

M I N U T E S

GLYNN COUNTY PLANNING COMMISSION
June 12, 1990 9:00 A.M.

MEMBERS PRESENT: Dennie McCrary, Chairman
Larry Evans
William Holland
Benjamin Jaudon
John Rivers

MEMBERS ABSENT: Mac Harden

STAFF PRESENT: Edward Stelle, Director
Community Development

Larry Taylor, Deputy Director
Zoning and Development Review

Deborah Chapman, Zoning Administrator
Zoning and Development Review

Richard Anderson, County Planner
Long-Range Planning Section

Jennifer Detloff, Planner
Long-Range Planning Section

Chairman Dennie McCrary called the meeting to order and the invocation was given.

McDonald Mini Farms, Phase Three
Preliminary Subdivision Plat

38.58 Acres, Zoned Forest Agricultural
7 Residential Lots
Located off Old Jesup Road

Dorman and Rudine McDonald, Property Owner/Developer

Mr. Quillie Kinard, surveyor, was present for discussion.

Mr. Larry Taylor stated that this plat and engineering meets all the requirements for a county standard dirt road and has been approved by the County Engineer. Construction in some areas of this project may impact wetlands. A 404 Permit may be required from U. S. Army Corps of Engineers. The developer will be required to provide to the County a hold harmless agreement on any construction in wetlands as a result of this plat.

Mr. Taylor explained that a minor subdivision plat with four (4) lots on a private easement has been approved as McDonald Mini Farms, Phase Two. Lot 4 is now being subdivided into seven (7) lots served by an unpaved road to be known as Phase Three, the subject plat. The remaining three (3) lots of Phase Two will be served by the proposed road, having a total of

ten (10) lots to be served by the unpaved road. Section 902. Exemptions From Paving Requirements of the Glynn County Subdivision Regulations states that the unpaved road can serve no more than ten (10) residential lots. Therefore, no further subdividing of property will be allowed unless the road is paved meeting all county requirements for a county standard paved road.

The plat was presented for the Commission's review. Mr. Taylor stated that the staff recommends approval of this plat.

Following review, a motion was made by Mr. Benjamin Jaudon to approve the Preliminary Plat of McDonald Mini Farms, Phase 3. Motion was seconded by Mr. William Holland and unanimously adopted.

GC-10-90

Request to Rezone from M-6 One-Family Residential Mobile Home to HC Highway Commercial, a tract containing 16,617 square feet located on the southwest corner of U.S. Highway 17 (frontage of 136.70 feet) and Cypress Mill Road (frontage of 119.25 feet)

Property owned by Ruby Lasseter/Sarah White;
Valerie Harrison, Agent

Mrs. Valerie Harrison was present for review.

Mr. Larry Taylor stated that a Highway Commercial zoning would be suitable based on surrounding properties being commercially zoned and the subject property being located at the intersection of two major roads both scheduled to be 4-laned.

It was pointed out by Mr. Larry Taylor that the staff recommends approval of this request subject to applicant receiving Department of Transportation approval on access and any driveway improvements required being made.

Rev. Ron Cash, Pastor of North Brunswick Christian Church, stated concern in that the type business involved would desire to sell alcoholic beverages, therefore they oppose the rezoning.

Mr. Larry Taylor stated that the current ordinance that deals with a business license to sell alcohol requires a distance of 600 feet between a business selling alcohol and a church. This property is within 600 feet of the church, therefore a license could not be obtained. Mr. Edward Stelle stated that the County Commission would have to hear the request if a liquor license (sale of beer and wine) is applied for. The County Commission can make exceptions due to major highways separating the business and church. When Cypress Mill Road is 4-laned it will be considered a major road, therefore it is possible a variance could be obtained if requested in the future.

Mrs. Harrison stated that the property owner is requesting a zoning change to Highway Commercial. The property may be purchased to be used as a convenience store, however, the request today is only for a zoning change to allow commercial uses.

Following review, a motion was made by Mr. William Holland to recommend approval of this request subject to applicant receiving Department of Transportation approval on access and any driveway improvements required by Department of Transportation being met. Motion was seconded by Mr. Benjamin Jaudon and unanimously adopted.

GC-11-90

Request to Rezone from FA Forest Agricultural to MR Medium Residential, 2.535 acres fronting 248.81 feet on the south side of Demere Road, approximately 2,926 feet west of Retreat Road and approximately 500 feet east of Mary Wan Road; property owned by Palm Coast Associates.

Request initiated by the Glynn County Board of Commissioners in response to Court Order CV 288-274

Messrs. Paul Sanders and Jack Wilson, Palm Coast Associates, were present for discussion.

Mr. Edward Stelle explained that the request is a continuation of the rezoning request first submitted as GC-8-90 to rezone from FA Forest Agricultural to PC Planned Commercial. The request to rezone to Planned Commercial has been denied by the County Commission. The entire situation is being looked at. Mr. Stelle then referred to the staff report that has been placed in the Commission's package for their review, to consider rezoning the property to MR Medium Residential.

Mr. Paul Sanders stated that the owners of the subject property are opposed to this rezoning action and request the minutes note that the property owners appeared and opposed the matter.

Mr. Paul Sanders stated that the reason Tom Lee, County Attorney, notified Ed Stelle to schedule this rezoning hearing was because the chief federal judge, Judge Avant Edenfield, ordered the property rezoned. A few days prior, Judge Edenfield had ordered the County, including all of the County Commissioners and the insurance representatives, to appear in his court on April 3rd of this year in order to settle our lawsuit. When a federal judge tells you to bring your insurance representatives, this is like telling you to bring your checkbook. At this time, the County decided they did not want to appear before the judge and they offered to rezone the property to a use that was not arbitrary or capricious and we believed them.

A stipulation agreement followed and the important part insofar as today's zoning matter is concerned is that the judge ordered the property rezoned to a classification that is not clearly arbitrary and capricious.

Mr. Sanders stated that the last time he appeared before the Planning Commission he gave the facts and figures to prove that Medium Residential is not a reasonable economic use of the property, the numbers do not work. Any professional appraiser will say the same thing after studying the facts and any certified property manager will say the same thing. He stated that the County staff has presented no study or figures to show that it could work, and this is what makes this zoning arbitrary.

Mr. Sanders then stated that the County's staff report in 1988 when considering this same property said, "when analyzing the request for rezoning it seems that the property is consistent with the existing use and zoning of nearby properties, that property values are diminished by the present zoning classification and that commercial use of the property logically follows the present and anticipated growth of St. Simons Island." The report said other things supporting the rezoning to commercial and now they have changed their minds unpredictably, and this is what makes this action "capricious."

This action to consider rezoning the property to Medium Residential is unreasonable and discriminatory. The Tuggle Case, which is a Georgia case, ruled that "zoning ordinances not only must be non-discriminatory and reasonable, but must be applied in a non-discriminatory and reasonable manner and are to be strictly construed in favor of the landowner."

In another case directly concerning this property, Judge Killian ruled that the north side of Demere Road was basically residential and the south side was basically commercial. This decision was upheld by the Supreme Court of Georgia. Yet, in spite of this ruling the County Commission has rezoned two pieces of property on the north side to commercial. Now in the face of this ruling the County Commission is attempting to rezone the commercial side to a residential use by spot zoning. This is unconstitutional.

Mr. Sanders stated that all public officials take an oath of office to follow and defend the Constitution. The Constitution defends the rights of the individual. The law holds that by protecting the rights of individuals you thereby protect the several. Sometimes this is hard to do. The four owners of this property know about defending constitutional rights as we are all combat veterans. This morning we are in a position of asking you to defend our rights in a fair and forthright manner. We only ask that you treat us fairly.

We know that all rezonings in some manner affects all public services such as water and sewer, schools, police, and roads, but this happens with all progress and growth.

Mr. Sanders pointed out that the subject property has a common border with land belonging to the Sea Island Company. In order to avoid the appearance of any impropriety, he requested that Chairman Dennie McCrary recuse himself from this zoning matter.

Mr. Sanders then stated that he is asking this Board, Glynn County Planning Commission, to stand up and be counted and not be intimidated by Tom Lee, County Attorney, and the County Commission.

Mrs. Doris Egan, property owner in the area, stated support of a zoning change to Medium Residential. Mrs. Egan pointed out that the property was purchased by Palm Coast Associates as zoned. She stated that a zoning change to Medium Residential will not be arbitrary if it meets the requirements of the Zoning Ordinance and supports the Comprehensive Plan.

Jack Wilson, Palm Coast Associates, stated that a zoning change to Medium Residential would decrease the value of the property and would deny them due process. He requested that the Planning Commission send this matter back to the County Commission without a recommendation.

Mrs. Ruthie Cobb, property owner in Jewtown, stated that she has been before the Commission time and time again to protect the residential area from commercial. She stated that the residential property owners in the area have rights too.

Mr. Hal Hart, adjacent property owner, questioned the Commission about whether conditions will be added to their action if they recommend a Medium Residential zoning.

Mr. Larry Taylor stated that Mr. Hart is referring to the five (5) conditions stated by the staff under application GC-8-90. Mr. Stelle stated that the staff is not recommending conditions.

Mr. Ed Stelle stated that the staff is recommending a MR Medium Residential zoning to be developed in accordance with the Glynn County Comprehensive Plan and the standards of the Glynn County Zoning Ordinance.

Mr. John Rivers stated that he feels the Planning Commission has already made a recommendation to MR Medium Residential.

Mr. Ed Stelle stated that Palm Coast Associates stated at the County Commission meeting that the ordinance procedures be met, therefore the County Commission took action to deny Planned Commercial but did not take action on rezoning to Medium Residential.

Chairman McCrary stated that proper procedures are being followed.

Mr. Ed Stelle stated that it has been determined that the current zoning of FA Forest Agricultural is not constitutional and should be rezoned to another classification. The County Commission is trying to do this. The Comprehensive Plan recommends MR Medium Residential.

Mr. John Rivers stated that everyone is trying to conform to the Judge's order.

Mr. Hal Hart stated again that at the last Planning Commission meeting when the recommendation was made for MR Medium Residential a condition was stated requiring Mr. Sanders's property and his property to share a driveway off Demere Road. He does not agree with this.

Mr. Stelle stated that the staff is not recommending conditions, only recommending a rezoning to MR Medium Residential.

Section 1101 of the Glynn County Zoning Ordinance was then read by Mr. Stelle regarding procedures.

Mr. William Holland stated that Medium Residential will be consistent with the Glynn County Comprehensive Plan. Thereupon, a motion was made by Mr. William Holland to recommend that the subject property be rezoned to Medium Residential to be developed in accordance with the Glynn County Comprehensive Plan and the Standards of the Glynn County Zoning Ordinance. Motion

was seconded by Mr. Benjamin Jaudon. Abstained From Voting - Mr. Dennie McCrary. Voting Aye - Messrs. Larry Evans, William Holland and Benjamin Jaudon. Voting Nay - Mr. John Rivers.

Mr. Rick Anderson presented additional information regarding the Glynn County Comprehensive Plan, Community Facilities Element, for the Commission's review.

A meeting for Long-Range Planning was set for Thursday, June 28th at 2:00 p.m., Office Park Building.

Upon a motion made by Mr. Benjamin Jaudon and seconded by Mr. William Holland, the Minutes of May 1, 1990 were unanimously approved and adopted.

Chairman Dennie McCrary pointed out that this will be John Rivers last Planning Commission Meeting. He expressed his feelings that Mr. Rivers has done a good job serving on the Commission. Mr. Rivers stated that he has a good feeling about serving on the Commission. He stated that he feels each Planning Commission Member examines the request as an individual and comes up with their own decision.

Mr. Benjamin Jaudon stated that he has recently been appointed to serve on the Hospital Authority which is a lot of responsibility. However, he will continue to serve on the Planning Commission which is his first love as long as he is allowed to. He also stated that he feels each decision is made on an individual basis on the information submitted, he has no commitment to anyone.

Chairman McCrary stated that Mr. Dan Coty has resigned and Mr. Mac Harden's term expires on July 1, 1990. John, Dan and Mac will be missed.

Meeting Adjourned At 10:20 A.M.