

THE FAYETTE COUNTY PLANNING COMMISSION met on January 5, 2004 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Jim Graw, Chairman
Al Gilbert, Vice-Chairman
Bob Harbison
Bill Beckwith
Douglas Powell

MEMBERS ABSENT: None

STAFF PRESENT: Chris Venice, Acting Zoning Administrator/Director of Planning/Community Development Division Director
Dennis Davenport, Assistant County Attorney
Delores Harrison, Zoning Technician
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Deputy Brian Wallace

Welcome and Call to Order:

Chairman Graw called the meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Election of a Chairman for 2004.

Al Gilbert nominated Jim Graw as Chairman for 2004. Doug Powell seconded the nomination. Bob Harbison made a motion to close the floor for nominations. Bill Beckwith seconded the motion. The motion to appoint Jim Graw as Chairman for 2004 was passed 4-0-1 with Jim Graw abstaining from the vote.

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2. Election of a Vice-Chairman for 2004.

Al Gilbert nominated Doug Powell as Vice-Chairman for 2004. Bill Beckwith seconded the nomination. Bill Beckwith made a motion to close the floor for nominations. Bob Harbison seconded the motion. The motion unanimously passed 5-0.

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3. Election of a Secretary for 2004.

Bob Harbison nominated Robyn Wilson as Secretary for 2004. Al Gilbert seconded the nomination. Bill Beckwith made a motion to close the floor for nominations. Al Gilbert seconded the motion. The motion to appoint Robyn Wilson as Secretary for 2004 was unanimously passed 5-0.

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4. Consideration of the Minutes of the meeting held on December 4, 2003.

Chairman Graw asked the Board Members if they had any comments or changes to the Minutes as circulated?

Bob Harbison made the motion to approve the Minutes. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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Chairman Graw explained to the audience that a Preliminary Plat was the subdivision of property which was already zoned and only the technical aspects of the Preliminary Plats could be addressed by the public.

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ONLY ON JANUARY 5, 2004.

5. **Consideration of a Preliminary Plat, Annelise Park Subdivision, Marcus and Geraldine Bramblett, Louise Kirby, Freeman and Dottie Kirby, and Geraldine Bramblett as Power of Attorney for Dwight Kirby, Owners, and John Ryckeley, Agent. This property is located in Land Lots 22, 23, 42, and 43 of the 7th District, consists of 185.49 acres with 76 single-family dwelling lots, fronts on Flat Creek Trail, and is zoned C-S.**

John Ryckeley requested approval of the preliminary plat dated 12/19/03.

Chairman Graw asked if there was any public comments regarding the technical aspects of the preliminary plat. Hearing none, he closed the floor from public comments.

Al Gilbert made a motion to approve the preliminary plat dated 12/19/03. Doug Powell seconded the motion. The motion unanimously passed 5-0.

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6. **Consideration of a Preliminary Plat, Antioch Estates Subdivision, Gene Ellison and Dean Booth, Agents, and Greg Holland, Agent. This property is located in Land Lots 169 and 184 of the 4th District, consists of 64.895 acres with 23 single-family dwelling lots, fronts on Antioch Road and Brooks Woolsey Road, and is zoned R-40.**

Greg Holland requested approval of the preliminary plat dated 12/18/03.

Chairman Graw asked if there was any public comments regarding the technical aspects of the preliminary plat. Hearing none, he closed the floor from public comments.

Bob Harbison made a motion to approve the preliminary plat dated 12/18/03. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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7. **Consideration of a Revised Preliminary Plat, Platinum Ridge Subdivision, Peachstate Land Development, Inc., Owners, and Rod Wright, Agent. This property is located in Land Lots 35, 62, 63, and 64 of the 7th District, consists of 249.69 acres (201.06 acres in Fayette County and 48.64 acres in the City of Peachtree City) with 36 single-family dwelling lots (33 lots in Fayette County and 3 lots in the City of Peachtree City), fronts on Spear Road and Ebenezer Road, and is zoned A-R.**

Chairman Graw stated that this situation was confusing since some of the property is located in Peachtree City and some is located in unincorporated Fayette County. He advised that technically the P.C. cannot consider the property which is in Peachtree City. He said that if the petitioner wishes to go forward, the petitioner will have to submit a revised preliminary plat showing the unincorporated Fayette County properties with a temporary cul-de-sac and none of the property in Peachtree City.

Attorney Dennis Davenport confirmed Chairman Graw's statements. He added that the P.C. needed to presume that the only development which would occur would be the development in unincorporated Fayette County. He reported that should the property be de-annexed from Peachtree City and becomes part of unincorporated Fayette County then that portion could be considered,

however currently all the P.C. can consider is the property in unincorporated Fayette County.

Chairman Graw noted that this was one (1) option and the other option is to table the preliminary plat.

Bill Beckwith asked if the P.C. could vote on the preliminary plat tonight.

Chairman Graw replied no because the preliminary plat must be revised to show a temporary cul-de-sac within Fayette County.

Attorney Davenport advised that the P.C.'s action is limited to the property in unincorporated Fayette County.

Bob Harbison said he was struggling even considering the preliminary plat since a cul-de-sac was not indicated and a cul-de-sac is required by County Regulations.

Attorney Davenport confirmed that without the cul-de-sac being indicated on the preliminary plat that the P.C. could not say with any certainty that the temporary cul-de-sac would fit with the lots as presently drawn because the lots where the cul-de-sac would be indicated must meet the minimum lot size.

Doug Powell asked if both options would not require the P.C. to table the preliminary plat.

Mr. Harbison suggested to allow the petitioner to advise the P.C. of his wishes and then the P.C. could take a vote to determine what the P.C. needs to do after that.

Rod Wright informed the P.C. that Peachtree City is meeting on this proposal as he speaks and his partner is attending their meeting. He said that they were proposing for Camp Creek to become the new boundary between unincorporated Fayette County and Peachtree City. He stated that if Peachtree City is willing to deannex approximately 32 acres on the unincorporated Fayette County side of Camp Creek, he would donate approximately 10-15 acres on the Peachtree City side to Peachtree City for their greenspace program, and then Peachtree City would de-annex the property into unincorporated Fayette County. He said he felt comfortable that Peachtree City would be in favor of the proposal and would like to get approval to develop in unincorporated Fayette County so he would not be stalled with half-way built roads.

Chairman Graw replied that he understood Mr. Wright's concerns, however the P.C. can't vote on the preliminary plat because the preliminary plat needs to show the lots and cul-de-sac ending at the Peachtree City city limits.

Attorney Davenport confirmed Chairman Graw's statement.

Chairman Graw suggested to table the preliminary plat until February 5, 2004 due to the uncertainty of what Peachtree City was going to do.

Al Gilbert concurred and added that the P.C. would need to see signed paperwork indicating the approval from Peachtree City.

Mr. Wright asked if the P.C. could give approval contingent upon the temporary cul-de-sac being indicated.

Chairman Graw replied that the de-annexation would hopefully be settled within 30 days.

Attorney Davenport stated that he had not been involved in a de-annexation in quite some time, however the process will probably take a minimum of 60 to 90 days because the de-annexation will require the approval of both Peachtree City and unincorporated Fayette County.

Mr. Beckwith asked if the P.C. could consider a revised preliminary plat indicating only the property in unincorporated Fayette County at the next public hearing.

Mr. Harbison reiterated that he did not understand how the P.C. could consider a preliminary plat which does not meet the County requirements. He added that the technical issues need to be worked out prior to the approval of the preliminary plat.

Mr. Beckwith asked Robyn Wilson if it would be possible for the P.C. to consider a revised preliminary plat at the next public hearing.

Robyn Wilson replied that the deadline for submittal was this past Friday at noon, however she would be willing to allow Mr. Wright to resubmit a revised preliminary plat as soon as possible to allow adequate time to distribute to the various reviewing departments.

Mr. Harbison stated that revising the preliminary plat was the best option and then after the technical problems have been worked out with Peachtree City another revised preliminary plat could be submitted for review and consideration.

Mr. Wright asked if he could resubmit a revised preliminary plat by Wednesday.

Mrs. Wilson replied that Wednesday would be fine.

Bob Harbison made a motion to table the preliminary plat until February 5, 2004. Al Gilbert seconded the motion.

Mr. Powell asked what would happen if Mr. Wright can't meet the February 5, 2004 date.

Attorney Davenport advised that a preliminary plat does not have to be advertised and the P.C. would take up the issue on February 5, 2004 and re-evaluate the preliminary plat and vote accordingly.

At this time, Chairman Graw called for the vote. The motion to table the preliminary plat until February 5, 2004 was unanimously approved 5-0.

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Chris Venice read the procedures that would be followed including the fifteen (15) minute time limitation for presentation and opposition for petitions.

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON JANUARY 5, 2004 AND BY THE BOARD OF COMMISSIONERS ON JANUARY 22, 2004.

8. **Consideration of Petition No. 1118-04, Harry L. and Evelyn P. McNeil, Owners, and Randy Boyd, Agent, request to rezone 3.00 acres from A-R to R-80 to develop one single-family dwelling lot. This property is located in Land Lot 3 of the 7th District and fronts on Ebenezer Church Road.**

Randy Boyd, Agent, stated that the McNeils owned a five (5) acre tract on the south side of Ebenezer Church Road containing a house. He advised that they did not use the back portion of the tract and an adjacent resident to the west in a subdivision is interested in purchasing the back 1.94 acres for livestock grazing. He confirmed that the house complies with the R-80 zoning district. He reported that the McNeils would like to retain the front 3.00 acres and sell the back 1.94 acres to the adjacent neighbor for livestock grazing.

Chairman Graw asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal,

Chairman Graw closed the floor for public comments.

Al Gilbert asked what happens to the 1.94 acres if the P.C. approve the petition.

Mr. Boyd replied that it would remain A-R.

Mr. Gilbert pointed out that if the P.C. approved the 3.00 acres as R-80 then they have created a 1.94 acre lot which requires a 5 acre minimum.

Mr. Boyd presented a plat indicating the subject property and the adjacent property. He said that the adjacent property owner plans to purchase the 1.94 acres should the rezoning be approved. He stated that a revised final plat to add the 1.94 acres to the subdivision lot would be required.

Mr. Gilbert said he would feel more comfortable if a rezoning petition and a petition to revise the final plat were heard together. He added that he did not feel comfortable creating an illegal lot.

Doug Powell concurred.

Bill Beckwith remarked that the property owners in the subdivision may object to adding the 1.94 acres to their subdivision and concurred with Mr. Gilbert and Mr. Powell.

Mr. Boyd asked what assurance would there be that the transfer of title would take place. He stated that he was unaware that a revised final plat application was necessary until he was notified by Staff, however the client wanted to go forward to see if there is going to be a problem.

Chairman Graw asked what would the two (2) property owners need to do to guarantee that closure on the property.

Attorney Dennis Davenport replied that it would be up to the two (2) property owners to provide that solution for the P.C. because they are presenting a situation which brings up multiple problems and they need to present multiple solutions to those problems rather than seek those solutions from Staff.

Mr. Beckwith reported that the P.C. is only a recommending body and the final decision would be made by the B.O.C. who may not see a 3 acre lot being appropriate for this area.

Mr. Boyd said that he did not see any way around making the lot a nonconforming lot except with a Letter of Intent.

Mr. Powell remarked that revising the final plat would require a public hearing and the property owners in the subdivision may object.

Bob Harbison asked if the P.C. could make a recommendation based on a contingency based on revised final plat approval.

Attorney Davenport replied that this would be a possibility and the contingency needed to be a part of the motion.

Mr. Boyd requested the P.C. to consider the petition only on the assumption that the land deal goes through.

Mr. Harbison said he does not see any detriment to the County by taking property and changing ownership because density would not be increased.

Chairman Graw expressed concern about creating a 3 acre lot surrounded by A-R which will open up property in the vicinity to request 3 acre zonings.

Mr. Harbison pointed out that there was already a house on the lot.

Mr. Beckwith added that the 1.94 acres would be landlocked.

Mr. Harbison said that the P.C. could place a condition on the approval that the rezoning would not take affect unless the revised final plat is approved.

Attorney Davenport advised that a timeframe would be prudent.

Mr. Gilbert reiterated that both petitions need to be considered at the same public hearing.

Mr. Boyd advised that Mr. McNeil has a signed contract with a deposit based on the rezoning approval.

Mr. Boyd asked Robyn Wilson what was the deadline for a revised final plat.

Robyn Wilson advised that an application for a revised final plat to add land to a subdivision would have to be submitted by February 1, 2004 by noon and would be considered by the P.C. and B.O.C. in March.

Mr. Boyd stated that he would place a time constraint by April 1, 2004.

Mr. Harbison asked Attorney Davenport if he saw any legal issues prior to him making a motion.

Attorney Davenport replied that everything that has been talked about has legal issues because you are trying to solve one problem and are creating more. He added that there are variables beyond the P.C.'s control which brings up other legal issues.

Bob Harbison made the motion to approve the petition with the condition that the approval/recordation of the revised final plat to add the 1.94 acres by complete by April 1, 2004. Doug Powell seconded the motion.

Chris Venice advised that the approved revised final plat could not be completed by April 1, 2004 due to deadline submittal for the revised final plat.

Mr. Beckwith said that this would be giving the B.O.C. a recommendation for them to act on in two (2) weeks for a future date for something that may or may not occur. He added that it seems like the steps are out of sequence.

Mr. Harbison commented that he understands the dilemma. He reiterated that the approval would not be detrimental to the County.

Mr. Powell asked if six (6) months was a reasonable amount of time.

Mr. Harbison replied that if his condition is a legal condition then he does not see a problem, however if there is a question about the legality of the motion then he would like to hear that now because he does not want to harm the County.

Attorney Davenport stated that when you put conditions that have to be fulfilled prior to a zoning district coming into place the further removed from the date of your action for the effective date of that condition the more problematic it becomes. He explained that until April 1, 2004 the property would carry an incomplete contingent zoning. He added that this is something that the County does not ordinarily do so it is hard to say what the down side would be but the longer extension, the more problematic it becomes. He pointed out that by approving the rezoning petition that the lot would now have two (2) zoning districts but the policy has been that anytime you have a piece of property with two (2) zoning districts, it has been cleaned up to have one (1) zoning district per parcel.

Mr. Harbison remarked that Attorney Davenport had brought up a very valid point and he could not support the petition.

Chairman Graw said that there was a motion and second on the floor.

Al Gilbert withdrew his second.

Bob Harbison withdrew his motion.

Mr. Beckwith asked if they could make the entire 4.94 acres R-80.

Mr. Harbison asked Staff if this would be possible.

Mrs. Venice advised that only three (3) acres had been advertised for rezoning and not the entire 4.94 acres.

Chairman Graw asked for a motion.

Bob Harbison made a motion to deny the petition. Chairman Graw seconded the motion.

Mr. Gilbert asked Staff if the petition would be tabled and readvertised for the entire 4.94 acres. He added he could not support the recommendation for denial.

Attorney Davenport advised that a petition must be withdrawn prior to hearing the petition.

Mr. Beckwith asked if the petition was tabled by the P.C. could the petitioner withdraw the petition prior to the B.O.C. public hearing.

Attorney Davenport replied no.

Chairman Graw called for the vote.

The motion to deny the petition passed 4-1 with Al Gilbert voting in opposition.

Mr. Boyd asked if the petition could be withdrawn from being heard by the B.O.C.

Attorney Davenport advised that he would review the code before he answers the question.

Mr. Boyd replied that he would look forward to hearing from Attorney Davenport.

Mr. Harbison asked if the petitioner would be able to petition to have the 4.94 acres rezoned if the three (3) acres is denied.

Attorney Davenport advised that the language states that you can't take action on the same piece of property to have it rezoned during the six (6) month timeframe.

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9. Consideration of Petition No. 1119-04, Alton Edsel and Geneva Martin, Owners, and Randy Boyd, Agent, request to rezone 0.594 acres from A-R to C-H to allow C-H uses. This property is located in Land Lot 39 of the 7th District and fronts on S.R. 54 West and Huiet Drive.

Randy Boyd, Agent, advised that the Martins had owned this nonconforming lot of record, zoned A-R since 1972. He pointed out that the property to the east and south are zoned C-H. He said it would be hard to develop as a stand-alone lot. He presented a plat indicating the building setbacks

and the buildable area is 130' X 15'. He remarked that the Martins hoped that this lot would be sold to the adjacent properties once it is zoned C-H, however a Brusters or Waffle House may be possible.

Chairman Graw asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal, he closed the floor from public comments.

Al Gilbert asked if the petitioners agreed to the one (1) recommended condition.

Mr. Boyd replied.

Al Gilbert made a motion to approve the petition subject to the one (1) recommended condition. Bob Harbison seconded the motion. The motion unanimously passed 5-0.

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Chairman Graw asked if there was any further business.

Chris Venice reminded the P.C. of the Workshop scheduled for January 15, 2004 in the Board of Commissioners Conference Room, Suite 100 at 7:00 P.M. She advised that due to Attorney Bill McNally being unable to attend the January Workshop the L-C Zoning District discussion had been removed from the January Workshop Agenda and would be placed on the February Workshop Agenda, however the Engineering Department has items for discussion for the January Workshop.

Bob Harbison welcomed Chris Venice back.

There being no further business, Bob Harbison made the motion to adjourn the meeting. Bill Beckwith seconded the motion. The motion for adjournment unanimously passed 5-0. The meeting adjourned at 8:15 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

JIM GRAW
CHAIRMAN

ROBYN S. WILSON
SECRETARY

