

MINUTES
GLYNN COUNTY PLANNING COMMISSION
March 18, 2003 - 5:00 P.M.

MEMBERS PRESENT: Hal Hart, Chairman
Perry Fields, Vice Chairman
Mike Aspinwall
Gary Nevill
Robert Ussery
Jonathan Williams

ABSENT: Ann McCormick

STAFF PRESENT: York Phillips, Planning Manager
Carolynn Segers, Planner II
Tyler Frazier, Planner II
Brenda Pittman, Code Enforcement
Janet Loving, Admin/Recording Secretary

Chairman Hart explained that the first hour of tonight's meeting would be an informal workshop to discuss the proposed amendment regarding site coverage. No action is required.

This proposal is part of the "Fendig Amendments" and has been discussed by the Planning Commission. A formal workshop was also conducted on December 3, 2002. Chairman Hart, who was appointed to study this particular section of the ordinance, stated that his original report is included in the packages along with minutes from the December 3rd workshop containing extensive discussion from the public.

Chairman Hart pointed out that the following information contained in the summary of his original report are priority items.

Amend Section 1102.4 General Layout Plan to add General Commercial. As written, applications to rezone to GC do not have to submit a General Layout Plan. Planning & Zoning staff does not get to see what is being considered.

Consider amending Resort Residential to change two-family dwellings to be considered as multi-family. This would reduce site coverage and density and be more in line with what the property is being used for.

There was a brief discussion regarding the use of duplexes as a single-family dwelling. Mr. Williams stated that years ago, duplexes were done simply to bring some family members closer together. However, this has changed from being family oriented to a commercial interest. He stated he would like to know more about the legal aspects of these changes in that most cases the property is still owned by the same individual. Mr. Phillips gave an example of where an apartment complex was approved by the Planning Commission with certain restrictions about parking due to site coverage. The applicant/developer decided to pave the area; however, this did not meet the requirements of the ordinance and therefore had to be removed. Mr. Williams stated he'd like to know where the individual's rights start and where they end. Mr. Phillips stated that if an individual does something that is not consistent with the ordinance, then there is no vested right.

Chairman Hart feels that a duplex is more than one and should not be considered a single-family. Duplexes are allowed a 7 ft. setback and therefore there is no place for parking. He stressed that he is not against duplexes. He just sees them very easily expanding into something else and there is no parking. If duplexes were considered multi-family with 50% site coverage, there would at least be a place to park, even if it were on the dirt.

Mr. Fields wanted to know how much land is left to develop in the Resort Residential that could cause a problem. Chairman Hart stated that the problem is re-development. Mr. Ussery agreed. He stated that smaller cottages are being made into bigger buildings. Mr. Fields stated that he doesn't see this as a problem. He sees this as tourists driven economy. He stated instead of placing the houses side by side, perhaps they should be stacked which would allow more room for parking. Chairman Hart stated there is still the 7 ft. setback. Anything that is more than one in his opinion is multi-family.

There was also a brief discussion regarding the differences between site coverage and lot coverage. Mr. Fields stated that site coverage was intended to be the footprint of the house and not decks, driveways, swimming pools, etc. Mr. Ussery stated that for 25 years the definition of site coverage has been the same as it currently exists.

Chairman Hart stated that he and Mr. Ussery discussed the possibility of increasing site coverage from maybe 50% to 60%. Mr. Fields stated that he is adamantly opposed to telling people that they cannot use their property to the fullest extent allowed.

Mr. Ussery suggested that the term "lot coverage" be removed from the Village Preservation District and replaced with the term "site coverage" with a reasonable percentage applied.

At the end of discussion, it was the consensus to have staff write up the amendment pertaining to Mr. Hart's two priority items for the Planning Commission's review.

Chairman Hart called the regular meeting to order at 6:00 p.m. and the invocation was given, followed by the Pledge of Allegiance. He then gave a brief recap of the rules, voting procedure and audience participation in discussing agenda items.

Upon a motion made by Mr. Perry Fields and seconded by Mr. Jonathan Williams, the agenda for the March 18th meeting was approved and unanimously adopted.

GC-2003-02

Application by Ron Sluder to rezone from FC Freeway Commercial to FA Forest Agriculture property located at 689 Fancy Bluff Drive approximately 435 feet west of its intersection with Loper Drive and consisting of a triangular portion of land approximately .653 acres in size situated approximately 1,270 feet southeast of Fancy Bluff Road.

Mr. Ron Sluder and Ms. Julie Chapman were present for discussion.

The staff's report was included in the packages for review and was presented by Mrs. Segers as follows:

The triangular area is situated along the southwestern boundary of a 34.472 acre parcel zoned FA Forest Agriculture, which is planned as a 50 lot residential subdivision

known as Boykin Ridge. The area along Fancy Bluff Road is residential in nature, and largely undeveloped.

The Future Land Use map of the Glynn County Comprehensive Plan identified this area as Agriculture Forestry. The subject triangle is a part of a January 1967 rezoning which established Freeway Commercial zoning at proposed major intersections with I-95. The 1967 map change was rectangular in shape and did not follow parcel lines. The Preliminary Plat for Boykin Ridge subdivision was approved by the Planning Commission February 4, 2003 with the condition of rezoning the Freeway Commercial portion of the parcel.

In conformance with Section 1103 of the Glynn County Zoning Ordinance, the following findings of fact were considered in making the recommendation:

- Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Yes. The proposed rezoning would allow for residential development compatible with the area.

- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

No. The proposal would be in harmony with the nearby property.

- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Yes.

- Whether the zoning proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

No.

- Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Land Use Plan.

The future land use map identifies this area as Agriculture Forestry.

- Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for approval or disapproval.

None.

Approval of the proposed rezoning would place the entire parcel under a single zoning district and be in conformance with the Future Land Use Map. Staff's recommendation is for approval.

It was noted that no one was present to oppose this request. Following review, a motion was made by Mr. Gary Nevill to recommend approval of this request. The motion was seconded by Mr. Perry Fields and unanimously adopted.

GC-2003-04

Application by Dan Coty and Steven V. Brian, agents for Glynn County Airport Authority, to rezone from G Government to PD-G Planned Development General, property located at the northeast corner of Harry Driggers Boulevard and Canal Road, and consisting of 19.2 acres with approximately 1,500 feet of frontage on Harry Driggers Boulevard.

Mr. Dan Coty was present for discussion.

At the March 4th meeting, the Planning Commission recommended approval of this application subject to several conditions being made to the applicant's PD Text and subject to those conditions being reviewed by the Planning Commission. The modified Text with the noted changes was included in the packages and reviewed by the Planning Commission. No other action is required at this time. (At the March 4th meeting, the Airport Zoning District was inadvertently referred to as Article XII. This error was corrected in the Text and noted as Article XIII.)

ZT-2003-01

Proposed Amendment to the Glynn County Zoning Ordinance, Article VIII, Section 803.2.3 to exempt non-profit organizations from the payment of a permit fee to authorize the installation of banners.

Mr. Phillips stated that this proposed amendment was initiated by the Board of Commissioners and prepared by the County Attorney's office. The proposal provides for an exception for the fee for permits for banners when the applicant is a qualified 501(c) (3) organization. Mr. Phillips stated that staff's recommendation is for approval.

Mr. Fields stated that not all non-profit corporations are tax exempt. He pointed out that 501(c) (3) is one of 16 tax exempt entities. He suggested that the non-profit organization with proof of tax exempt status be listed as Internal Revenue Code 501 without any sub-designations therein. At this time, Mrs. Segers attempted to explain the meaning behind the sub-designated alphabets and numbers listed in the amendment.

Following discussion, a motion was made by Mr. Perry Fields to recommend that Section 803.2.3 be amended to state that "a permit fee shall be paid to Glynn County for each permit required by the ordinance with the exception of non-profit organizations, with proof of Internal Revenue Code 501 tax exempt status..." The motion was seconded by Mr. Mike Aspinwall. Voting Aye: Mr. Mike Aspinwall, Mr. Perry Fields, Mr. Gary Nevill, Mr. Robert Ussery and Mr. Jonathan Williams. Abstained From Voting: Mr. Hal Hart.

PP-2002-1218-093 Caleb's Crossing

Application by Kern-Coleman & Co., agent for Title Properties, LLC, owner, for approval of a preliminary plat in accordance with the Planned Development Zoning Text for the Golden Isles Gateway Planned Development (Tract R4W) for property located on the north side of Harry Driggers Boulevard, approximately 14,600 feet west of its intersection with US 17, and consisting of 33.37 acres with approximately 2,349 feet of frontage on Harry Driggers Boulevard.

Mr. Toss Allen and Mr. Terry Carter were present for discussion.

The staff's report was included in the packages for review and was presented by Mr. Frazier as follows:

This project consists of 39 buildings containing 154 units (38 buildings have 4 units and one has 2 units) located on the north side of Harry Driggers Boulevard within the Golden Isles Gateway planned development. Previously a planned development text was adopted for the subject property. Staff has reviewed the plat and considers it compliant.

This preliminary plat is characterized by jurisdictional freshwater wetlands. The Glynn County Comprehensive Plan Natural Resource Element states two policy goals and objectives that relate to the review of this preliminary plat as follows:

- Acquire, preserve and encourage areas for natural open space. Protect and preserve natural open space wherever possible.
- Encourage the preservation of coastal resources, productive wetlands, and other natural resources.

Staff also referred to the Glynn County Zoning Ordinance, Section 618, which states that development adjacent to freshwater wetlands, as defined by the Clean Water Act, shall provide a buffer of natural vegetation.

The planned development text for this property indicates that a 10 ft. wide buffer of natural vegetation shall be provided around all freshwater wetlands. Additionally, the applicant has indicated that all jurisdictional wetlands shall be placed in a conservation easement. The right-of-way for Promise Lane encroaches on the 10 ft. buffer specified in the planned development text, but it does not appear that the proposed construction will breach this 10 ft. offset.

The applicant's proposal to place 14.01 acres of jurisdictional wetlands in a conservation easement is supported by the Glynn County Comprehensive Plan. While staff consistently recommends at minimum a 15 ft. buffer from all freshwater wetlands, in this instance the applicant has an approved planned development text that requires a 10 ft. buffer. Staff's recommendation is for approval.

Mr. Gary Nevill stated that there is no curve or line table included on the plat. Mr. Frazier stated that this information would be provided at the final plat stage. Mr. Toss Allen apologized for this oversight and stated that the information would be provided by tomorrow morning. Mr. Nevill stated that without this information, they don't know the actual size of the lots. For clarification on preliminary plat requirements, Mr. Frazier referred to Section 703.11 of the Subdivision Regulations.

Mr. Toss Allen stated the first time he came to the Planning Commission was with a planned text amendment for this project. At that time he was asking for a variance to allow garages; however, he has since eliminated that and stated there would be no garages in the area. He is adhering to the Glynn County Zoning Ordinance with regard to front setbacks on the property.

Mr. Fields stated that notes 2 and 3 on the preliminary plat are not clear regarding the total number of lots of the entire project listed as 154 with a minimum lot size of 2000 feet. Mr. Allen explained that after construction when the lots get platted into the quadruplexes, each lot would be platted individually. Mr. Fields stated that the applicant's proposal indicates 154 lots, but this is not representative of the plat. He then asked staff if the applicant could turn the development into 154 lots without going through the preliminary plat process again. Mr. Frazier stated that the preliminary plat should read 39 lots and the minimum lot size could reference the PD Text. Technically, it all operates under the PD Text. He stated that the applicant could come back with the quadruplex so that they know exactly where the attached wall is.

For clarification, Mr. Nevill explained that the plat should read 39 lots; the applicant would then get approval of a final plat on those lots, come in and do an 801 on the lots, and finally, subdivide the lots individually through the 802 process. Mr. Fields stated that he just wants to ensure that the Planning Commission understands that this plat is not what is ultimately going to appear on the property. Mr. Frazier agreed and added

that the actual subdivision lines are misleading. Mr. Fields stated that the building locations do not have anything to do with a preliminary plat approval.

Mr. Fields had questions about the utility easement between Lots 10 and 11. He thinks that it might be better to run the easement along the lot line. Mr. Allen stated that the lot was done before the request came in for the utility easement and he just did not change the lot line. But it would not be a problem to do this at construction plan level before returning for final plat approval of the area.

Mr. Fields made reference to note 17; "all areas shown as greenspace and parks will be owned by and maintained by Caleb's Crossing Homeowners Association." He wanted to know if the applicant would have a problem with putting that same note on the final plat. Mr. Allen replied no. He would not have a problem with that.

Mr. Terry Carter stated that the text indicates that wetlands would be turned over to the Conservation Society, but he has no intentions of doing this until the end of the project.

Mr. Daniel Parshley stated that he is neither for nor against this request. He stated that he would like to address Mr. Fields' request that the land be designated as greenspace on the plat. Mr. Parshley stated there is a conflict where the developer is saying that it is going to be given to an organization for preservation, but the plat indicates that it will be common space for the homeowners association. He stated that it is not incumbent upon the applicant to make that greenspace unless there is a greenspace easement on the plat. Mr. Parshley stated that the concept of not knowing where a property line will be until after the house is built is preposterous.

For clarification, Mr. Fields explained that the wetlands would be placed in a conservation easement. There are parks and recreational areas that are not being placed in the conservation easement, but he wants it known that they are not being dedicated to the public. He just wants that placed on the final pat.

Mr. James Holland stated that he is also not opposed to this project, but he is concerned about the buffer. He stated that there needs to be some minor changes made in the applicant's idea of what a buffer is around State Waters. He stated that all buffers around State Waters are not 10 ft. Mr. Holland stated that wetlands are State Waters. Erosion and Sedimentation Laws require a 25 ft. buffer or a variance. Mr. Fields attempted to correct Mr. Holland, by pointing out that wetlands are not State Waters. However, Mr. Holland insisted that they are State Waters.

Mr. Terry Carter stated that he is allocating the wetlands because it is a good business decision, a good decision for the subdivision and for the community. As a developer, he decided to make that commitment. He stressed that if everyone would work more in line with each other on these projects and not in such an antagonistic manner, they could get a lot more done.

Mr. Fields stated that he just wants to make it clear that the Planning Commission is approving 39 lots and not 154 lots. Mr. Carter acknowledged that he understands.

Mr. Dave Kyler of the Center for Sustainable Coasts agreed with Mr. Holland and stated that wetlands are in fact Waters of the State and must adhere to the same 25 ft. setback requirement as rivers and streams.

Following discussion, a motion was made by Mr. Gary Nevill to approve this preliminary plat subject to note #2 on the plat being changed to 39 lots, the second page of the plat being submitted, and note #17 being added to the final plat. The motion was seconded by Mr. Perry Fields and unanimously adopted.

Variance Request - Wesley Crossing

Request by Rhumbus Real Estate Inv. for a variance from Section 603.1.e, Flag Lots, in accordance with Article IX of the Glynn County Subdivision Regulations

Mr. Ernie Johns was present for discussion.

The staff's report was included in the packages for review and was presented by Mr. Frazier as follows:

Staff has reviewed the preliminary plat for this proposed 7 lot residential subdivision. Section 603.1.e.2 states:

Flag lots shall be permitted under the following conditions:

Located in new major subdivisions and (sic) not to exceed 10% of the total number of created lots.

Article IX addresses when variances from the design standards of the ordinance are permitted as follows:

1) General:

When a peculiar shape, or the topography of a tract of land, or other unusual condition, makes it impractical for a subdivider to comply with the literal interpretations of the design requirements of this Ordinance, the Planning Commission shall be authorized to vary such requirements, provided, however that in so doing the intent and purposes of this Ordinance are not violated.

The marsh reach between lots 6 and 7 presents a topographical obstacle that requires a 25 ft. access strip to the 29,471 SF of developable lands.

Staff recommends that the variance from Section 603.1.e, Flag Lots, be approved for lot 7 as identified on the preliminary plat, ***Wesley Crossing***.

Following review, a motion was made by Mr. Perry Fields to grant this variance request. The motion was seconded by Mr. Mike Aspinwall and unanimously adopted.

PP-2003-0221-1500 - Wesley Crossing

Application by Rhumbus Real Estate Inv. for approval of a preliminary plat on property that is zoned R-12 and located on West Point Drive, north west St. Simons Island. The applicant seeks to subdivide 4.271 acres into 7 lots.

Mr. Ernie Johns was present for discussion.

The staff's report was included in the packages for review and was presented by Mr. Frazier as follows:

The subject property is located in an AE13 flood zone. Construction plans for the street Wesley Crossing and building permit surveys for individual sites will provide further details on how homes will function within the subdivision. Typically, a significant amount of fill is required to bring site grade into compliance and provide cover for water and sewer.

The preliminary plat Wesley Crossing in large part complies with the Glynn County Subdivision Regulations. Staff has reviewed the plat and considers it compliant, and therefore recommends approval.

Following review, a motion was made by Mr. Gary Nevill to approve this request. The motion was seconded by Mr. Mike Aspinwall and unanimously adopted.

At this time, the Planning Commission took a 10-minute recess. The meeting resumed at 7:10 p.m. (During the break, it was noted that Mr. Jonathan Williams did not return to the meeting.)

SP200205061641 Live Oaks Power Plant

Request by Live Oaks Company, LLC for extension of site plan approval. Approval was granted June 4, 2002 and effective for one year. The request is for a 12-month extension. The property consists of approximately 90 acres, located east of New Jesup Highway (US 341) in the Sterling area.

Mr. Richard Zwolak and Mr. Burt Wallace were present for discussion.

In a memorandum addressed to the Planning Commission, Mr. Phillips explained that this application was approved on June 4, 2002 subject to: 1) staff's review and approval of detailed plans in connection with specific building permits; and 2) execution of an agreement for use of treated wastewater.

This project requires approval by the GA Department of Natural Resources, Environmental Protection Division (EPD) for groundwater withdrawal, as well as certain other permits. Applications for these permits were made to EPD in 2002 and are still pending review. The applicant is not in a position to submit detailed designs for building permit review for the plant structures themselves until these permits are issued. The applicant has indicated to staff that he anticipates EPD action this spring.

In the meantime, the erosion and sedimentation control plans, detailed drainage plans and calculations have been submitted for county review. For clarification, Mr. Phillips stated that staff is still having an internal debate over exactly what could be permitted once these plans have been approved and corrected. He stated that it is possible that this project could be permitted in phases depending on the number of considerations.

The applicant has also indicated that he has been working on an agreement with the City of Brunswick for use of treated wastewater. There has been no formal discussion yet with the county over the route of necessary pipelines or any county permitted.

Mr. Phillips explained that in accordance with the ordinance, the Planning Commission has to review many kinds of site plans. All site plans, whether reviewed by the Planning Commission or not, are subject to a final site plan review that staff conducts prior to the zoning sign-off on the building permit. Staff will not sign the building permit application until all aspects of the site plan meets all ordinance requirements, including any conditions that the Planning Commission places on the plan.

Mr. Phillips stated that after the Planning Commission's review in June, there was an appeal filed with the Glynn County Zoning Board of Appeals on the basis that the Planning Commission did not carry out its duties under the ordinance. The Board of Appeals determined, after consultation with staff and the County Attorney, that in fact the plan that was reviewed and approved by the Planning Commission was not the final administrative action contemplated in the appeals section of the ordinance. That action would occur upon the sign-off of the building permit, which has not yet happened.

Mr. Phillips further stated that the ordinance provides that a plan, once approved by the Planning Commission, is good for 12 months. There is also a provision outlined in Section 619.6 of the ordinance, which allows the Planning Commission to grant an extension as follows:

The Planning Commission may grant extensions not exceeding 12 months each, upon written request of the original applicant if the application is substantially the same as the initial application. However, the Planning Commission has the power in such cases to attach conditions to its re-approval. Where the application for re-approval contains changes, which the Planning Commission concludes materially alter the initial application, a new site plan review procedure shall be initiated.

Mr. Phillips distributed a memorandum consisting of a list of questions submitted by Sylvia B. Drury pertaining to this proposal. In her memorandum, Ms. Drury, who is a realtor, states that she would like to remain neutral until she knows enough about this power plant to form an opinion. Also, Mr. Frazier distributed a copy of a memorandum addressed to Jennifer Kaduk from William McLemore of EPD, which outlines a professional opinion on remediation of the LCP chemical site in Brunswick. (Copies of both memorandums are contained in the files located in the Planning & Zoning Section of Community Development.)

Several residents were present to speak in opposition of this request. Chairman Hart placed a 5-minute time limit on each speaker (for or against the request).

Mr. Fields asked if this request is being extended for a year from today's date or would the extension be a year from June 4th. Mr. Phillips explained that the Planning Commission would stipulate that in the form of a motion; however, the request is to extend it from June 4th for an additional year.

Mr. Richard Zwolak of Golder Associates gave a brief presentation. He stated that Golder Associates is an environmental consulting firm that has been retained by Live Oaks LLC to develop the site plan for the project and to obtain all of the environmental permits and land use approvals.

Mr. Zwolak stated that with respect to the request for the extension, power plants take an inordinately time to design, permit and construct. The construction period of this project would be approaching 24 months, or two years. He stated that it is common if there are local regulations that limit approval for a 12 month period to have to come back from time to time for extensions as the project progresses.

Mr. Zwolak stated that they have made progress in all of the environmental permitting arenas that the project is required. They have worked diligently with the state with respect to water and air permits. The state made a policy decision several years ago to look at existing facilities that they permit, take care of those needs, and then to take care of existing industries that were expanding, before they look at new projects. They are now caught up and are proceeding with the review of the Live Oaks project.

For clarification, Mr. Zwolak stated that they did make a specific request to get a 12-month extension from the end of the current expiration date, which would be June 4, 2003.

Mr. Aspinwall asked if the site plan had been altered. Mr. Zwolak replied no. He stated that the intended use is identical to the original application. He stated that they submitted a project for administrative review in 2001. The layout of the facilities is the same and the use is the same. There is no change in any operational component. The most significant change that they have made is minor and deals with the storm water management plan. Mr. Zwolak stated that they have submitted the application for the Land Disturbance Activity permit as required by the county and in doing so, the county asked a series of questions. They are now modifying the routing of the ditches and the volume of the storm water ponds to accommodate county requirements. Mr. Aspinwall

asked if everything is essentially the same as what the Planning Commission approved last year. Mr. Zwolak replied yes.

The following people were present to oppose this request: David Kyler, Daniel Parshley, James Holland, Meredith Trawick, Louis Adkins, Kim Adkins, Henry Mobley and Henrietta Mobley. Opposition included excessive water consumption, possible chemical spills, odor, dust, noise and devaluation of property. Concerns were also expressed about wetlands, zoning issues, and detriment to the health, safety and general welfare of Glynn County citizens.

During the course of discussion, several questions were raised concerning wetlands, noise, hazardous chemicals, and water withdrawal. Mr. Fields explained that the wetlands are governed by the federal government and are not regulated by Glynn County. He stated that the issue of noise is not a condition of the site plan section of the ordinance. There are 11 criteria by which the Planning Commission reviews a site plan and noise is not one of them. Also, the property is already zoned industrial.

At this time, Mr. Zwolak explained that the site plan occupies 25 acres of a 90 acre site. There is a significant amount of buffers surrounding the property. They are using the large acreage as additional property to buffer the adjacent land uses. With respect to the visual character of the property, Mr. Zwolak stated that they requested a height exception, which was granted by the Planning Commission for two types of structures: exhaust stacks and heat recovery steam generators used to enhance the efficiency of the project by turning natural gas into electricity. The exhaust stacks will have no visible emissions.

Mr. Zwolak stated that there are no wells located on the site plan that was submitted to the Planning Commission because that is something that EPD would regulate. He stated that they did place their first well on site to determine the specific capacity of the Miocene at that location to ensure that they could withdraw water at the quantity proposed. He stated that one would certainly put a second well in place, and potentially a third well in order to rotate the wells and minimize environmental impact. Regardless of the number of wells, the water withdrawal from the aquifer could not exceed what they have submitted in the application.

Mr. Zwolak stated that with respect to noise, they have conducted a number of studies. They have measured the noise conditions on the site, modeled the affects that the project would have, and determined that they can meet the county's noise regulations. With regard to the air construction permit, they have determined that there would be no significant impact of haze from the project. Types of studies that would be conducted in the future would include vibrations. This power plant has a number of moving pieces of equipment and is very sensitive to vibrations. They have to design the development in such a manner so that it does not vibrate.

Mr. Burt Wallace elaborated on the water usage. He stated that they would be using less water because there would be less electricity. He stated that they did not change the design, just the operation. He then explained about having a base operation and a peaking operation and stated that they would run the plant at peaking operation with fewer hours.

Mr. Zwolak addressed concerns about drainage, wastewater, hazardous chemicals and "blow down." He stated that the proposed plan is to re-align the drainage ditch as it crosses the property to enable them to place the power block in the central part of the site. There would be no increase in run-off from the project site down stream. There won't be any flooding associated with the project, as required by county ordinances and state rules.

With respect to wastewater, Mr. Zwolak stated the current generation rate at Academy Creek is 7 million plus on an average annual basis. Their needs are around 5 million. In the future, the amount of wastewater generated will probably go up as the community grows, but their needs will remain the same. He stated that there would be several types of water treatment chemicals on site to enable the plant to recycle water to the greatest extent practical. All of those vessels will have to meet certain regulatory

requirements, which would include double containment if it has the potential to contaminate the environment. He stated that there aren't any hazardous chemicals of significant quantity or any significant volumes of waste generated from this power plant.

Mr. Zwolak stated that there are two kinds of "blow downs." In the industry, "blow down" is really characterizing the wastewater that leaves the site from the various processes. There is washing of equipment on a periodic basis. He elaborated on the technical aspects of this process.

At this time, Mr. Phillips reminded everyone that according to Section 619.6 of the ordinance, "the Planning Commission *may* grant extensions." He stated that the term *may* is not entirely discretionary. The Planning Commission is dealing with an administrative matter, as opposed to a legislative matter and needs to be guided by the procedures in the ordinance. The Planning Commission does have to conclude as to whether or not the application is materially altered or changed, and if so, this would require a new site plan.

Mr. Fields stated that he intends to abstain from voting for two reasons; 1) he abstained at the time of the initial request and Roberts Rules of Order may preclude him from voting this time; and 2) county staff does not have the expertise to assess an industrial site. "Typically, local governments that permit power producing facilities of this size and nature would hire an independent firm capable of performing independent assessments of the county's best interest." Mr. Fields stated that this has not been done.

Again, Mr. Phillips explained that the Planning Commission is dealing with an administrative matter and not a legislative matter. The county has not chosen to require a special use permit where more discretion or conditions could be imposed. The matters that are legally functions of this particular process are spelled out in Section 619. They do not address issues such as ground water withdrawal on a large scale or air quality permitting, etc. These areas have been taken over by the state and the state is responsible for hiring people to conduct these analyses. He stressed that county staff is very well equipped to deal with the issues of site plan approval, i.e., the nature and design of drainage, soil and erosion control, traffic circulation, etc. Mr. Phillips further stated that in discussing this matter with the County Attorney, there is a procedure in which staff will undertake prior to issuance of a building permit, to obtain some type of certification addressing the issue of whether uses are obnoxious or injurious.

Mr. Robert Ussery stated that he is a little uneasy because he was not a member of the Planning Commission when this item was previously approved. However, he does understand what was done and he believes that there have been no substantial changes made that would require another site plan approval. He stated that he has studied the packet of information and has spoken extensively with the applicants. Therefore, Mr. Ussery made a motion to extend the site plan approval for 1 year from June 4, 2002. The motion was seconded by Mr. Mike Aspinwall. Voting Aye: Mr. Mike Aspinwall, Mr. Hal Hart, Mr. Gary Nevill and Mr. Robert Ussery. Abstained From Voting: Mr. Perry Fields. (It was noted that Mr. Williams was no longer in attendance.)

At this time, the Planning Commission took a brief recess. The meeting resumed at 9:10 p.m.

Under **Planning Commission Items**, Mr. Nevill distributed a report from the Dead End Street Committee for review. Also, Mr. Phillips pointed out that an ordinance amendment schedule has been included in the packages for the Planning Commission's review. (This information is being provided to help coordinate discussions of proposed amendments.)

There being no further business to discuss, the meeting adjourned at 9:17 p.m.