

THE FAYETTE COUNTY PLANNING COMMISSION met on March 5, 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
Brian Haren
Arnold Martin

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

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 February 20, 2020.

Al Gilbert made a motion to table the minutes of the meeting held February 6, 2020 to next scheduled meeting. Brian Haren seconded the motion. The motion passed 5-0.

NEW BUSINESS

2. Consideration of a Final Plat of The Handley Estates. The property will consist of six (6) residential lots. Lots One (1) and Six (6) are zoned A-R, and Lots Two (2) through Five (5) are zoned R-55. This property is located in Land Lot 31 of the 5th District and fronts on Redwine Road.

Chairman Culbreth asked is the petitioner present, please state your name sir.

Tim Hoff (Pulte Corporation) replied yes, I am with Pulte Home Corporation.

Chairman Culbreth responded you have the floor.

Tim Hoff responded we would like to record the Final Plat for Brighton.

Chairman Culbreth replied Commissioners do you have any questions or comments, has everyone had a chance to review it.

Brian Haren replied yes.

Danny England replied didn't we review this previously, what did we look at last time.

Chanelle Blaine replied yes, it was the Preliminary Plat that has come before you guys. She added there is also a condition for this Plat. She noted that Environmental Management asked that you approve the Plat with a condition that a signed Stormwater Management Agreement with a wet signature is submitted to the Environmental Management Division prior to the Planning Commission Secretary signing the Plat.

Pete Frisina replied that we have someone who want to speak about the Plat as well.

Chairman Culbreth asked are you in support or opposition, what is your position.

John Green replied not so much in opposition. He stated that I am John Green, I am the adjacent property owner and I entered into an agreement with Pulte for a landscaped permanent undisturbed maintained buffer and they have been very cooperative and they have installed the buffer and it is landscaped. He added I have no concern with what Pulte has done, my concern is how it would be handled in the future. He said through our agreement, it would handed over and maintained through the homeowners association. He noted I am here to today to get some general information about when perhaps when the homeowners would be established. He added that on the Plat it shows it as a landscape buffer, but the wording doesn't say that it is permanently maintained or that is not to have any kind of structures, so I am wondering how that is to conveyed to the homeowners association so that once Pulte hands it over, they are aware of how the buffer is supposed to be and how it is supposed to function.

Danny England replied I remember when you came in and we had that discussion about the buffer and the HOA. He said I can't remember the gentleman's name who was here then, but he did say that will absolutely cover that by the HOA when established, so you are asking the right questions.

Chairman Culbreth asked how many lots are planned.

Danny England replied so they planted a berm along long Lots 1, 2, 3 and 4 and they landscaped along that berm to act as a shield between their lots and his home which is on Lot 36.

John Green replies you can see the permanent easement on Page 3.

Danny England replied so we are looking the area between Lot 1, 2, 3, 4 and Lot 36.

Pete Frisina replied Page 9 has the written agreement on it, too.

Brian Haren said if you have Page 9 as compared to the page three (3). He added so it is on the Plat.

Danny England replied it looks like it is in the upper right hand corner of that sheet.

Pete Frisina replied I think in terms of structures, I think that was set entirely within the setbacks.

John Green asked would that be any kind of structure, garden shed, or swing set.

Chanelle Blaine and Pete Frisina both replied yes.

John Green stated I guess my other question is in the agreement will the buffer be eventually part of the deed restrictions. He added I am sure Pulte will handle that in the initial deeds, but I am wondering how that happen going forward will and will reference be made to the Plat and the interest will be transferred subject to all the easements on the recorded Plat.

Danny England replied right, I would imagine that if your purchased Lot 1, 2 3, or 4, and I believe that berm does all the way to Lot 4, each of those plats for that lots will have that language attached to it, otherwise if you bought number one (1), you would not know that it even existed. He noted Randy would know more than I would, it would have to stipulate that when you buy those properties that thing even exists. He said because the owner for Lot #2 may not even get a copy of this page that has this language on it, so he has no idea. He would be asking why is there a big hill in the back of my lot, and the next thing you know he is back there digging it up. He added that is just why I image will be the easiest way to do it.

Arnold Martin asked is it not referenced here in number seven (7), in the future acts and responsibilities section when sold, etc. He added, Am I reading that correctly?

Randy Boyd replied Danny, my concern on this is was, yes it is on record on this Plat but nobody really gets a copy of this Plat. He added let's be honest, no one gets a copy of the Plat.

Danny England replied yes we see it.

Randy Boyd replied if Pulte said they would put it on record and make it part of the homeowner's association agreement then I would assume that you would make that part of that agreement.

Tim Poff replied that is our plan to have this part of the common area, so we will have someone take care of this entrance area, some of the common area and this will be included along with the entrance area. He added we have some common area up by the detention pond, mailbox kiosks and that will have to taken care of, so it will be included with the maintenance.

Pete Frisina replied I can read this because it has been reduced, so did you say there is something in this agreement that says the deed shall reflect this, because I am having a hard time reading it.

Randy Boyd said well going back to the minutes of when this was approved at the Board of Commissioners, it was said that the homeowners association will maintain the landscaping and

that is in the agreement. He said Mr. Eshram, the person representing Pulte, said the buffer will be on the final plat, and it is, and then it would be a deed restriction.

Pete Frisina replied okay, but is that within the agreement, because having a notation on the deed would be very helpful.

Randy Boyd replied exactly, that why I am here tonight.

Pete Frisina responded then at least to someone buys it says be aware.

Danny England replied otherwise they never know.

Randy Boyd responded Tim worked with us a couple of years ago and we met on site a couple of times, and he worked with Mr. Green and did a great job, and for the record the trees have just been planted. He stated as you know, as part of the agreement, they will guarantee them for two years, so we can start their clock running on that. He explained the under-storied plants have not been planted yet, but the trees have. He said Pulte has been great, they have been a great neighbor to a wonderful house and I encourage you to look at that house, it's one of the oldest in Fayette County. He noted that I am just trying to protect Mr. Green's rights there, our fear is when you do a title search, the person that doing the title search is not going to look at this Plat. He explained we are just looking to voice our opinion tonight and to please put it the deeds and please put it in the homeowners association documents to protect that buffer that they have been so kind to put in, that's the reason we are here. He said we are not against the Plat, I know they want to proceed, and it's been a couple of years trying to get this in, and we thank him again for working with Mr. Green. He concluded we just need to make sure it gets in the deed and the homeowners association so that after Pulte's gone, so the buffer will be protected, that is what we are asking.

Chairman Culbreath asked will that require a new condition or will it be administratively.

Pete Frisina replied that's hard for us to regulate the deed stuff. He added I think it would be a good idea because the control of that buffer is under the control of the homeowners association. He explained so it is really basically putting someone one notice that the homeowner association has this thing back here, because as you said, the homeowners association is going to have to tell someone ten (1) years from now you shouldn't have knocked those trees down. He concluded putting them on notice helps to the degree it does, now that if you think anybody reads their deed.

Randy Boyd replied they don't even get a copy of the Plat, like Pete said no one reads their deed either. He explained if anybody buys a piece of property like that, they will ask where did this come from but when you put it on record there or in the deed restrictions or a homeowners association agreement that is on record, that is notice to the world that this is what exists.

Pete Frisina responded the other thing you can do is make this one of the exhibits in the homeowner's association covenants. He said again you can't put this in a hundred different

places and unless you put up a sign stating do not knock the trees down, no one will probably notice it. He stated all you can do is put it out in many places as you can, in my opinion.

Arnold Martin noted that if by chance someone just blatantly knocks the tree down, having all of this verbiage in place gives the legal protection where they would be responsible for having to replace that tree even if they didn't know.

Pete Frisina replied it does.

Chairman Culbreth asked are there any further questions, by members of the Planning Commission.

Danny England asked the Plat refers to a 25 foot landscape buffer, does that berm all the landscaping actually fit into the 25 feet or is it bigger.

John Green responded I assuming it all fits within the 25 feet, I haven't actually measured it.

Tim Poff replied its close.

Danny England responded that is feels that maybe is a little wider.

Tim Poff replied these are deep lots too, we are going to concentrate our homes close as we can to the street.

Brian Haren asked so how do address this.

Pete Frisina responded well I think you have it on the Plat. He said I think if we can get a commitment that it will be in the declaration, and a notation in the deed so that somebody know that is there.

Tim Poff replied yes.

Pete Frisina stated we don't regulate the sale of property, we can be in the middle of that one that is the dilemma.

Brian Haren asked at this point is that a gentleman's agreement.

Pete Frisina replied I think so.

Randy Boyd replied but it's on record and they don't want to be bad neighbors coming into the neighborhood.

John Green responded like I said, I have had no problem with them, they have done everything they said, they have done it. He concluded I am more concerned with down the road when they are not there anymore.

Arnold Martin said so my last question and bigger concern are the people coming in and tearing down this buffer. He asked what if people decide they want to add to it. He added do you have verbiage to protect that.

Pete Frisina replied well it's controlled by the homeowners association, technically they're the enforcement arm. He added they are the first enforcement arm and John Green is the second enforcement arm, through the homeowners association, this agreement should carry through and run with the property.

Chairman Culbreth stated that motion is in order.

Pete Frisina asked Tim Hoff, do you agree with the condition.

Tim Hoff replied yes.

Arnold Martin made a motion to approve the Final Plat of Brighton with the condition that a signed Stormwater Management agreement with a wet signature is submitted to the EMD prior to the Planning Commission Secretary signing the Plat. Al Gilbert seconded the motion. The motion passed 5-0.

OLD BUSINESS

3. Discussion of the Zoning Ordinance and Subdivision Regulations.

Pete Frisina said let's talk about the subdivision regs first, the first thing that we are looking at is Section 104-592. He added so this is some of the language that we have been waiting for from the County attorney. He explained this is what's going to strengthen the subdivision regs for these public hearings and also indicate that as property moves into a subdivision, it has moved into a second layer of regulation over and above zoning.

Pete Frisina stated what it states here is:

The Board of Commissioners desires to provide this framework to enable property owners the reasonable rely upon the manner in which subdivisions are developed.

He said now I have asked the County Attorney to give us a companion language to put in the Zoning Ordinance, so that the Zoning Ordinance will say something similar to this. He added for instance, if you have a subdivision that is zoned R-40 with one (1) acre lots, but everything is developed by three (3) acre lots, the subdivision regs, to the degree it does, will overshadow zoning. He explained so even though you are zoned R-40, you have to come to County to ask for permission to subdivide that lot further, which is what we are doing right now, the language was not that strong, so that is what that was for.

Brian Haren asked will this apply to just future developments or is it retroactive.

Pete Frisina replied it applies to all plat now. He noted what you are going to find is on newer plats they don't put more than what the zoning requires. He added It's the older plats when for whatever reason, I don't know why, someone would take land zoned for one (1) acres lots and put in three (3) acres tracts.

Al Gilbert replied well there weren't as many zoning categories back then either.

Pete Frisina responded well there was two (2) and three (3) acres zoning back then, maybe that's just they just figured that's the way we wanted to do it, for whatever reason.

Danny England replied they didn't want to stop and do a rezoning, maybe it took too much time.

Pete Frisina suggested or else it may have zoned when they bought it. Their desire was to create was created.

Al Gilbert replied just remember land was cheap then.

Arnold Martin asked in the scenario of an older subdivision, where there is one (1) lot left that hasn't been developed where one of the neighbors owned it because they wanted a buffer, then they decide we want to release that lot. He added based on Brian question, they cannot go in and subdivide that because this will be in place.

Pete Frisina replied he can't go in and subdivide, which is already in the subdivision regulations without coming to the Board and ask. He explained what this is saying is the Plat will overrule the zoning, once you have platted it there is a reasonable reliance upon the people that bought within the subdivision.

Pete Frisina asked that we move on to Page 2 Paragraph J, he said the entire paragraph is all that we went by before to have these public hearings, so there was absolutely no criteria to go by, it was just your feel. He concluded now everything that starts with one (1), two (2), three (3) and four (4), all the way to Section 104-602 is all new. He explained what we are going to be looking at is street character, lot size character, lot width character and the change in principal use.

Pete Frisina noted that the typical non-residential uses will be a church and/or a place of worship, the developed recreational area with a pool or tennis court, home occupation, horse quarters, horses if you have a certain amount of acreage which allows you to have a structure for the horses. He stated the only two uses that you are looking would be a church or a private school. He explained that if someone came in there were five (5) lots on the side of a subdivision, with no houses on them and a church next door and they said those five (5) lots will really help up out. He also explained they would have then have to go through the same public hearing to change the use of that property, because it is now within a residential subdivision.

Pete Frisian said now the caveat under Number Two (2), is that I have used the term, *A Recorded a Major Final Plat*, so we are using new terminology in the subdivision regs, when we gets these amendments done hopefully in April. He explained we are going to use two terms, *Major Final Plat* and *Minor Final Plat* which means it is a Final Plat with an internal street network. A *Minor Final Plat* will be any Final Plat of lots that front on an existing County road. He added so we won't go this this process for maybe ten (10) lots on the side of a County road. He concluded that a Final Plat where the lots uses an internal access, we will go through this process. He added does anybody have an issue with that?

Pete Frisina stated that section number Three (3) is to amend the setback increased by a condition of rezoning, which will follow the zoning procedure. Number Four (4) is the new one (1) developed specifically for the Planning Commission. He noted these are to amend the setbacks created by a developer. He added if it has been approved on a Final Plat, the County policy is if the County has approved a subdivision plat with the setback greater than the requirements of the zoning district, we will enforce it. He concluded now if the property owner wants to come to you guys and have it amended, they will have to come to an amended it for that lot only, it will not go to the Board of Commissioner it will go to you guys only.

Pete Frisina stated that maybe I guess what I should do is go back and look at see if there are any plat that were approved on lots on the side the road.

Danny England stated that Gingercake is probably a good example because everything is pretty consistent all the way down, and the houses feel farther back than they should.

Pete Frisina replied let me throw a little caveat in, some of the older subdivisions that had internal streets also fronted streets on the road. He added in my opinion, they would be covered under the Major Final Plat.

Danny England replied oh there are a part of Ponderosa on the one side, I don't remember what side it is.

Pete Frisina responded so in my opinion, in that case, even though they front on an exterior street, they were developed in the context of an internal street subdivision. He explained if someone cut out x number of lots on the side of the road and decided that they want the setback to be much greater than the zoning district, I would go back and see if I can find any of those that has been done in the past. He added then we would allow them to come through that process, I don't want to exclude them. He said I think I will look at it and try to figure that out and then come back at look at it, hopefully I won't find any. He noted we would get the same kind of character of the street, setbacks. He explained now you also get in this context will be looking at side and rear setbacks because we had occasions where developers have decided to the side and rear larger than what required. He concluded I will go back and check those and see if I can find anything, then we can make a decision on that.

Pete Frisina continued okay, the next thing that we will be looking at is Section 104-602, someone made the suggestion that I should talk to the County Attorney about this variance procedure. He noted what he suggested is that the variance or appeal can be broken into two sections now. He explained one (1) for variances and one (1) for appeals, the suggestion was that it not go back the Board of Commissioners for appeal, if the Planning Commission denied one (1) of these, it would go to Court. He added I am going to pass out the language we will add to item (C). He noted this language was taken from the Zoning Board of Appeals, which will now apply to your decisions. He added that in discussions with the Attorney, we looked at the criteria, and he said that number three (3) could go away because it is somewhat redundant with number one (1).

Pete Frisina said the question that have for you guys is given what you know, and what you have done for any variance for the Zoning Ordinance or the Planning Commission, are you comfortable with these conditions, or these factors, is there anything that you would like to see changed, is there anything you would like to see added or subtracted for clarity.

Arnold Martin asked are items one (1) through five (5) examples of undue hardship.

Pete Frisina replied those would support an undue hardship.

Danny England responded these are also the five (5) things that you fill-out when you apply for a variance. He added these are the five (5) written responses.

Pete Frisina stated number three (3) will go away.

Brian Haren asked is what the ZBA uses.

Pete Frisina replied yes, it is. He added given the variance you guys are hearing, this is the kind of things you will have to look at. Now under number one (1) I added the environmental impact aspect because I know that something that you have looked at a lot. We have one more meeting before I want go to public hearing which is April. Between now and then, give it some thought.

Pete Frisina noted item (b) will be the appeal, because it is separate now. I think that language was taken from the ZBA, as well.

Pete Frisina said on page nine (9) are some suggestions that the County Attorney had, and I think what I have done is taken his suggestions and worked them in to what we have. He said if you look at (a) through (e), these are his thoughts and I think we covered it will all the stuff we did concerning the lot character, street character, lot width and the like. He added so I think we provided a little more detail than what he provided here. He continued so the only change I am making here is if you go down to the very last paragraph was a provision if you have an illegal lot and if it was deemed to be non-conforming it had to be an improved lot. I am taking out improved lot and just say any lot now can be considered

for this. When we initially wrote this, what we were dealing with when we were looking at these, the lots were all improved and guess we kind of said let's just look at improved lots. Since then, I have I run into a couple instances where I have found some unimproved lots that fit the variance procedure here but since they are unimproved they can't go through the procedure. I am talking about two lots I am dealing with that are in excess of 30 acres.

Pete Frisina explained as I mentioned I was talking with the attorney and I said I thinking we were looking at people that had substantial investments in their property as being improved. He said well 35 acres or more is a pretty substantial investment. He said of those two (2) one of them would fit this and be okay, the other one (1) would not. He continued even though they could not fit the criteria, there are three (3) others conditions here. I will talk about that a little more the next meeting under (b) whether or not this should be a separate section. I am working on that right now.

Brian Haren asked when are you want to take this to the Board.

Pete Frisina replied I am hoping to get all of these Ordinance amendments we have been working on, which we started on late last Summer. He said I will bring those all back next meeting, go over them one more time and then go to public hearings in April. He said it is the revision of the subdivision regs with all this new language which we have been discussing. He noted also, I was doing the subdivision regs, we were finding things in the Zoning Ordinance, then you would find something else, so there was a lot of housekeeping going on in it, as well, to me it was mainly housekeeping. He concluded in the next meeting we will go other that everything else that we are proposing and hopefully we can get to public hearing in April.

Brian Haren asked so we only need to do only one program.

Pete Frisina replied yes for everything, yes, all the sections will be advertised and we will go through them. He explained I think we will have to have a separate vote on the subdivision regs and then a vote on the Zoning Ordinance. He added I don't think we need to vote on every section unless there is a section where someone says I am not in favor of it, and we can always hold that section out.

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

4. Discussion of Flat Creek Trail Overlay District

Pete Frisina began by saying I have taken those outlines that have been created with your input and what I have come up is the first page of what will be the language that will go into the Land Use element of the Comprehensive Plan, including the note that will be put on the Plan map. He noted this follows the typical format when we have done the Corridor study. He noted that we talked about the existing situations, so what this will identify the Corridor that will on be Flat Creek Trail north of Highway 54 and south of Tyrone Road

and all the lots front it. He said it is classified right now as a Collector road; it is a connector between a major arterial which is State Route 54 and a minor arterial which is Tyrone Road and it becoming a connection between those two (2) arterials.

Peter Frisina explained there are a total of 18 lots fronting on the road, of those 18 lots, there is approximately 80 acres, eight (8) lots fronting on the east side, and ten (10) lots fronting on the west side. He further noted ten (10) of the 18 lots have non-residential use and/or zoning and the total acreage associated with those is approximately 49 acres. He said you have two (2) huge churches there, you have some property that was zoned in association with Highway on Highway 54, and there is a cemetery and a fire station. He explained there is one lot zoned C-H, which is still being used as a residence and it was a commercial use, many years ago as a general store. He stated they are four (4) lots zoned O-I, two (2) of them are developed, two (2) are still undeveloped at this time. He further noted there are eight (8) residential lots, mainly zoned A-R with one (1) zoned R-70, these total about 31 acres. He concluded five (5) of the lots are zoned non-conforming, in terms of lot size. He added seven (7) of them, contain single-family residences, and one (1) lot is currently undeveloped.

Peter Frisina stated the current comprehensive plan calls for Rural Residential – One (1) unit per Two (2) acres. He said the only area that seems to be really conducive to a subdivision development with a street is an assemblage of the 15 acres, which have two (2) houses that you have to work around or remove them. He noted that is the only area that I can see that is conducive to that kind of development. He said there are some issues with a stream and a lake in the back which will affect the lot yield. He concluded there are some lots that have the potential to be just subdivided along Flat Creek Trail they are zoned for two (2) acres, cutting out two (2) acre lot would be something you could do.

Pete Frisina stated that the Tyrone Road / Palmetto Road Transportation Study recommends that the intersection of Tyrone Road and Flat Creek Trail be improved with either a round-a-bout or a signalized interchange, which will make that a much easier interchange to get through. He said the pattern we are looking at is to maintain the residential and institutional character, because it is mainly an institutional aspect, you have four (4) places of worship, fire station and a tennis court. He stated that also the purpose of the Overlay is to control the architectural character and aesthetic quality of non-residential development. He concluded the recommendation is to maintain that underlying land use designation of Rural Residential Two (2). He said these to recommendations would be added the notes.

Pete Frisina said the next page covers the Flat Creek Trail Overlay Zone section to be placed in the Zoning Ordinance. He added it follows the same format as the other Overlays but it not quick as extensive because it not a major highway. He explained the development that is out there has already set the pattern for what's going on. He stated this will apply to all non-residentially zoned property which has road frontage on Flat Creek Trail, but it would exempt those properties that are zoned O-I at the corner of Flat Creek Trail and Highway 54, because they were initially rezoned and tied under the Highway 54 West

Overlay Zone.

Pete Frisina stated the standards shall maintain a residential character and this shall apply to all new structures built on non-residential zoned property. He said one of the things we don't really denote in the other overlays is all of these characteristics such as pitched roof, etc. He added we never go back and look at an existing house and check the roof, it is only for these new buildings. He noted it has the same characteristics such as the pitched roof, the siding, the framed doors and windows, and then the other things such as the roof-top ventilation should be screened. He said that I added the regulation that no more than 50 percent of the parking shall be located in the front yard, this requirement shall apply to new structures of 3,000 square feet built on non-residentially zoned property. He further explained the reason I added this because some of these houses are so small, if I say you have to have 50 percent in front and 50 percent into the lot, we might be dealing with five (5) parking spaces, but not until you get to 3,000 square feet then you will need ten (1) parking spaces. So I think that is a good trade off there. He concluded I am not going to push this through in April because I don't want to put too much on the Board's plate, but I will continue to look at it and see if anything pops up.

Al Gilbert stated I may have mentioned this before behind the fire station is a big open area and I think that under the control of Recreation Department, girls' softball practices are held there, it not residential.

Arnold Martin asked if the homeowner who lives on Flat Creek Trail came to us to with a request to her convert her parent's home to an accounting office, how do you think this affect her in a positive way based on her request.

Pete Frisina responded this is opening the door for that type of development to occur along the Corridor, you have seen the maps. He added you have seven (7) homes along there and some of them are pretty large lots, but you have a long skinny lot with a home up front on maybe five (5) acres so technically, what they are really doing is like having a one (1) acre lot in the front with four (4) acres behind it. He concluded if someone came in and bought one of those lots and wanted to develop office behind it, they could do it.

Chairman Culbreth asked are there any further questions.

Pete Frisina said I will make sure that I send everything out to you guys, both electronically and hard copy. He added if you have any ideas, next week is the time to get it to me.

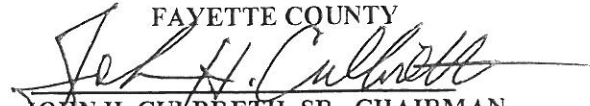
The Planning Commission took no official action on this item and will continue the discussion at a future meeting.

Chairman Culbreth asked for a motion to adjourn.


Arnold Martin made a motion to adjourn. Al Gilbert seconded. The motion passed 5-0.

The meeting adjourned at 8:54 pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY


JOHN H. CULBRETH, SR. CHAIRMAN

ATTEST


HOWARD L. JOHNSON
PLANNING COMMISSION SECRETARY