

THE FAYETTE COUNTY PLANNING COMMISSION met on January 15, 2020 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: John H. Culbreth, Chairman
Danny England, Vice-Chairman
Al Gilbert
Arnold L. Martin, III

STAFF PRESENT: Pete A. Frisina, Director of Community Services
Howard Johnson, Planning and Zoning Coordinator

MEMBERS ABSENT: Brian Haren

STAFF ABSENT: Chanelle Blaine, Zoning Administrator

Welcome and Call to Order:

Chairman Culbreth called the Planning Commission Meeting to order.

1. Consideration of Minutes of the Planning Commission meeting held on January 2, 2020.

Al Gilbert made a motion to approve the minutes of the meeting held on January 2, 2020. Danny England seconded the motion. The motion passed 4-0. Brian Haren was absent.

NEW BUSINESS

2. Discussion of Flat Creek Trail Corridor

Pete Frisina began by stating that he wanted to introduce Alice Reeves (201 Flat Creek Trail) and her husband, Bob, who lives on Flat Creek Trail. He noted that I will put up a map and let her speak. He then asked which is your house and which is your mother's house. He concluded that her mother recently passed away.

Howard Johnson asked what is the address of your house.

Alice Reeves replied that her mother's house is located at 193 Flat Creek Trail and we live at 201 Flat Creek Trail.

Al Gilbert asked where is the church.

Alice Reeves replied next door.

Pete Frisina then responded the two churches are located here.

Danny England replied it is the triangular piece.

Alice Reeves stated this property is seven (7) acres, we have three (3) acres and a house and my mother and daddy had four (4) acres and a house, it was my grandfather's property before that so I am the third (3rd) generation to live on it. She said we are next to Flat Creek Baptist Church and so our property runs from the church to Tyrone Road. She noted when my mother passed away a couple of months ago, we started talking with my brothers. She explained since we have owned an accounting firm for the past 22 years, I thought it would be great if I could use her house as my office because I only have a staff of three, it would be the perfect size. She also noted we also would like to move right now and my brothers said that is a great idea because we would like to keep the house in the family and repurpose it. She concluded I am also president in the Historical Society so that is near and dear to my heart.

Pete Frisina asked how old is that house?

Alice Reeves replied it was built in 1960, now they call it mid-century. She added that is our dream to re-purpose that house into an office space. She noted one of my clients is an architect so he is going to help me look at it and we would probably freshen up the outside, but since it has a stoop in the front, he suggested a ramp that would look nice and quiet.

Pete Frisina asked did he talk about the internal changes that would have to made, like bathrooms and things of that nature.

Alice Reeves replied all of the doors are now wide doors for whatever reason, both my dad and my mom had wheelchairs when they were sick so the doors accommodate that size already. She explained we would like to freshen up the bathroom of course because of the age. She noted the kitchen is open so we would we probably just put one (1) wall up and one (1) door there to make that an office. She concluded we would probably enclose the side porch, which has brick on it, so that's what we are looking to do.

Pete Frisina stated when Alice (Reeves) talked to me about this, I said well you know I never thought much about this corridor, what the nature of this is, and what the character of this area is, so I said well the first thing is to talk to the Planning Commission and to see what you guys think.

Pete Frisina stated when I looked at the corridor I see that on Highway 54, you have a property here that was zoned Office-Institutional (O-I) that was done as part on the Highway 54 corridor. He explained originally this property came in and was going to rezone to Office – Institutional as well, but they have a Muslim worship center there and there was a controversy about the rezoning, but we determined it was zoned A-R and you

can have a church or other place of worship within A-R. He explained that the applicants decided rather than going through the public hearing scrutiny, they withdrew the rezoning and they were allowed to build under A-R, so technically that was going to be another O-I piece of property.

Chairman Culbreth asked so they didn't have to get a special use permit?

Pete Frisina replied conditional use, but it is an administrative conditional use permit.

Al Gilbert and Danny England both replied that churches can go anywhere.

Pete Frisina explained that from Highway 54 to Flat Creek basically what you have is basically non-residential. He noted when you look at the corridor you have this church which takes up a huge span of the roadway and you have non-residential up to this other large church and the only other thing that you have is a cemetery, and sandwiched between all this you have this one lot here that is about a five (5) acre parcel which has a house on it. He said I think at one point, this might have been a part of this, but anyway it is mostly surrounded with non-residential except that area that backs up to a subdivision. As you get up the road you have non-residential that backs up to the Fayette County Fire Station. He noted you have a little bit of rezoning that took place at the corner which has a small amount of commercial there which is not utilized as a typical commercial use He concluded the house that is there is sitting a little too close to the road, it was an old store there many, many years ago, it hasn't been used as a store for many years.

Arnold Martin stated that right across the street there is an old gas station.

Pete Frisina replied yes, there is a gas station there. He said here we have a guy who we have dealt with for years who knows well how to get around regulations. He explained we rezoned that property to R-70 many years ago. He added first was renting the house out as a rental but he built two (2) tennis courts in the backyard, which you can have one (1) tennis court on residential property. He concluded he allows the youth tennis group to use his tennis court for free which is how he gets around the regulation.

Pete Frisina explained you have two (2) properties which kind of cut off this entire roadway and you have some properties in the back that can be developed. He added the only thing you have in this area is a house sitting here, these larger tracts which is a five (5) acre tract which is really not that large of a tract which does not have a structure on it. He noted there is also an almost eight (8) and ½ half acre tract which does have a small house on it.

Pete Frisina explained one of the other characteristics of this road is that it is a huge cut-through and that's what has changed the nature of this street. He said there are not a lot of houses on it, three (3) or four (4), you have a huge amount of non-residential in the form of churches and then the fire station so I looked at this and I thought given what has been happening to that road especially being a cut-through.

He explained that after talking with Phil Mallon, it has been mentioned in most of the transportation plans that it needs to change, something needs to happen at the intersection of Flat Creek Road and Tyrone Road. He added they haven't quite said what is going to happen yet, it may be a roundabout, it may be enhanced turn lanes or things of that nature but something will happen at that intersection. He explained given the nature of this corridor and the traffic, I don't have a problem with at least looking at that corridor for some kind of limited office-use, specialty mixed use existing homes trying to keep them and maintain their residential characteristics, similar to what we have done on highways. He concluded I think we have a huge amount of non-residential that is not going away, those churches are not going away.

Arnold Martin asked so would you rezone each property individually or will you do a blanket.

Pete Frisina replied I think we do some kind of corridor that says based on the corridor and come up with some kind of characteristics of what we think we would want to see rezoned. He said obviously what we did on Highway 54 was started by the widening of the road. He added we talked about the conversion of existing homes into offices. He explained now as you know, after many years, we are now talking about a much larger development, but that's how it started out. I think that this road, given that the traffic is not going to decrease, it always going to be a cut-through because once you go north of Tyrone Road there is hardly any traffic on Flat Creek Trail. He noted everybody is travelling across Tyrone and travelling down Highway 54. He concluded in my opinion, I think we can come up with some type of corridor plan similar to what we did on Highway 54.

Arnold Martin asked so based on what you described in term of number of homes and residences there, if you turn your parent's home into an office, then you are looking at moving as well.

Alice Reeves replied no, the office would be next door.

Arnold Martin asked would you say there are three (3) or four (4) residence on the street.

Alice Reeves replied there are three 3 across the street plus George.

Pete Frisina replied I don't know if George is renting that house out or not, he was at one (1) point.

Bob Reeves replied I don't believe he is.

Pete Frisina replied so there are a few homes up there.

Danny England replied if you diagram the age of the things built along this road, the most

modern and current buildings are the larger commercial pieces, there hasn't been a home built on this road since the 1960s.

Alice Reeves replied I build mine in 1989.

Danny England replied it seems that everything built since 1989 has been church-built and the churches have grown. He added that the type of stuff that has built, no one is buying here to build a house.

Pete Frisina other than those parcels across the street where she (Alice Reeves) lives, you could assemble that and get a small subdivision in there if you really wanted to but it is long and narrow and there is a creek back there that will have some bearing on the rear of that property.

Arnold Martin asked what would be your suggestion, would it be O-I.

Pete Frisina replied yes, between Tyrone Road and Highway 54.

Arnold Martin asked if that were turned into O-I for the properties that have five (5) acres, would that restrict them from a developer coming in wanting to build some houses.

Pete Frisina replied no, like what we did of Highway 54, it is still residential land use but it has that kind of overlay district that says we can give consideration for O-I and given the circumstances and either one is okay. He added it gives you a little more flexibility and a little more choice especially with existing homes in my opinion.

Chairman Culbreath asked if there were any more questions or discussion.

Danny England stated that it's funny until you see it, and I drive through the area all the time, you don't realize how much of the population there is not residential.

Arnold Martin so what would be involved and how long will it take.

Pete Frisina replied that's always the 64,000 dollar question. He added a corridor study like this is really a three (3) to four (4) month process. He explained we have to develop it to get everything here and we have to then advertise it and take it to the Board of Commissioners, and sometimes the Board says yea, nay or go back and work on it some more, but I think the consensus here is that it is worth looking at so we will start the process and we will make sure that you are involved. He asked if you have any information about your property please provide it. He also stated I don't think you have done any conceptual plans yet, but have you looked at the development regulations for the parking lot and all that kind of stuff.

Arnold Martin asked will we have to contact all the neighbors as well.

Pete Frisina replied yes, it is a land use study, there are not that many residents out there. He noted we are not really taking anything from anybody, we are adding more options to the area. Sounds good.

Arnold Martin asked just out curiosity, was any of the land that the church next door to your parents, was that land ever part of your land.

Alice Reeves replied my parents and the church were there about the same time. She added my grandfather originally owned the property and he just farmed it and when my parents wanted to build he gave me some land. He concluded then when I wanted to build he gave me some land.

Alice Reeves asked is there a place we can look to see what we would need to do.

Pete Frisina replied what I can do probably is let me find a site plan for a small site like this. He asked just send me an email and I will return the information for a house that has been converted. He added obviously you are going to have a parking lot and a stormwater acknowledgement.

Bob Reeves asked does the parking lot need to be paved.

Pete Frisina responded I think it will if it is going to be for use by customers and also handicapped parking spot will be required.

3. Discussion of State Route 54 West Corridor

Pete Frisina began by stating that he wanted to display the map on the overhead screens and that he previously asked the members to read what had been previously done.

He noted under the land use section under which is the overlay zone it talks about expanding uses of five (5) acres or greater and this is based on properties fronting on State Route 54, that's always my interpretation, it has to be a nexus between the property and State Route 54.

Arnold Martin replied I am not clear what area is "west" on Highway 54 you are referring to.

Pete Frisina replied west of Fayetteville.

Al Gilbert replied the entire corridor between Peachtree City and Fayetteville.

Danny England replied the area between the Hospital and Publix.

Pete Frisina replied do you know where the Dodge Center is, well that's all now in the

City, so that's no longer in the County. So technically, wherever the city limits of Fayetteville and Peachtree City happen to be on any day, it is the area in between.

Al Gilbert noted that this was our first overlay zone.

Pete Frisina stated again that this always has been his interpretation of this section for lots fronting the highway. He explained that someone came in on a 20-acre parcel, what you have is the City that borders and circles the property. He added the property owners are asking the guy to subdivide the property, buy and rezone the back portion of the property to O-I.

Danny England asked if that is Veterans Parkway.

Pete Frisina replied yes. He said in my opinion, once you subdivide it that is no longer connected to the highway. The reason I think the property owner talked to him about doing that is you cannot annex this property into the City because it creates an island with this property (adjacent) here. So if you were to take a section of this off and leave it in the unincorporated County then you are not creating an island and I think that might be some of the push of why they are asking him to do that.

I just said that I believe in my opinion, this is based on you having frontage and a connection to Highway 54 and if you subdivide it, it is not there. He says I can't buy the entire 20 acres. He wants to do a storage facilities, like the others we have been dealing with.

Pete Frisina concluded that I said in my opinion, it does not meet the intent and I don't think I would be in favor of it. I said I would talk with other individuals to see what they think.

The Planning Commission took no official action on this item and will continue the discussion at a future meeting.

4. Discussion of Godby Park Subdivision Preliminary Plat

Pete Frisina stated we have a preliminary plat that was approved for this subdivision, this may look familiar, this was one of the controversial rezoning that the County went through that was challenged but we didn't actually end up in court. The County came back and gave them the rezoning. So this is the preliminary plat that was approved they have not built anything.

AG asked is the proposed by Rod Wright.

Pete Frisina replied yes, and he just sent me an update today. What he is seeking to do is going to require a revision to the preliminary plat. He explained if you look at Lot 17, he

doesn't want it to be accessed by the internal street. He wants this one (1) lot to front onto Davis Road. Which has created an issue in that on the night of the rezoning, a citizen stood up and asked the Board about precluding any construction traffic on Davis Road. The Board said we are going to make up a condition that says no construction traffic on Davis Road and they asked the developer's representative do you have any issue with this condition. The attorney replied that they have no issue with the condition. So once they started doing more detailed work and they later determined there are some issues in meeting the condition. One of the things they spoke to us about was having this one (1) lot front on Davis Road. There is no restriction on a lot fronting Davis Road from a regulatory standpoint or a conditions standpoint, the only thing is that you can't have construction traffic on Davis Road.

Chairman Culbreth asked do you have access from within and Davis Road.

Danny England replied no, only from Davis Road.

Pete Frisina replied of course no one defined what construction traffic is. In my opinion, if a truckload goes down the road, that is construction traffic. We have talked about what is the best way to approach this, going back before the Board, to ask them to change the conditions is the least favorable path to follow. However we can give them that option but I don't know how favorable that would be.

Al Gilbert replied I don't either.

Pete Frisina stated what I suggested to Rod Wright, who is the developer, I would talk to the Planning Commission and get some feedback from them. I said if you want to do this I would revise the preliminary plat to remove this lot from the preliminary plat totally. Then it would be a stand-alone one lot subdivision plat for this one (1) lot because it has no relationship anymore.

Al Gilbert asked what his reason for changing it is.

Danny England said it looked like the detention area has gotten larger.

Al Gilbert replied I wonder if it has something to do with him losing a lot after the detailed engineering and he is trying to gain it back.

Pete Frisina replied he has always wanted 17, he is trying to get to 17.

Pete Frisina replied he is making the road smaller, if you compare how much road is here (original concept) versus how much is here (preliminary). So what I suggested to him is revise the preliminary plat and this lot not be part of the preliminary plat, then it would be just a stand-alone one lot subdivision along Davis Road, and would not be part of Godby Park.

Danny England replied that's what I was thinking, just take it out.

Pete Frisina stated that is what I told Rod Wright I would talk with you about and he said I think that is a good idea, I will take it out of the preliminary plat if you don't have a problem with that. He also said I will plat it on its own prior to doing the other stuff and while I am developing the subdivision, I will have all of my equipment and I can pour the foundation and I will do everything at that point and bring everything through the back.

Arnold Martin stated I say go for it.

Al Gilbert replied I don't have a problem with it.

Pete Frisina responded that's all I needed to know if you have any issues.

The Planning Commission took no official action on this item and will continue the discussion at a future meeting.

OLD BUSINESS

5. Discussion of the Zoning Ordinance and Subdivision Regulations.

Pete Frisina said the portion of the subdivision regulations that requires a public hearing when it is proposed that a lot be added to the subdivision, property is added to the subdivision or the use of a lot is changed is under review by the County Attorney and staff. He discussed three recent requests and that one of those requests was denied and has gone to court but a decision has not been rendered yet. He stated that the County Attorney has mentioned a legal term of "reasonable reliance" to base the regulations on which means a person buys a lot in a final platted subdivision with a reasonable reliance that the final plat will remain unchanged or not be changed in a way that will be detrimental to the other lots. He asked the Planning Commission for their thoughts on this section of the subdivision regulations.

Al Gilbert asked, how do we determine what's detrimental.

Danny England said the request we denied was detrimental.

Pete Frisina asked him to articulate the detriment.

Danny England said it was detrimental to the character of the subdivision because everyone had bought in a subdivision of three acre lots even though the subdivision was zoned for one acre lots and nobody in that neighborhood bought a lot thinking that someday they were going to be told that they are zoned for one acre lots.

Pete Frisina asked is character a function of lot size, lot width and/or setbacks.

Al Gilbert said different setbacks are an issue to character.

Danny England said with the request that was denied, if the property was subdivided it would have had R-40 setbacks which were different than how the existing houses were laid out.

Pete Frisina said another issue is we have two ordinances that are in conflict, the subdivision regulations that require permission to subdivide a lot in a final plat and a zoning ordinance that allows a smaller lot. He stated that the regulations need to be clear as to which ordinance takes precedence. He added that the subdivision regulations need criteria to weigh these.

Danny England said the alignment of the existing houses beyond the required setbacks needs to be taken into consideration. He added that if the setback is 50 feet but all of the house are setback 80 feet that creates a built condition that needs to be considered.

Pete Frisina said setbacks are another issue we need to review because we have final plats with larger than required setbacks that were imposed by the developer.

Al Gilbert said we need to look at the historical perspective of the final plat and what was the intent of the developer because the county didn't have as many zoning categories back then.

Danny England said that is a criteria we need to consider.

Pete Frisina said that puts us in place were a regulation other than the zoning ordinance is dictating lot size. He added that again the regulations need to be clear which regulation takes precedence. He asked if the lots were subdivided in a way that the setback or alignment was maintained would that change the situation.

Arnold Martin said from his perspective the setback is at the top of the list because we don't want one house out of alignment with the existing houses. He added that is detrimental to the neighborhood.

Pete Frisina asked Arnold Martin as someone who is in the mortgage business what would be the effect on the appraisal of properties in a subdivision where a home is out of alignment with all of the other homes.

Arnold Martin said an appraisal is mainly based on recent sales of six to 12 months within the subdivision and up to a half mile radius. He added that the appraiser may down grade the value of the house that is out of alignment because it is the property that is out of character. He stated the appraisal for surrounding properties probably wouldn't be affected as much but the marketability of the property could be affected because the house next door that is out of alignment.

Pete Frisina said a criteria that could be considered is the average lot size in a subdivision and the degree a proposed lot is deviating from that average.

Danny England said a scenario is someone buys two lots and wants to divide those two lots into three lots and built three new houses that maintained the alignment of the other houses so the only difference may be the houses are little closer together than the other homes but that would be more in character.

Pete Frisina said a criteria that looks at the average setback of existing homes and the degree a proposed lot deviates from that average could be another criteria. He added that reasonable reliance is the intent because someone bought here and thought the subdivision is going to stay this way. He said another approach is to say once it's platted it cannot be further subdivided.

Al Gilbert said the issue will be a subdivision with really large estate lots and they don't want a big lot when they get older.

Pete Frisina said but the intent was to create a large lot estate subdivision.

Al Gilbert said this will be an issue for those large lot subdivisions.

Arnold Martin said the reasonable reliance is the majority rule as the majority of the lots are this size.

Danny England said what about a case where a developer buys the majority of the lots in the subdivision for further subdivision into smaller lots.

Arnold Martin said the reasonable reliance is based on the precedence set by everybody who was there when the subdivision was created and not someone who buys 51 percent of the lots. He added changing a large portion of the subdivision to smaller lots would drastically change the character of the neighborhood.

Pete Frisina said criteria could consist of lot size, lot width, setback and alignment and intent of the subdivision and that the final plat with these criteria overrides the zoning of the property.

Arnold Martin said those criteria should trump the zoning as the intent is more important.

Pete Frisina said the majority of the subdivisions with lots that are larger than the underlying zoning are older subdivisions and in comparison to the all of the subdivisions it is a small percentage. He added that another scenario is setbacks increased as a condition of zoning and the degree someone may want to reduce the setback and those requests go back through a rezoning public hearing process. He said the other issue is final plats with larger than required setbacks that were imposed by the developer. He added that he ran

across an older final plat today where the developer increased the internal front yard setback to 150 feet. He stated today staff will not approve a plat with greater setbacks than what is required by the zoning. He said what is being proposed for that situation is a request to reduce the setback only go back to the Planning Commission as they are the group that approves plats. He asked if these requests should be a public hearing before the Planning Commission.

He concluded it was the consensus of the Planning Commission that it should be a public hearing and criteria needs to be established.

Arnold Martin said if the setback/alignment was maintained the average person is not going to know the size of the lot.

Al Gilbert exited the meeting at 8:25pm.

Pete Frisina said if a plat was approved with a greater setback than was required by the zoning the department will enforce it. He added that there have been various policies as there is one plat with a note saying per the County Attorney, don't enforce the greater setbacks and another subdivision where the developer increased the setbacks but if he submitted a letter reducing the setback the county honored the latter.

Pete Frisina said to summarize, we need criteria to determine what degree of change within a subdivision the County would allow whether it be lot size, lot width or setback/alignment. He stated that the three situations we need to address are; 1) adding a lot to the subdivision, adding additional property to the subdivision or the use of a lot is changed, 2) consideration of a request to amend a condition of rezoning that increased the setback and 3) consideration of a request to amend a plat with a developer imposed increased setback. He added that allowing no change to a final plat is also an option.

The Planning Commission took no official action on this item and will continue the discussion at a future meeting.

Chairman Culbreth asked do any of the Planning Commission members have any comments.

Chairman Culbreth made a motion for adjournment.

Arnold Martin made a motion to adjourn. Danny England seconded. The motion passed 4-0. Al Gilbert left early.

The meeting adjourned at 8:28 pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY



JOHN H. CULBRETH, SR.
CHAIRMAN

ATTEST



HOWARD L. JOHNSON
PLANNING COMMISSION SECRETARY