

THE FAYETTE COUNTY PLANNING COMMISSION met on July 2, 2020 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

Due to COVID-19 social distancing requirements, the meeting was held via a teleconference call to members and staff.

MEMBERS PRESENT: John H. Culbreth, Chairman
Danny England, Vice-Chairman
Brian Haren
Arnold Martin (via teleconference)
Al Gilbert (via teleconference)

STAFF PRESENT: Pete A. Frisina, Director of Community Services
Chanelle Blaine, Zoning Administrator (via teleconference)
Howard Johnson, Planning & Zoning Coordinator

Welcome and Call to Order:

Chairman Culbreth called the Planning Commission Meeting to order.

OLD BUSINESS

- 1. Consideration of Minutes of the Planning Commission meeting held on June 18, 2020.**

Brian Haren made a motion to table the minutes of the meeting held on June 18, 2020 to the next regularly meeting. Danny England seconded the motion.

PUBLIC HEARING

- 2. Consideration of a Final Plat of Keith Logan. The property will consist of two (2) lots zoned R-40, is located in Land Lot 132 of the 5th District and fronts on Hood Avenue.**

Chairman Culbreth asked if the petitioner was present or online. He then asked the petitioner to sign the speaker's sheet and state your name.

Keith Logan state good evening, I am here simply to have my lot split approved.

Chairman Culbreth asked if there was any opposition to this Plat. He added hearing none, I will bring this back the Commission, is there a motion, or do the members of the Commission have questions.

Brian Haren asked does part of this is a consideration include Tract 1.

Chanelle Blaine replied Tract 2 is the one that has been created.

Brian Haren replied okay, I was going to ask a question about Tract 1, but that is not under consideration, so I don't have any questions.

Chairman Culbreth asked are there any further questions or comments.

Danny England asked so is Tract 1 not parting of this process, because we are splitting one lot into two, right.

Chanelle Blaine replied yes, Tract 1.

Danny England responded Brian if you still have a question about Tract 1, go ahead with your question.

Brian Haren stated that my question about Tract 1 is it looks like the brick house is to remain is in the setback.

Danny England replied that was going to be my comment as well.

Chanelle Blaine replied yes, the house is encroaching into the setback but he has already revived a variance for that on 10/28/2019 to reduce the setback from 15 feet to 12 feet.

Chairman Culbreth asked if there were any more questions. He stated that the Chairman will entertain a motion.

Brian Haren made a motion to approve the Final Plat of Keith Logan. Danny England seconded the motion. The motion passed 5-0.

3. Consideration of Petition No. 1291-20, Michael W. Harp, Owner, and Mark McCullough, Agent, request to rezone 3.005 acres from A-R to R-85 to develop one single-family residential lot. The subject property is located in Land Lot 247 of the 4th District and fronts on Goza Road.

Chairman Culbreth asked if the petitioner was present or online.

Pete Frisina asked Chairman Culbreth if he may read the rules and announce the streaming service so that people may call-in for the public hearing.

Chairman Culbreth replied, please proceed.

Pete Frisina read aloud the rules of the public hearing along with the phone number so that the public may call-in. He stated that Chairman has already read the first case which is rezoning case number 1291-20.

Chairman Culbreth asked if the petitioner was present, He then asked the petitioner to sign the speaker's sheet and state your name.

Mark McCullough replied good evening, I am the agent representing the Harp Family and Logan Builders. He added basically we propose to subdivide out a three (3) acre parcel from the Harps Family large tract of about 32 acres. He explained the plan is to build a 3,000 plus square foot single-family home with a price range at approximately \$450,000. He concluded the staff's report is pretty detailed so I think it's best if I just answer any questions that you may have.

Chairman Culbreth asked is there any opposition to the petition, if so please come forth now.

Matthew Brunelle (253 Goza Road) said that I live next door to where this rezoning is being proposed, so myself and my neighbors had an understanding that this area was already zoned for five (5) acre lots and anything smaller seems it would open it up to doing more and more development in the area, so we would like it to stay how it is now. He added I also bought a letter in from my neighbor Jerry Whitaker to be read as well. He concluded that's all have.

Chairman Culbreth asked are there any other speakers against, if not, I will read into the records a letter from Mr. Jerry Whitaker.

Chairman Culbreth read the letter which states:

*Mr. Pete Frisina
Director Planning and Zoning 140 Stonewall Avenue
Suite 202 Fayetteville, Georgia 30214*

Dear Mr. Frisina,

My Name is Jerry Whitaker and I am writing in response to the request for rezoning of 1291 -20 on Goza Road. Currently it is A-R for five acre lots.

My property is located one five acre lot from the property in question. My son contacted you several years ago about rezoning his five acre lot from five to 2.5 acre lots. You informed him that we are zoned five acre lots and must have 2,700 square feet in a home to build on his lot. I am against changing the requirements in order for someone to build on three acre lots. If you have any questions please contact me at 770-460-8778. I live at 251 Goza Road.

Jerry Whitaker

Chairman Culbreth asked are there any other speakers, if not, I will open it up for members questions and comments.

Pete Frisina stated that first we have to open up the phone lines for the general public.

Chairman Culbreth said now we will now hold for a minute or so for dial-in comments.

Chairman Culbreth said now we will now bring the petition back to the members for discussion. He asked are there any questions from the members of the Planning Commission.

Al Gilbert asked Mr. Chairman should we not give to give the petitioner a change to rebut.

Chairman Culbreth replied yes, he has that right.

Pete Frisina asked Mark McCullough do you wish to rebut.

Mark McCullough said his only rebuttal would be that we chose this site specifically because it is an area designated on the Future Land Use Map as one (1) unit per three (3) acres.

Chairman Culbreth responded did everyone understand the petitioner.

Pete Frisina stated to Mark McCullough that you need to get closer to the microphone.

Mark McCullough asked do you want me to repeat what I said.

Chairman Culbreth replied yes, please.

Mark McCullough repeated his last statement, we chose this site specifically because it is an area designated on the Future Land Use Map identifies this area as (1) unit per three (3) acres.

Chairman Culbreth asked Pete is this correct?

Pete Frisina replied he is correct.

Chairman Culbreth replied okay, members are there any questions.

Brian Haren responded I just think it important to reiterate what the Commissioner just said, I understand what may have happened years ago with the zoning request but this is a new Land Use Plan we are working under and this area under the Land Use Plan, which is law, is approved for three (3) acre zoning. He added that is why the staff said this a valid request. He asked the petitioner why didn't you take the rear property line all the way back to the parcel boundary, you have a little cutoff there in the back.

Pete Frisina explained they turned their petition in two (2) days after we changed the

ordinance, which will require a wider lot for R-85. He added they didn't realize that at the time. He concluded so to keep the acreage similar, they widened the lot which shortened it.

Brian Haren responded okay, I got it.

Chairman Culbreth asked are there any further comments by other members of the Planning Commission.

Danny England responded Brian, I looked and thought the same thing, how can we just move this back a little. He concluded now it makes sense.

Chairman Culbreth said hearing no further comments, the Chairman will entertain a motion.

Brian Haren made a motion to recommend approval of Petition No. 1291-20. Danny England seconded the motion. The motion passed 5-0.

4. **Consideration of Petition No. RP-076-20, William T. Murphy and Richard E. Carne, Owners, and Steven L. Jones, Agent, request to revise the Final Plats (Phases One and Two) of Bay Chappell Farms Subdivision to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use. This petition is associated with Rezoning 1292-20. This property is located in Land Lot 167 of the 4th District and fronts on Stable Creek Road.**

Chairman Culbreth asked is the petitioner was present, or online.

Pete Frisina interjected Chairman could we go ahead and read the next item too, because it really needs to be discussed together. He added they have to stand or fall together, its one or the other.

Chairman Culbreth replied okay. He read aloud the next item number five (5).

5. **Consideration of Petition No. 1292-20, William T. Murphy, Owner, and Steven L. Jones, Agent, request to rezone 10.00 acres from A-R to R-72 to add property to the Bay Chappell Farms Subdivision. This petition is associated with RP-076-20. This property is located in Land Lot 167 of the 4th District and fronts on Chappell Road.**

Chairman Culbreth stated the petitioner is present, you have the floor.

Steven Jones replied thank you Mr. Chairman, Vice-Chairman, Commissioners and Commissioners online, thank you for having me again before this Commission, my name is Stephen Jones with the law firm of Bovis, Kyle, Burch & Medlin, LLC. He added I am accompanied by William T. Murphy, the applicant, and Richard Carne, the other applicant.

He said you have two (2) requests before you. As Pete Frisina eluded to they are pending request and they should be voted on together, we would respectfully request that whatever action this Commission should choose to take on one it should take on the other because as you will see in this presentation, they are uniquely tied together.

The purpose of this request in essence, is to take three (3) parcels currently within the subdivision of Bay Chappell Farms and a part of parcel outside of Bay Chappell Farms and combine them to create three (3) lots of four (4) acres or more within the subdivision.

I would like to give you a just brief presentation of the history of these parcels to help you understand the reason for the request. Here I have the Zoning Map of the parcels, taken from the staff report that you have in your packet. Highlighted in green is the property of Mr. Murphy and highlighted in all of the orange is the Bay Chappell Farm subdivision. Now the orange highlighted the outline on the Plat, is the property of Mr. Murphy and Mr. Carne.

In 1986, I believe Mr. Frisina passed out a handout that tracks this, and if you pull open the handout, you will see side by side, the text next to the associated the graphic that tracks along of what you hear me say just so you can follow along. Commissioners, I have also left copies of this presentation here, should you want to see it later.

On this first graphic you see is a plat, Mr. Murphy purchased this property in 1986 from the Chambers is was originally a ten (10) flag lot, zoned A-R , the flag portion is 25 feet wide, and I think 2800 feet deep that is just at one and a half (1.5) acres. When it was originally platted, this was a conforming lot. The back portion you see is eight and a half (8.5) acres. Because of the changing water courses on the property, the ever increasing cost of paving a driveway, you will see that attached to our Letter of Intent, is a price index for concrete since this property was plotted has astronomically increased not with the rate of inflation. But those two factors together has just made it not economically not feasible to a) pour concrete that far and b) cross those water courses, for those reasons the property has become practically land-locked.

In 1988, after Mr. Murphy acquired this property, Thompson and Company Mortgage Corporation acquired 107 acres from the Chambers, they developed this into the neighborhood known as Bay Chappell Farms. In the graphic you see in your packet, Bay Chapel Farms in the shade of orange and Mr. Murphy's (ten)10 acres parcel shaded blue with the flag pole noted. Bay Chappell Farms consist of 36 lots, they range in size from two (2) acres to five (5) acres.

Now in 1990, Mr. Carnes, who is accompanying me, purchased Lot 36 as seen on Slide 9,

on Page 5 in the handout Mr. Carnes property as it existed in 1999 is shaded orange, Mr. Murphy's is blue and the remainder is in that lighter blue color is Bay Chappell Farm. Originally as platted, Mr. Carnes property was just over five (5) acres.

In 1991, in lieu of foreclosure, the developer Thompson, conveyed a number of lots in the subdivision as well as two (2) parcels that were originally platted as recreation areas to Barnett Bank and that in lieu of foreclosure. Those two (2) recreation areas are shaded in yellow and they added an additional change to the previous figure. Those recreation areas were platted but they have been never used or developed as recreation areas, they are extensively wooded.

Then in 1992, Mr. Carnes acquired part of the southernmost recreation area, just .67 of an acre. The plat of Bay Chappell Farms was then amended to reflect that change. An there things sat for a number of years.

But in 2008, Barnett Bank in what we can only presume to be a business decision, ceased to pay taxes on the southernmost recreation area and was since sold by the Fayette County Sheriff at the tax sale and then Mr. Murphy already owning the ten (10) acres to the south, acquired the recreation area. You may remember late last year and then the Board of Commissioners earlier this year, approved a Plat Amendment application for Mr. Carnes property to divide that into two (2) tracts; a 3.218 acre tract which Mr. Carnes house currently sits on and a 2.464 acre tract which we are calling here the Williams tract. That division has not be effectuated by the recreation plat. The Williams, who are Mr. Carnes daughter and son-in-law want to build a house right next to Mr. Carnes and they want to live next to family and they want to move back to the area with their young children and dogs.

Having given you the background of the parcels, I think you can tell Mr. Murphy's ten (10) acre tract is not economically feasible for someone to construct a half-mile long driveway all the way to the back acreage to build a house back there. That means that as it currently sits, Mr. Murphy's ten (10) acres tract is left without an economically viable use. And to due to excavation, limited acreage, limited actual and potential road frontage, and well as it location around residential used and zoned property, only one (1) use makes sense, residential. As you will see later, you can only practically be used, if the applications are approved, as one (1) residential lot.

Indulge me in the code for a second, the zoning ordinance says that all residential lots must have a minimum 100 feet of frontage. Mr. Murphy parcel as it currently sits is an economically non-viable lot that predates this ordinance, but we still have the driveway issue. We can reasonably, feasibly, or economically get a driveway back there. The development regulations essentially says that every residential lot must have a driveway accessing the street. Well, Mr. Murphy parcels, the way it currently sits you can't do that feasibly, or economically. Let so go back to the Zoning Ordinance which does permit an easement drives but only for physically land-locked lots not flagpole-type lots.

The recreation area, since it owned by Mr. Murphy, is the most logical solution. It is a lot shorter distance to get to the road. It is not being used for a recreation nor has it been developed as a recreation area. But we have to combine that in order to comply with the zoning ordinance with Mr. Murphy's property and rezone that with Mr. Murphy's property.

Now the Williamsons and Mr. Carne also have goals with these applications, Mr. Carne has owned this property since the late 80s and some of the same hydrological semi-wetlands issues that plague Mr. Murphy's flagpole also plague Mr. Carnes flag. Because of that he has been unable to find an ideal location area for accessory structure, mainly an ideal location for a garage with same architectural style as his home. Mr. Carne wants to acquire part of the flagpole that is contiguous with his lot which will give him more area in which to compile the setback for R-72, then miraculous he has space for his garage. The Williamson have some of the same hydrologic issues present on the Williamson tract. They want to acquire two (2) acres of the flag portion of Mr. Murphy's parcel to give them a larger home building site. So you end up with this concept plan overlaid over the graphic that you previously saw.

If you look at your handout, Lot 1 is the most easternmost property which consists of Mr. Carnes 2020 parcel. That parcel is after the amendment that the Board of Commissioner approved earlier this year, and that adds a portion the flagpole of Mr. Murphy's which is contiguous to Mr. Carnes property.

If you move to the left, westward, that us Lot 2 is that Williams parcels approved by the Board of Commissioners earlier this year with the addition of two (2) acres of flag portion of Mr. Murphy's property, which is seen to south at the bottom of the page in blue, and then part of the recreation area to create a more uniformly shaped tract and that will consist of 4.656 acres.

Finally, to the farthest west and farthest left on the page, is Lot 3 which will the combine the flag portion of Mr. Murphy's parcel less two (2) acres, part of the recreation area less the portion of recreation area that will become the Williamson tract to create that uniform lot shape, and a very small part of the Williams tract needed to give Lot 3 the 100 feet of road frontage.

So there are lot of lines shifting here. But the end results is four (4) lot to three (3) lots and practically not much change because Mr. Carnes lines are moving , is already a house there. Earlier this year, the Board of Commissioners approved the creation of Williams (purple) tract, which they are going to build house on. Their house, if the application is approved, with be sat much further south and much further away from the road on Lot 2 which is the middle lot in the graphic. Mr. Murphy's property (Lot 4) could have already been developed as a single family house but the fact is that it is not feasible economically or practical to construct a driveway.

So your staff looked at this and they recommended approval on both applications with conditions. You have two (2) applicants on the plat amendment and one (1) on the rezoning,

in both instances, the applicants consent to the conditions. I would to go through the analysis briefly with you. The new subdivision regulations set essentially four (4) criteria by which a plat amendment application can be judged: street character, lot size character, lot width character and change in principal use.

As the street character, staff included that the proposed lots will maintain a front yard setback of 75 feet and the revised plat should indicate the 75 foot front yard setback and that is to be consistent with the previously and currently applied zoning district. Bay Chappell Farm was developed under R-60 when a new zoning ordinance was enacted it was changed to R-75. The setbacks are 75 and 50 respectfully, so we are going to conform to whatever is already in the neighborhood, the more stringent of 75 feet. In addition to staff analysis, we would add that street character will not change because the house already exists, The Williamson house will be setback on the back two (2) acres they are acquiring from Mr. Murphy. The house of the Murphy part will be set even further back and that is 563 feet back before you get to the back two (2) acres. Staff has also recommended conditions attached to the applications that the originally platted area recreation areas should be used for nothing more than a driveway or the two (2) driveways to serve the six (6) tracts. Because it was originally platted as a recreation area when owners of lots within the neighborhood has use of a perpetual easement. So not to interfere with that and to comply with the said in that we consented to that condition.

Chairman Culbreth stated you have five (5) minutes.

He responded thank you Mr. Chairman.

He continue stating that lots character per the Letter of Intent all of the lot sizes will exceed the minimum two (2) acre lot size within the subdivision. Again the appearance from the road will barely change by the additional driveways, the homes will be setback very far from the road. #3) Lot width character, staff concluded that we are generally compliant and we generally track what's in the neighborhood. He noted that it will change the principal use of the recreation area so it can be used for those driveways but again the overall use or the ability to use the recreation area should the folks who have an easement over that choose to use it will be allowed. The two driveways are not inconsistent as recreation area, the recreation area was never developed or used as a recreation area, it will not change the use or usability of the nearby properties, an official approval will remove a non-conforming parcel and create a conforming parcel (Mark Murphy's parcel), and finally it will create an economically viable use of the property. You will see staff recommended conditions and we will consent to all of those. The final plat showing the delineation of the three lots, the use of the originally platted recreation area will be limited to the two driveways and the setbacks.

The rezoning tracts, your staff analyzed the exclusive rezoning factors under this County's ordinances and recommended approval, even those the Comprehensive Plan designates this area as five (5) acres, the rezoning application will rezone the tract to create a tract that is greater than five (5) acres, therefore it would be in compliance with the zoning application.

And staff also included the remaining factors as shown on your outline in your handout which supports approval. Staff recommended one (1) condition which again, the applicant consents to and that is that Lot 3 comply with the future Land Use Map and the Comprehensive Plan show at all times in perpetuity maintain a minimum lot size of five (5) acres.

He concluded Mr. Chairman with that, I will yield my time for any rebuttal. He added if there is any remaining time Mr. Carnes will like to highlight for you the effort he has taken to make sure all the neighbors in subdivision are aware of this and a number of them have consented.

Chairman Culbreth replied thank you sir. He then asked is there any opposition to the petition number RP-076-20 and 1292-20. He stated please come to the microphone if you are going to speak and sign in for us, please.

Chairman Culbreth asked the speaker to state your name for the record, please.

Joseph Gabel said pardon me if I am out of line on this, I really don't know if I really want to oppose this, I am resident in Chappell Farms, I just have a couple of questions.

Chairman Culbreth said okay.

Joseph Gable asked can we go back the slide with the final three lots.

Chairman Culbreth stated Mr. Jones can you do that, can you state your question sir,

Joseph Gable said the question is you (Stephen Jones) talked about the driveway and how long it is. On Lot 3 what has changed on the length on the drive and how does it compare to what it would be now.

Stephen Jones replied thank you for your question, Mr. Gable. He added it's hard to see but you can effectively see that it is 560 feet, the length of the flag pole as originally platted is half-a-mile, so we are reducing the lot by about 2000 feet. Also, if you look where Stable Creek Road kind of curves there is a lot of water supply and on the other curve there is more water, so we can't practically get a driveway down there.

Joseph Gable said my last question in the new area, Lot #3, will there be anything but one (1) single house. I lot of folks in the subdivision are worried that is just going to be a stepping stone for land use later-on to bring about another subdivision that connects to Brooks Woolsey Road.

Chairman Culbreth stated Mr. Jones please respond.

Stephen Jones responded a couple of things, well we are annexing into the subdivision just this one (1) lot, it is going to be platted as one lot, therefore it can only be one (1) lot. The

driveway want even meet the specifications of a road. And anybody wanted to add a parcel to subdivision at a later date, a) they would have to come before this board and b) when this subdivision was originally zoned there was a condition limiting the number of lots that can exist in the subdivision to 43 lots, so practically and legally I say one without a doubt.

Joseph Gable replied thank you for your time, I just want to get that out because again, I was sent here by my neighbor also with those questions, I appreciate your time.

Chairman Culbreth replied thank you sir. He added at this time we will dial-in comments.

Pete Frisina replied that basically you guys have 3.5 minutes left, we just did a combination of opposition and rebuttal at the same time, so that saved us some time right there. He added you have 3.5 minutes, Dick.

Richard Carne said that first of all I appreciate you all approving the request to divide our property so that my son and daughter-in-law can come home early. Let me also state a couple of things here, last summer there was a memo that was circulated to effect that Mr. Murphy was looking at adding 40 acres instead of 15 and he was looking to build much smaller homes. That is not the case and never has been the case. When I talked with neighbors that has been the primary concern. Once they learned that this is not the case but instead it would only be three (3) lots, two (2) of which have already been approved with the third (3rd) being annexed so then it would then conform to all of the subdivision covenants and restrictions and building size and things of that nature, the folks that I spoke with once they understood that then were much on the positive side of things. Let me also state one other benefit that has not been raised at this point. I understand from Mr. Jones, that the remainder of Ms. Murphy's 25-foot strip (with the Planning Commission approval) can be conveyed to the homeowner in the subdivision whose rear property line adjoins that portion of that 25 foot strip. Actually there are four (4) people who are not here presently who would stand to gain an additional 25 foot buffer in the back yard, besides the one running beside my home. The new home will be required to conform to all of the subdivision covenants, which seem to me to be an additional incentive in that the larger sized lots would be .. When I last checked the next largest lot below mine was 2.6 acres. So these would be two (2) additional lots that will be twice the size of the other lots. So I don't see how that would be an impediment to anyone's property values. Furthermore because of the distance to the street, any home would not be readily visible. As Mr. Jones mentioned, it is heavily wooded.

Chairman Culbreth asked so you are speaking in favor?

Richard Carne replied yes I am speaking in favor.

Chairman Culbreth replied thank you so much.

Chairman Culbreth asked are there any dial-in comments.

Brain Haren stated that they are no calls.

Chairman Culbreth replied hearing no calls, I will bring this item to the members of the Planning Commission for discussion.

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

Al Gilbert said that I just want to verify that what Mr. Jones state there were three (3) conditions of one (1) of the zoning items and one on the other, if the petitioner is in agreement with all of the conditions.

Stephen Jones replied yes, commissioner.

Arnold Martin replied I do not have any questions.

Chairman Culbreth if there are no further questions, I can entertain a motion on Item #4.

Brian Haren made a motion to recommend approval of the request RP-076-20 to revise the Final Plats (Phases One and Two) of Bay Chappell Farms Subdivision 1 Area (Bay Chappell Farms Phase Two) to residential use with conditions. Al Gilbert seconded the motion. The motion passed 5-0.

Chairman Culbreth said that he would entertain a motion for the Petition No 1292-20, a companion item,

Al Gilbert made a motion to recommend approval of Petition No. 1292-20 with conditions. Danny England seconded the motion. The motion passed 5-0.

Chairman Culbreth asked is there anything addition for the good of the order.


Pete Frisina replied that is it.

Chairman Culbreth stated that we would entertain a motion to adjourn.

Danny England made a motion to adjourn the meeting. Brian Haren seconded the motion.

The meeting adjourned at 7:53 pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY



DANNY ENGLAND, VICE-CHAIRMAN

ATTEST:



HOWARD L. JOHNSON
PLANNING COMMISSION SECRETARY

