through truck traffic and forcing the trucks to use Veterans Parkway. He asked if this rezoning is approved will the zoning still apply to the property even if the project falls through because he would not want this to turn into an industrial park and have an auction house on the property. He added that the G-B has a 40 foot restriction for height and will that be changed or will they need a variance and will the sidewalk be inside their property and be for public use and can we expect the public to park and use the sidewalk.

Al Gilbert asked Mr. Fowler if he was referring to the multi-use path.

Donald Fowler replied that he was referring to the multi-use path and whether people will use it for a public park. He said that all in all he couldn't object but he wanted to state the issues and he thought the opposition portion of the meeting is when those issues should be raised.

Rena Chastain said she had some concerns and could the height of the buildings be raised or do they have to come back and ask for another meeting on that, and the traffic and lighting is a concern as we moved out here for the tranquility and quiet. She added that the traffic coming through makes it difficult to get onto Sandy Creek Road from Adams Road and Walton Road. She asked if the County will be responsible for repairing the roads from increased traffic. She asked if in the future will tours be offered to the public or will this be something that the County would have to vote on again in the future. She said she has a concern with the lighting. She stated that the timing is to get

something built by January and will the County have the time to control this development or will it be the City of Fayetteville. She said this will have a major impact on residents in a five mile radius and she is not saying she is against it or for it and hopefully this will bring up property values in the County.

Jim Graw asked if Mr. Pace or Mr. Foley if they would like to address the concerns raised tonight.

Jim Pace said the barn would be kept or relocated as maintaining the rural character, the fence and landscaping, is what he wants for the development. He said the site is unique in that the elevation in the middle of the property is low which will help hide the buildings. He also wanted to speak to the wetlands as the site has a significant amount of wetlands that will buffer the properties to the south and east and there is not a plan to push down all of the pine trees as we want the pine trees. He added that he wants the residents in the area to know that we are committed to not denigrating the quality of their lives. He stated that he has had the opportunity to work with the School Board and we intend to incorporate the Rivers school into this project with permission of the School Board and this will help the School Board as the school is not being fully used. He said that Fayette County needs something to restart economic growth and this project is the best he has ever seen to achieve economic growth. He added that the sound stages in Peachtree City have operated for five years and if you haven't noticed the impact at Falcon Field you are not going to notice a whole lot of impact here but we hope the County notices an impact to the economy and vacant businesses across from the hospital and throughout the County. He said that he wanted to reassure the residents that we have heard their concerns and we have had the ecologists looking at the property to protect the environment. He added that this project will help getting post-secondary education into the County.

Bill Foley said that the lighting will be controlled so light is not thrown into the surrounding area and will be controlled so filming can take place outside at night. He added that the building height in the Studio Provider area will be limited to 35 feet and the studios in the middle of the property will be 65 feet. He stated that the multi-use path is planned to go from the hospital multi-use path up and, if the school can be used for post-secondary education, provide access to the school.

Jim Graw said that one of the questions tonight is whether the path will be used by the public.

Bill Foley stated that the path is intended for public use. He added that with traffic, the area is shown on the County's land use plan as residential and a residential development, taking into the site constraints, will generate four times the traffic as the studio will generate. Bill Foley said that we have recommended conditions from staff and are supportive of those conditions.

Jim Graw said that a question about truck traffic came up tonight and the Board of Commissioners controls traffic regulations so that should be something that should be brought up at their meeting.

Jim Graw asked if there is anyone else that we like to comment.

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Regina Burke said that she is concerned and she is the Director of Sales for the Holiday Inn and she has driven the route to the site and it is less than five miles away and can they be recommended to house persons involved with the movie studio.

Jim Pace stated that he hopes that they can refer clients to her hotel and others. He added that the hotels need to determine what they can do to enhance the hotels to be more attractive because he has had to take individuals back into Atlanta where the more expensive hotels are located.

Jim Graw said, seeing that there are no more comments, he was closing the floor to public comment and bringing the item back to the Planning Commission.

Tim Thoms made a motion to table the rezoning request to the May 2nd Planning Commission meeting. Doug Powell seconded the motion for discussion purposes.

Tim Thoms said that this is a great opportunity for the County but we don't know what impact it will have on the County. He said that the Planning Commission was given this petition on short notice and he was disappointed that this has been worked on for five years and he has had about three weeks to answer the questions brought up by the public tonight and he considers it his job and if he is not doing his job then he doesn't need to be up here tonight because he represents all the residents here tonight and all the residents that are not here tonight. He added that we are looking at the most significant zoning to ever come to Fayette County and it may be a great thing, but it may not be a great thing. He stated that he has a list of dozens of questions that he could not answer with the information in the packet he was given and he heard the answers to just a few of his questions from the presentation tonight. He said to look at this request in such a short period is a rush to judgment and is not a good idea and the interest of the County is not served if we move too quickly. He said there is an indication that the studio buildings will be 65 feet high when current ordinance only allows 40 feet and the petitioners are asking us to increase the height by 50 percent and we had a gentlemen previously asking for a similar use and we spent four months developing the land use and a new zoning category (G-B) and he wanted a higher building than 35 feet which was the County regulation and we only raised it to 40 feet and now someone wants 65 feet and its questions like that, that I am not ready to answer tonight. He added that he would not propose to table this if he didn't think we could get those answers in that timeframe but he thinks we can get more answers in the proposed timeframe. He said if this development sets precedence and it is the quality development that we have been shown tonight let it set precedence in the direction of quality and not allow someone else to demand a 65 foot building in G-B and it is not the quality of the development we are discussing tonight.

Doug Powell said we have been asked to do a lot and there is no question that it is a great economic boon to the County but a citizen tonight mentioned that he wouldn't want this to establish a negative precedence. He added that the G-B zoning district was created with input from the public and we are being asked to consider this in short order and maybe a better way to do this is to create a new PUD

zoning category in terms of a studio but given 28 days there isn't time to create a new zoning district.

He stated that if we allow 65 foot buildings in G-B, that would allow those building throughout the County and initially staff wanted to condition the rezoning to two or three uses in the G-B zoning but the County Attorney advised against the condition so it was removed. He said that he can not sit up here and tell you that if we approve this tonight that it won't be the precedence that will cause additional 65 foot structures in the County and I think there is a way to mitigate it but we don't have time to do that tonight.

Al Gilbert said that he would politely disagree with Tim and Doug as you remember that the bulk of the time we spent with the previous studio was to develop the G- B district and the Overlay for SR 138 and that actual rezoning required one meeting and he didn't understand what the delay will accomplish. He added that he had sat on this board for 25 years but the longer we wait it doesn't help and from what he has seen and heard tonight it lets him know that this has the makings of a very good project.

Doug Powell asked how we mitigate the 65 foot building height.

Al Gilbert replied that we are not approving the 65 foot height tonight we are approving a rezoning to G-B with a 40 foot height. If the petitioner wants it changed they have to ask the County Commissioners to change the regulation.

Jim Graw said there were three things that are in conflict with current County ordinances and they are the building height, sign regulations and a heliport.

Bill Foley stated that there is not now a need for a heliport as that was an early need but it is no longer part of this development.

Jim Graw said the petitioner would need to request a change to the ordinances for the building height and signs and all we are doing tonight is considering the rezoning with a 40 foot height and current sign requirements.

Tim Thoms said another issue is the change to the land use plan that could be required.

Jim Graw said he has a concern with that as well but there are properties zoned in the county in conflict with the land use plan and he has a hard time saying this property can't be rezoned when other pieces of property have been rezoned.

Bill Beckwith said he has been a professional planner for 25 plus years and one thing I know is a land use plan is strictly a plan and it is valid the day it is approved and anything that happens after that it can be modified. He added that the future land use plan was well thought out and well

established but things do occur that mitigate against putting the land use plan into effect to stop something that had not been anticipated and that is the case we have here tonight. He said we have a land use plan to protect the county and what this development will do is to enhance it in a lot of ways. He added as far as he was concerned we could modify the land use plan later and he would not entertain a tabling of this rezoning.

Al Gilbert asked vice-chairman Graw to call the question.

Jim Graw said there is a motion to table the request and a second and is there any further discussion.

Tim Thoms said as a point of order if you call the question there has to be a vote on that question.

Jim Graw said he is calling a vote on the question. Al Gilbert, Jim Graw, Bill Beckwith and Doug Powell voted to call the question and Tim Thoms voted in opposition of calling the question.

Jim Graw said the motion has been made to table the petition and it has been seconded and is there any further discussion and hearing none I going to call for the vote. Tim Thoms voted in favor of the motion and Al Gilbert, Jim Graw, Bill Beckwith and Doug Powell voted in opposition of the motion.

Jim Graw said we will continue with the discussion and the Planning Commission does not need to have a motion to continue the discussion.

Al Gilbert asked staff to read the seven conditions for the public.

Pete Frisina read the seven conditions. Pete Frisina said the developer proposed guidelines that staff recommends adopting are over and above the County regulations and where they conflict with County regulations the development will either have to meet those regulations or the County will have to consider amending those regulations. Pete Frisina said staff would look to the Board of Commissioners for direction on amendments.

Jim Graw asked Patrick Stough whose responsibility it is to ask for text amendments to the zoning ordinance.

Patrick Stough said generally it is the petitioner's responsibility to ask for a text amendment.

Al Gilbert said he wanted to ask the petitioner if they are in agreement with the recommended conditions.

Jim Pace said he was in agreement with those conditions.

Doug Powell asked the County Attorney when a petitioner asks for the raising of the height limit for

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example in the General Business district and the County approves that for the General Business district is there anything stopping an additional petition in the out years from the time its approved to not authorize a 65 foot building height.

Patrick Stough said he did not understand the question.

Doug Powell said if the petitioner petitions the County to raise the building height to accommodate the studio and once it is approved in G-B is there anything to stop someone with G-B from getting a 65 foot building.

Patrick Stough said they would not need to petition the County to get a 65 foot building as the zoning district would then allow the 65 foot building.

Jim Graw said unless there was something that restricted the 65 foot building to a property with a required number of acres.

Doug Powell said that is why he was thinking about a PUD but it would take time to do that.

Tim Thoms said the Planning Commission has all the time in the world. Tim Thoms added we have published deadlines and published opportunities to meet with the planning staff and Board of Commissioners to discuss aspects of the land use plan and ordinances much as we did with the only G-B in the County that just happened in December. He said we worked to develop what was in the best interest of the County. He said he has some additional questions for the petitioner.

Tim Thoms asked Jim Pace what his capacity as agent was to the petitioner.

Jim Pace said he was the manager to the LLC developing this property.

Tim Thoms as if he had other occupations.

Jim Pace said he was a commercial contractor and developer in Fayette County and he has built a five story building close to the hospital that was larger than 65 feet.

Tim Thoms pointed out that the building was in the City of Fayetteville.

Jim Pace replied that the building was in the City of Fayetteville. Jim Pace said that he has been involved with the Development Authority since 2007 to develop a plan for this area looking at what could be developed in this area and Historical Concepts was involved as well. He added that where we stand officially, a Memorandum of Understanding has been signed with the studio operators out of London and we are still in negotiations with them and the motion to table the rezoning could have very easily ended the deal as they are looking to us as to whether we want them or not. He stated that

he has been in the Governor's office and the Speaker of the House's Chambers as he has never seen such support as there is on the state level for this project. He said that we have had plenty of time to study this devolvement and have met with the planning staff numerous times working together and we submitted when we were told to submit and were told we would get an up or down answer and move on to the Commissioners after this meeting.

Tim Thoms said he was glad that Mr. Pace had been to the Governor's and Speaker's office and got that support as I see many powerful people in the audience tonight but we have rules and regulations in the County and I would like to see them followed. He added that he is not knocking the project but what happens if the contract falls through and the County has a G-B zoning on Sandy Creek Road where anything in G-B can be developed and it is my job to look at what is in the best interest for the County and understand that you and Matt as Economic Development Director are looking out for the best interest of the County. He said that this development will have a great impact and I haven't had the time to look at it as you have.

Jim Pace said we are given timelines by the County that say submit on this date, wait for four weeks and come and get an answer and we haven't asked for special favors as any other citizen would expect and if I am wrong about that I don't know why I am wrong. He added that the planning effort has probably been the best planned as any other that I have seen and it was partly our initiative in getting that effort underway because when back in the day when the County and City didn't work together, from what I have seen is a cooperative effort on something that can be very spectacular for the County. He said some people have been very excited about this path system and this was not our idea but we are happy to accommodate that if the County thinks that it is a good feature for the citizens and I was out there today looking for the best location for the path. He said that the team has been working very hard on this project since December and he gives Matt Forshee credit for keeping this project in the County when the location by Falcon Field was not desirable.

Jim Graw said it is his understanding that the multi-use path will be on private property.

Jim Pace said it is on private property.

Jim Graw said that he understands that the intent is for other developments to hook into this path even if they are in the City and how is another property owner going to cross over private property to hook to the path on your property.

Jim Pace said that in his history in Peachtree City he had built portions of the path system on his property and it went from one side of the property to the other side with no connection, but eventually the properties were developed on either side and connected. He stated that he was happy to provide the path but he really wanted to maintain the rural character of the area with the horse fence along the road and, 300 feet back, the sound stages well be built below the grade of the road

and I know that because we had balloons flown at the exact height in the location of the proposed buildings.

Tim Thoms asked if they had those pictures as he would be interested in seeing them.

Jim Pace stated that they do have those pictures.

Jim Graw said that he lives in Peachtree City and he has seen the path system grow and he thought the paths were on easements.

Jim Pace said that the paths in the residential areas are deeded to the City but on commercial properties some of the paths were on private property.

Commission Chairman Steve Brown said he started the path conversation and if you are familiar with Redwine Road and the path there, that is similar to what we should see along these roads associated with this project.

Tim Thoms asked if the path along Redwine Road was in the County right-of-way.

Chairman Brown replied that it was in the County right-of-way.

Jim Graw said he wanted to know how another path is going to cross private property and I want to know the legal aspects and how it will be done.

Chairman Brown said the he has gotten the developers to agree to build the path without an ordinance requiring the path and we have identified that corridor as a multi-use path area and we are in the process of identifying other areas in the County that we think will be useful to identify as multi-use path areas. He added that as was done in Peachtree City the County will mandate that the path be built and connect as the properties are developed. He said the county would maintain the paths with an easement.

Jim Graw said so there is a way for some other developer to the south to hook up with a path and cross a property line.

Chairman Brown said that the path would go from property line to property line so the next property will have immediate access to hook onto the path

Jim Graw asked if that would be through an easement.

Chairman Brown said no it would just go up to their property line and then be continued. He added that we are currently working with GDOT to get a bridge to connect to the shopping center in

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Fayetteville and we are working closely with Fayetteville to achieve this connection and Fayetteville is taking responsibility for the path in their jurisdiction around the hospital.

Al Gilbert asked if we could make it an overlay zone to require a path on Veterans Parkway.

Pete Frisina said we can put that regulation in the development regulations and require it as any other infrastructure to accommodate development.

Tim Thoms said that it appears from the concept plan that the path stops at the wetlands so I assume you will build a bridge.

Jim Pace said that we are not going to build a bridge across the wetlands and the path is not going to end at the creek, the path will follow the sewer line as it is developed on the other side of the road.

Tim Thoms asked what sewer line.

Jim Pace replied the sewer line that will ultimately come up to the property.

Tim Thoms said he was confused on the sewer line.

Jim Graw said that is if the property is annexed into Fayetteville they will have sewer.

Jim Pace replied that is correct.

Tim Thoms said so you won't cross the wetlands you will build up to the sewer line.

Jim Graw said at this time we are only talking about Fayette County and not what can happen in Fayetteville.

Doug Powell said he has a question and it has to do with the annexation we have been reading about and me trying to satisfy the impact on 65 foot building height throughout the county and if the city annexes the property it would be a moot point to change the G-B district to allow 65 feet.

Jim Graw said we can only talk about Fayette County because we don't know if or when the property will be annexed and that is why the discussion needs to stick with Fayette County.

Jim Pace said with the multi-use path we don't want to get into the large wetland by building a bridge on the west side of Veterans Parkway, but there is ample room on the east side of Veterans Parkway. He added that the other thing that he doesn't want to do is have to remove the pine trees along Sandy Creek Road north of the school. He said he thinks it can be worked out as we need to

move this process along because the land won't be purchased until the property is rezoned and we are purchasing more land than we need to buffer the development from surrounding properties.

Bill Beckwith made a motion to approve the petition with the seven recommended conditions.

Al Gilbert seconded the motion. Al Gilbert said he has lived in the County since 1977 when there were only about 15,000 people in the County and he has seen a lot of changes and these rezoning are emotional issues and if we don't act on this tonight, it will probably not change the outcome it just increase those emotions and we need to do something to improve our tax base.

Tim Thoms said he hasn't made up his mind yet and he has significant questions about the project and that he would like to bring to the Planning Commission's attention.

Al Gilbert said one of the things that make him feel good about the project is the track record of the developers.

Jim Graw said he would have liked more time to look at this project but he has to be pragmatic and we make recommendations to the Commissioners and this is what we do and the company wants the first facility ready in January and I take that into consideration.

Tim Thoms said that is not our problem, our responsibility is to judge the request based on the County policies and their time constraints are not our problem. Tim Thoms said that in the past he had based his decision on the track record of a developer and been burned when a concept plan for a commercial rezoning depicted a well-planned shopping center but what the County ended up with was a RaceTrac gas station. He said he had a question about the 35 foot building height and I did not see that in the documentation.

Bill Foley said that is in the developer's codes and regulations and that would be required on the buildings up to 300 feet from the roadways.

Tim Thoms said that Mr. Pace said he had followed all regulations and guidelines of the County and the application is dated February 5th and he thought the rezoning deadline was the first of the month.

Pete Frisina stated that the deadline was the first.

Jim Graw said he would like to move this along.

Tim Thoms said he wanted an answer to this question as it is pertinent to the application.

Jim Graw said this is the last question and we need to get to Doug Powell after this.

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Jim Pace said to the best of his knowledge we submitted the application when we were supposed to submit the application and we were told the first Tuesday.

Tim Thoms said our ordinances say differently.

Doug Powell asked if there is any idea what will be in phase two of the development.

Jim Pace said at this time he didn't know exactly what would be in phase two or when it would be started.

Tim Thoms made a motion to table the motion made by Bill Beckwith until the next PC hearing in April.

Jim Graw said we have a motion and a second on the table already.

Tim Thoms said as a point of order he could make a motion to table the motion until the next meeting in April.

Jim Graw said we can't do that we have to act on the motion on the table.

Tim Thoms said the rules of the board allow this motion.

Patrick Stough said he can move to table the motion on the table.

Jim Graw asked if there is a second to Tim's motion to table the motion on the table.

Tim Thoms stated that his motion did not need a second.

Jim Graw said we will accept Tim's motion to table the motion on the table until April and he called for the vote. The motion failed 4-1 with Al Gilbert, Jim Graw, Bill Beckwith and Doug Powel voting against the motion and Tim Thoms voting in favor of the motion.

Jim Graw said we have a motion to approve the petition with the seven recommended conditions and a second to the motion. Jim Graw asked if there is any further discussion, hearing none he called for vote. The motion passed 4-0-1 with Al Gilbert, Jim Graw, Bill Beckwith and Doug Powel voting in favor of the motion and Tim Thoms abstaining.

Tim Thoms said the reason he is abstaining is he does not think that the Planning Commission has had sufficient time to study the petition.

Jim Graw suggests that the petitioner get with staff to see what can be done to amend zoning text for the 65 foot height and limiting it to a specific size of development and amending the sign ordinance.

Al Gilbert said he appreciates that the Planning Commission and they don't always agree but we will walk out of here as buddies.

Jim Graw called for a five minute recess to the meeting.

OLD BUSINESS

2. Discussion of Variance Criteria for the Subdivision Regulations.

Jim Graw called the meeting back to order and asked Pete Frisina to brief the Planning Commission on the criteria for the Subdivision Regulations.

Pete Frisina said this criterion had been discussed at previous meeting. He asked the Planning Commission, in criteria #1, if they wanted to use the terms "peculiar" and/or "unique" as he couldn't remember from the last meeting.

Jim Graw said his recollection was that only the term "peculiar" was suggested.

Bill Beckwith said "unique" means only one.

Jim Graw suggested that only the term "unique" be used.

Al Gilbert agreed with Jim Graw's suggestion.

Pete Frisina said "peculiar" goes away.

Jim Graw said in criteria #3 the last line of the sentence says "good or impair the purposes and intent of the Subdivision Regulations and will improve the development." He said when it reads "and will improve the development" we cannot approve a variance that doesn't do both.

Pete Frisina said the word "and" requires both be met.

Jim Graw recommended deleting "will improve the development" from the sentence.

Al Gilbert and Bill Beckwith agreed with Jim Graw's recommendation.

Jim Graw said in the sentence that begins with "Upon consideration" the word "welfare" needs to be added.

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Jim Graw said the last paragraph addresses the variance for contiguous area.

Doug Powell said we referred this to legal for an opinion to determine if we should put a little ink on the plat stating that the property has been subject to a variance.

Jim Graw said some of the Planning Commission said that is not our job.

Doug Powell said we have in fact put that on plats before as it applies to Longboat and we put zoning conditions on every plat that we approve with conditional use on it and they are written on the plat so I don't see any reason why they can't put that on the plat because if it is significant enough for a developer to come to the Planning Commission to request a variance than I think it is significant enough for something to be put on the plat that indicates that has been accomplished so whoever purchases that property can see that one lot has been subject to a variance because it is not your standard lot as it has received the approval of the Planning Commission in the variance process.

Jim Graw asked Patrick Stough if he was up to speed on this issue.

Patrick Stough said he had spoken to Dennis Davenport and Pete Frisina today and basically the way we are looking at this is that would be rather unnecessary in this case because if the variance was not granted the plat would not be approved at all so if the plat is approved there is an understanding that the variance has been granted

Doug Powell said but we are reducing the contiguous area and in doing so if you were a purchaser and you saw this plat and it did not have a comment on it and you saw five (5) acres and you thought I have enough money to buy that lot, I like that lot, five (5) acres, and you go out there and you build your house and when you go to the County to put your pool and out building in and they say sorry you don't have enough contiguous acres out there on that five (5) acre lot to do what you want to do.

Patrick Stough said if I understand correctly the plat would show how much contiguous area there is on the lot.

Jim Graw said that's correct.

Pete Frisina said the way it has occurred so far is the plat would have the contiguous area on it but there would not be an indication that there was a variance given to it or it doesn't meet and the reason is when somebody brings a plat to you for your approval, part of that approval process, if they have a need for a variance, is to ask for that variance as part of that plat approval process.

Doug Powell says I understand that and if we go ahead and approve the variance I'm just saying as a service to the citizens of the County, the perspective buyers of this lot will see that plat and say this

has been subject to a variance it not like the rest of the 20 lots, just one (1) is like that and now that citizen can ask questions and come to the Planning and Zoning Department and ask what was the background on this variance. He added I would submit to you that not many people come in when purchasing a lot and say was there a variance on my lot, you never get that question. He said for myself, if I have saved up all my life and I am building my dream home in the south county it going to cost me \$350,000 to do that and once I get the house on the property I would be quite disappointed if my dream pool and my out building couldn't go on there because while the lot looked like everything else in the subdivision it wasn't.

Jim Graw asked Patrick Stough to explain what "caveat emptor" means and is that a law in Georgia.

Patrick Stough said it is not a law per se; it is just the general principle that when you purchase property you are responsible for knowing and understanding the conditions of the property that are visible to you, the title of the property, the zoning of the property and things like that are available for you to find out on your own and hidden conditions have to be disclosed by the seller, but things that are available for you to find yourself, you're responsible for finding those things before you purchase the property.

Doug Powel said when you sell a home don't we have to fill out eight (8) pages on our home telling everybody what happened to our roof over the last 20 years and the fact that we had a new toilet put in the basement and sign it before they can sell it and that's so far away from buyer beware.

Patrick Stough said he didn't know if that was a legal requirement so much as it is something we ask for when we are buying property and it is a means of disclosure of things we may not be able to find on our own.

Jim Graw said didn't the real estate people get together and develop something like that.

Patrick Stough said there may be guidelines within the real estate industry that mandate that but I don't know that's necessarily the law.

Al Gilbert said he had talked to Dennis Davenport on the LNS and he said there was a certain due diligence that a buyer has to do and his fear is that we try to cover everything and something still goes wrong with that lot, where is that property owner going to come, he's going to come to the County whether the County was a fault or not and I think we are putting ourselves in the position of supplying information we don't need to supply.

Doug Powell said I look at it differently as I look at us serving the citizens and we could put a little bit of ink on there so they can ask the question.

Tim Thoms said to your point Al that's one (1) less thing they can come back and say you didn't tell

us.

Bill Beckwith said we may as well say this is a caveat emptor situation look into everything.

Doug Powell said in the past we have put the conditions on the plat.

Bill Beckwith said that's a given everybody should know that and they should come in and look at everything on that property.

Jim Graw said whether they know who to go to or not, because when I bought my first house I didn't know anything about zoning or land use I just made an offer on the house and bought it.

Doug Powell said I was in the same boat you were in but now that I have sat on the Planning Commission for the last 10 years, I see life differently and I would like to see what we can do to help the citizens.

Tim Thoms said the reason we were looking at contiguous area in the first place was Phil Mallon was having problems with people coming back to him and saying why can't I put a pool or tennis court and all in and I spoke to Phil this week and he said he has another lot coming in with contiguous area problems and the intent was to deal with that problem to alleviate the situation.

Doug Powell said there is probably a buyer out there that would buy that lot knowing exactly that it wouldn't have space for a pool and an outbuilding and put a home on it because that's all they want.

Bill Beckwith said if the contiguous area is on their plat and he has a scale he can figure that out.

Doug Powell said but they don't.

Bill Beckwith said you can't legislate against stupidity.

Tim Thoms said and then he comes back to the Engineering Department and makes them go through all kinds of hoops and that's what we are trying to avoid and solve the problem before it starts.

Jim Graw asked if the last plat down in Brooks had what the contiguous area had to be for those lots.

Dennis Dutton stated that it did have contiguous area on the plat.

Jim Graw said then it listed the contiguous area for each of the lots on the plat.

Doug Powell said can we make it a requirement that the contiguous area be put on the actual lot.

Pete Frisina said they have to put the contiguous area for each lot on the plat but if the scale of the plat is small it is difficult to squeeze all of the wording into the drawn lot and in that case the information for the lots are put into a table on the plat.

Doug Powell said I can see that I am outnumbered on this but we have done it in the past and we put conditions of zoning on the plat notes concerning the Georgia Safe Dams Act and I don't see why we can't put this on the plat.

Jim Graw said that was done to warn people about state laws for dams.

Doug Powell said that was not part of the discussion, we just had it put on the plat and it was part of the plat because of the lake behind McBride Road and all 12 owners of that lake did not know they were subject to the Georgia Safe Dams Act and as a result each owner had to pay \$20,000 to upgrade the dam.

Jim Graw said we have been discussing this issue for some time and we need to come to a conclusion.

Pete Frisina said we still have to address the drawings for a contiguous area variance and what the Planning Commission wants shown on those drawings. He suggested that the drawings not be a requirement because it is the applicant's responsibility to prove the case for a variance to the Planning Commission and if they bring in drawings you can use them to make your decision and if they don't bring in drawings then you won't have them to help in your decision. He added that trying to determine what needs to be shown on the drawing in terms of house size and accessory structures with all of the possible variations is proving to be difficult.

Patrick Stough said the burden is on the applicant to make the case for the variance.

It was the consensus of the Planning Commission that the sentence read as follows:

Variance requests for the reduction of Contiguous Area requirements may include a scale drawing for each lot affected that indicates the placement of a residence and accessory structure(s).

Pete Frisina said he had one more item to discuss and that was #6, based on a discussion with the County Attorney on a similar criteria, that the criteria be that there is sufficient adjacent property available to bring the lot into compliance and not that the applicant bring in a letter saying that they asked to buy property and they were turned down because you can't prove it.

Tim Thoms asked how the County would know if there was sufficient adjacent property to bring it into compliance.

Pete Frisina stated that staff would have to look at the GIS maps indicating the parcels and aerals.

Tim Thoms Jokingly stated he needs a couple of more months, could we table this because he is not in a big hurry and he is going on vacation tomorrow.

Jim Graw said it looks like we have all of our ducks in a row on this.

Pete Frisina said he would make the changes and send them out to the Planning Commission for review and eventually these changes would go before the Board of Commissioners for approval as they are in the Subdivision Regulations.

Doug Powel asked where the County is on the Legal Non-conforming Lot status.

Commissioner Brown said (from the audience) that it is a mess.

Pete Frisina said that we were moving ahead with taking it all out the ordinance.

Jim Graw asked when the next meeting would be held.

Dennis Dutton said that a meeting will be held on March 21st for a revised preliminary plat and a contiguous area variance request.

Tim Thoms rhetorically asked if the applicant would be bringing in a drawing.

Doug Powell made a motion to adjourn the meeting.

Jim Graw said the meeting was adjourned.

ATTEST:



PLANNING COMMISSION
OF
FAYETTE COUNTY


AL GILBERT
CHAIRMAN