

M I N U T E S

CALLED MEETING  
GLYNN COUNTY PLANNING COMMISSION  
JUNE 29, 1993 9:00 A.M.

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MEMBERS PRESENT: Georgia DeSain  
Jack Kite  
Ira Moore  
Richard Parker

ABSENT: Sidneye Henderson  
Benjamin Jaudon  
Wayne Stewart

ALSO PRESENT: Gary Moore, County Attorney

STAFF PRESENT: Larry Taylor, Acting Director  
Deborah Taylor, Zoning Admin.  
Jennifer Detloff, Planner  
Janet Loving, Admin. Secretary

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The meeting opened with discussion regarding the absence of the chairman and vice chairman. Mr. Larry Taylor advised that the Planning Commission had three options. He stated the Planning Commission could; 1) appoint a member as acting chairman, 2) declare this meeting a work session, or 3) cancel the meeting. A motion was made by Mr. Jack Kite nominating Mr. Ira Moore as acting chairman. The motion was seconded by Mr. Richard Parker and unanimously adopted.

Attorney Bob Miles, representing Mr. Joseph Iannicelli (GC-13-93), stated that if no action were to be taken at this meeting, his client did not want to participate. He then asked if the chairman had the authority to vote. Mr. Taylor replied yes.

Mr. Ira Moore explained that at the June 1st Planning Commission Meeting, due to legal questions, the Planning Commission voted to defer action on request number GC-13-93 and to have a called meeting to continue discussion in the presence of the County Attorney.

Attorney Gary Moore advised that unless the applicants object, the meeting should proceed as planned to avoid a time lapse. There being no objections, it was the consensus of the Planning Commission to proceed with the called meeting.

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Mr. Ira Moore, acting chairman, called the meeting to order and the invocation was given.

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Request to allow a 12 sq. ft. sign on a 6 x 6 post for a new restaurant, to be known as Mullet Bay, located within the St. Simons Village Preservation District on Ocean Boulevard.

Mr. Steve Jackson, Applicant

Mr. Steve Ceceri was present for discussion.

Mr. Larry Taylor stated staff has reviewed the design submitted, which meets all the requirements of the Village Preservation Ordinance. He stated staff recommends approval.

It was noted that no one was present to object to this request.

Following review, a motion was made by Ms. Georgia DeSain for approval. The motion was seconded by Mr. Jack Kite and unanimously adopted.

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Continue Hearing on application GC-13-93, Request to Rezone from Basic Industrial to Planned Development-General (residential and recreation), 823 acres located between U.S. Highway 17 North and South Altamaha River, being a portion of New Hope Plantation.

Property owned by Mr. Joseph Iannicelli.

Attorney Bob Miles and Mr. Joseph Iannicelli were present for discussion.

Mr. Larry Taylor explained that the staff report from the June 1st meeting is included in the Planning Commission packages for review. He stated staff does not feel the proposed request meets the requirements for Planned Development to allow residential and recreational use in that the property is marsh, and does not meet the requirements of the Glynn County Zoning Ordinance as developable land. He stated staff also feels that the property should not be zoned as Basic Industrial due to the property being marshland. Therefore, staff recommends that the request for Planned Development to allow residential and recreation be denied. However, staff recommends that the property be rezoned to Conservation Preservation.

Attorney Gary Moore suggested an executive session be held with the Planning Commission members and Mr. Larry Taylor in order to discuss the potential for litigation.

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The meeting resumed at 9:50 a.m.

Attorney Bob Miles stated everyone present is familiar with the presentation given at the June 1st meeting, therefore he would only make brief comments. He also gave a brief history of the property. Attorney Miles stated the area was originally a freshwater wetland environment and had been altered by the colonists. His client is requesting the restoration of the

freshwater wetlands for people living in close proximity to enjoy. Attorney Miles stated Mr. Iannicelli would like to prevent further destruction of the property and he has accomplished the best and most gentle use of the area. He further stated Mr. Iannicelli has a right to the use of the property in the best way and he is being deprived of that right.

Attorney Miles presented the following Zoning Resolution:

Condition Of Zoning Change From Basic Industrial  
To Planned Development-Residential

This Amendment to the Zoning Ordinances of Glynn County, Georgia is conditioned on the compatibility of permitting of the State of Georgia under its laws and regulations and the United States of America and its laws and regulations as to the property described in this Amendment. If either of said Governments, through their agencies, deny a permit for the use of the affected property described in this Amendment in a material and substantial way, which denial is final with all rights of appeal having lapsed, expired or having been exhausted, then the zoning approved by this Amendment shall terminate and the Zoning Ordinance applicable to the property shall automatically revert to its former classification of Basic Industrial.

Attorney Miles read the following zoning language:

"A decision by the Board of Commissioners to deny the zoning reclassification requested would be arbitrary, capricious and unreasonable and in violation of the Georgia and United States laws and constitutions. Such a decision would bear no rational relationship to any legitimate government interest of the Board of Commissioners. It would effectively prohibit development of the property resulting in a serious economic injury to Joseph Iannicelli (herein the "Owner").

"In addition, the present zoning of the property, insofar as it prohibits the use proposed by Owner, results in an illegal confiscation of its property without just compensation. As a result, the denial of the rezoning will unlawfully and unconstitutionally deprive Owner of due process of law and equal protection under the law.

"Finally, a denial will deprive Owner of the reasonable use of his property without due process of law and constitute a public taking of its property without just and adequate compensation first being paid."

Mr. Jack Kite asked about water and sewer provisions.

Mr. Iannicelli stated the trailer park would be closed and the treatment plant would be adequate for the development. Mr. Kite had questions regarding parking. Mr. Iannicelli stated there will be an approved designated parking area, two parking spaces per developable lot. He stated there will be no traffic on the dike. The dike would be available for emergency use only.

Mr. Kite had further questions regarding emergency vehicles. Mr. Iannicelli explained that in such cases boats can be utilized, the lagoons can be used to fight fires, and the office will be manned 24 hours per day. He also stated an all terrain vehicle will be furnished by the homeowners association.

Ms. Georgia DeSain had questions regarding the size of the lots. Mr. Iannicelli stated the area consists of 1 acre lots. He then presented a map depicting the lots, dikes, etc.

Following discussion, a motion was made by Mr. Jack Kite to recommend denial of this request due to uncertainty regarding water and sewer capacity, access to residences by emergency vehicles and the property does not meet the requirements of the Glynn County Zoning Ordinance as developable land. The motion was seconded by Ms. Georgia DeSain. Further discussion ensued.

Mr. Ira Moore stated Mr. Iannicelli has an excellent plan; however, the regulations don't allow for a subdivision in that area.

Mr. Richard Parker stated there is a lack of planning in the area of accessibility of emergency vehicles.

Mr. Iannicelli stressed that his emergency plan is similar to that of Jekyll Island. Mr. Ira Moore asked if the proposal states the owner will be responsible for police, sanitation, etc. Mr. Iannicelli stated he will provide whatever service is required. Attorney Miles stated if that is a requirement, then the homeowners association can provide those services. He explained that the Planning Commission could make that a condition of the zoning; fire, police, etc. to be provided by developer, i.e., owner or the association.

Mr. Ira Moore asked Mr. Kite if he would like to amend his motion or withdraw his motion for further verbiage. Mr. Taylor stated the Planning Commission would have to act within 60 days of the application. Mr. Kite's motion stood for denial. Voting aye for denial: Ms. Georgia DeSain, Mr. Jack Kite and Mr. Richard Parker. Voting nay: Mr. Ira Moore. The motion passed for denial.

Attorney Bob Miles stated his client, Mr. Iannicelli, will appeal the decision at the next County Commission meeting.

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The meeting adjourned at 10:31 a.m.