

MINUTES
GLYNN COUNTY PLANNING COMMISSION
AUGUST 7, 2001 9:00 A.M.

MEMBERS PRESENT: Lamar Cole, Chairman
Wayne Stewart, Vice Chairman
Mike Aspinwall
Perry Fields (arrived at 9:55)
Ann McCormick
Jonathan Williams

ABSENT: Hal Hart

STAFF PRESENT: John Peterson, Director
Lee Sutton, Planning Official
Ellis Carter, Building Official
Buster Reese, Assistant County Engineer
Dick Newbern, Grants Coordinator
Brenda Pittman, Code Enforcement
Janet Loving, Admin/Recording Secretary

Chairman Lamar Cole called the meeting to order 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.

GC-2001-22

Request to rezone from R-20 One-Family Residential to Forest Agricultural, two tracts with a total of 101.645 acres, described as being located on GA Highway 303 on Blythe Island, having 1,784.17 feet of frontage on GA Highway 303. Property owned by J D & D Properties, Inc. and John C. & Marie L. Thomas.

John & Marie Thomas and Mr. William Ligon were present for discussion.

In presenting the staff's report, Mr. Sutton stated that staff is recommending denial of this request based on the following:

- 1) No FA zoned property is adjoining or adjacent to the applicant's property. The nearest FA zoned property is 1600 ft. southwest and the only other being about one mile northwest. This request could present the appearance of spot zoning. (Definition of spot zoning from the "Glossary of Zoning, Development & Planning Terms" was included in the Planning Commission packages.)
- 2) The application is not consistent with the future land use map of the Comprehensive Land Use Plan in that the nearest FA zoned property is in excess of two miles from this site.

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

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

No, the request presents the character of spot zoning and would allow uses permitted in the FA District that are not appropriate in the R-20 District that surrounds these parcels.

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

Yes, the zoning proposal would give privileges not generally extended to property similarly located in the area.

- 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;

Yes, the area is residential in character and the introduction of heavy equipment required to support surface mining operations could continue to cause excessive or burdensome use of existing streets.

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

It is not in keeping with the future land use map. This area has been identified as low density residential with no encroachment by uses other than residential.

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

The intent of the FA Zoning Classification is to discourage encroachment of premature housing developments.

Mr. Sutton stated that since distribution of the packages, the following issues have been pointed out to staff: 1) A document was presented to the Planning Commission regarding the possibility of placing mobile homes on the property, thereby indicating a recommendation for denial. Mr. Sutton cautioned the Planning Commission against using this information as a reason for denying the request in that it could be construed as discrimination against mobile homes. 2) It has come to staff's attention that the applicant intends to use the area as a landfill; however, Mr. Sutton stated that staff is unaware of any information regarding this possibility. He explained that a landfill is a permitted use in the Forest Agricultural Zoning District.

As a point of order, Mr. Wayne Stewart stated that because he lives on Blythe Island and owns property within 300 to 500 ft. of the property in question, he consulted the County Attorney for advice regarding a conflict of interest in this case. He was advised by the County Attorney that he could participate in the discussion and the vote in that he has no vested interest of 10% or more in J D & D Properties.

Mr. William Ligon, representing J D & D Developers, addressed the two issues pointed out by Mr. Sutton concerning the owners' intentions. He stated that the property would not be used as a landfill or a dump, and the owners have no intention of using the property to create a mobile home park. He explained that the owners merely want to

continue excavating the ponds and lakes as they have been doing for the last four or five years. Once that is complete, they intend to develop a subdivision and sell lots around the lakes.

Referring to the applicants' plat, Mr. Ligon stated that there are existing lakes on the property labeled as bar pits. The digging is almost completed. The owners want to put one more pit near I-95 and then proceed to sell the lots around the lakes. The rezoning would allow them to continue this process and later do a planned development for the subdivision.

Mr. Ligon explained that the property fronts on Highway 303 and large trucks use the highway everyday. However, there would be no trucks going in and out of the subdivision or any other part of Blythe Island except by way of Highway 303. He stated that the rezoning would not affect any of the residences on Blythe Island.

In an effort to assure everyone that there is no intent to use the property as a landfill or a mobile home park, Mr. Ligon asked that the rezoning be granted on the condition that it not be used for any such purpose. He stated that the owners are willing to do whatever is necessary to reassure the neighbors, including placing a restrictive covenant on the land. He further stated that the proposed zoning is consistent with the historic use of the property. The owners want to bring the existing use into compliance with the zoning. Mr. Ligon stated that this is not a spot zoning and his clients are soliciting the Planning Commission's approval of this request.

It was noted that several people were in attendance to oppose this request. During a brief presentation, Mrs. Marie Thomas, owner of the property in question, stated that she considers the people in the audience her friends and neighbors. In light of the threats, gossip and misinformation, Mrs. Thomas stated that it does not matter to her if the property is zoned Forest Agricultural or R-20. If her friends and neighbors prefer to have the property zoned to R-20, she is willing to put in an R-20 subdivision. She explained that their intention was to do a very low-density subdivision, with nice quality homes around the lake. However, due to the misinformation, most of her neighbors are under the impression that she and her husband are creating a landfill and have plans to put in a mobile home park. This has never been their intention. Mrs. Thomas stated that she is in the process of doing a land use plan for a subdivision. If the request for the Forest Agricultural low-density subdivision is denied, she is willing to follow all guidelines and regulations for the R-20 zoning. If they don't sell, she stated that she would rent them out.

Mrs. Thomas stressed that she takes personal offense to the threats to burn her family out, to the slander on the radio, to accusing her husband of creating his accident to lose his leg, and to the slander of them not earning their money legitimately. She stated that the money received from her husband's accident was spent in Glynn County and they have invested all of their money in their property and in the equipment. Mrs. Thomas emphasized that she would not fight people who are suppose to be her friends and neighbors.

Mr. Stewart asked Mrs. Thomas if she was aware of the activity that's been occurring on her property, such as hauling in debris. Mrs. Thomas explained that two years ago she contacted the county and EPD about building a sound barrier across I-95 to alleviate some of the noise. She also discussed the materials to be used to build this sound barrier. She stated that everyone was fully aware that it was being built out of stumps, leaves, limbs and topsoil until three months ago when a rumor started that they were dumping and burying garbage in the area. Mrs. Thomas pointed out her residence on the map and stated that she is fully aware of what's going on around her. She stated that out of all of the people present today, only one of her neighbors bothered to call and inquire about what she and her husband were planning to do in the area.

Mr. Stewart asked Mrs. Thomas if she was aware of the Department of Natural Resources "Notice of Violations" affecting this property up to now. Mrs. Thomas stated that they received three minor "Notices of Violations" dealing with surface mining requirements, but she was not aware of any other violations. Mr. Stewart referenced a

history of complaints and violations that have occurred on this property dating from November 17, 1998 to May 30, 2001. (Copies were distributed to the Planning Commission members earlier in the meeting.) Mrs. Thomas stated that she had never seen the "Notice of Violation" dated November 17, 1998. She stated that the "Field Notification" dated July 1999 was for minor violations in compliance with the surface mining regulations, but they have all been resolved.

Mr. Stewart asked Mrs. Thomas if there had been any dumping of materials into lake. Mrs. Thomas replied "no, there has been no dumping of any materials into the lake whatsoever." Mr. Stewart stated that stumps, wood and concrete have been hauled in from other areas. Mrs. Thomas stated "that is true." She stated that the stumps, limbs and leaves are on the sound barrier in back. Regarding the concrete, she explained that they purchased a concrete crusher in January and received a power permit from the county. They installed the concrete crusher to crush the concrete for the roads in an effort to keep the dust down. However, in the last three months the county told them that they could not operate the crusher. Mrs. Thomas stated that the machine makes no considerable noise and no one knew it was there until three months ago. She stated that it would be moved to another site.

Mr. Stewart asked Mrs. Thomas if they had been operating a business from the site for four to five years. Mrs. Thomas stated that they started digging the lakes in 1996. They contacted the county who sent them to the U. S. Soil & Conservation to get the proper permits. The U.S. Soil & Conservation sent them to the GA Department of Natural Resources to obtain a surface mining permit. She stated that they obtained the permit in 1997 and they have been digging the lakes since then.

Mr. Stewart asked Mrs. Thomas if they are in violation of any zoning ordinances. Mrs. Thomas stated that they contacted the county before starting the work. A female from county staff told her specifically that they "could not landfill in the area but the surface mining is fine." Mrs. Thomas stated that her biggest mistake was trusting the county. She stated that Code Enforcement visited the site on numerous occasions and had given them the "go ahead." She stated that everything was fine until three months ago when they apparently upset someone in a higher authority.

Mrs. Thomas reiterated that she does not want to sit here today and listen to her friends and neighbors insult her. If they don't want this, she would close up the shop tomorrow and move the concrete crusher. She stated that she would continue to live in the area, slope the sides of the lake, sell the front lots, and put a subdivision in the back so that everybody is happy.

Mr. Stewart asked Mrs. Thomas if she would like to withdraw the application. Mrs. Thomas stated that she would rather dig the lakes and have four or five houses versus a subdivision, but because of the public hysteria she was adamant about not debating with her friends and neighbors. It is obvious to her that they are opposed to her request. Mr. William Ligon stated that his clients do not want to withdraw the application.

Mr. Stewart pointed out that the county is in the process of reviewing and possibly revising the FA Zoning District, which would delete a big portion of what the neighbors are objecting to. He stated that the people he had spoken with expressed concerns about seeing a site plan so that they would know the width, depth and the location of the lake. He explained the process of withdrawing an application versus a recommendation for denial with regard to resubmittal of the application.

For clarification, Mr. Ligon stated that if his clients decide not to withdraw and the application is denied, what would be the position of the county if they were to come back with an application to create a subdivision within the R-20 zoning. Mr. Sutton explained that in accordance with Article VII of the Glynn County Subdivision Regulations, an application could be made for a preliminary plat. If the application is approved, it would then go into the construction plan phase where the applicants would present all required details. They would also be required to have a land disturbance activity permit approved by GA Soil & Water Conservation. In an effort to satisfy

concerns, Mr. Sutton suggested that a more detailed application be submitted to afford the neighbors as well as staff an opportunity to review the plans and to know exactly what the applicants intend to do in the area.

After conferring with his clients, Mr. Ligon stated that they would like to request a deferral at this time and come back with a more detailed site plan. The request for deferral was granted.

GC-2001-23

Request to rezone from Forest Agricultural and Highway Commercial to General Commercial, property described as Parcel A (zoned FA - 9.51 acres) and Parcel B (zoned HC - 2.75 acres) for a total of 12.26 acres. Property having 1,241.84 feet of frontage on U. S. Highway 17. Property owned by First Freewill Baptist Church.

Mr. Larry Bryson was present for discussion.

In presenting the staff's report, Mr. Sutton stated that staff is recommending approval of this request in that the proposed down zoning would allow the applicant to enjoy the zoning classification that best fits the character of the current use of the property.

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

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

No.

- 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;

It is in keeping with the future land use map. This area is identified as commercial.

- 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; however, as indicated with previous church rezonings, traffic safety issues should perhaps be considered regarding the growth to ensure that parking and traffic flow will be confined to the property and not present a traffic hazard to the adjoining property owners or to the public.

Following a brief discussion, a motion was made by Mr. Wayne Stewart to recommend approval of this request. The motion was seconded by Ms. Ann McCormick. Voting Aye: Mr. Mike Aspinwall, Mr. Lamar Cole, Ms. Ann McCormick, Mr. Wayne Stewart and Mr. Jonathan Williams. (Mr. Perry Fields was not in attendance at this time.)

GC-2001-24

Request to rezone from R-12 One-Family Residential to Planned Development Commercial District, 3.4 acres, described as Lot 2 and a portion of Lot 3 Glyndale Subdivision; property having 282.32 feet of frontage on Glyndale Circle. Property owned by Stephen K. & Mary S. Hart.

Stephen and Mary Hart were present for discussion, along with Ms. Julie Chapman, Real Estate Agent.

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

The Planned Development Text suggests being able to enjoy permitted uses from every commercial zoning classification in the Zoning Ordinance, and in addition, requests single and multi-family residential uses. Residential uses are not permitted, conditional or special uses in any of the commercial zoning districts. Glyndale Subdivision is established with a minimum residential lot size of 12,000 sq. ft. This text suggests cutting that in half and allowing for twice the density near an intersection that is predominantly commercial.

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

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

On one side of this parcel, Freeway Commercial development has occurred along exit 34. The other side has continued to enjoy the benefits surrounding a residential environment. Whether suitable or not, the question must be asked, "where do we establish a buffer between the uses?" The dynamic impact of commercial property adjoining residential properties has almost always created an unharmonious relationship between neighbors. No, it is not a use that is suitable on the west side of this parcel.

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

If adequate buffers are mandated and maintained, adverse impact could be minimized. Continued encroachment into the subdivision could adversely affect the existing residential use and usability.

- 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;

It could increase the average daily traffic count on a street designed originally to support residential traffic.

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

It is not in keeping with the future land use map. This area is identified as low density residential.

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

Yes, the issue of commercial uses adjoining residential uses should be looked at when considering this application. Finally, the question should be considered as to how far commercial uses should encroach into residential uses.

Mr. Sutton stated that staff is recommending denial of this application. If the Planning Commission were to recommend approval, Mr. Sutton highlighted items within the PD Text that the applicant should consider amending prior to going forward to the Board of Commissioners.

Mr. Stephen Hart gave a brief presentation. He stated that he has no problem with amending the text as highlighted by Mr. Sutton. Also, he agrees to maintain the undisturbed buffer zone. He pointed out that the county maintains the water and installed a sewer line into the Hampton Inn located in front of his property.

Mr. Hart distributed a handout of the area depicting the view from Highway 341 towards his driveway on Glyndale Circle. Also included in this handout was a fax from the adjoining property owner (on the west side), Mr. Bernie Knight, indicating no objection to the proposal (if Mr. Hart agrees to his stipulation). Mr. Hart stated that the entire complexion of the property has changed since 1984. He expounded on these changes and how they have affected his property. "Commercial development has engulfed the residential area," and he is asking for some relief.

(It was noted that Mr. Perry Fields arrived at this time - 9:55 A.M.)

Mr. Stewart asked Mr. Hart if he intends to sell the property. Mr. Hart replied yes, but he wants to work with the neighborhood, which is why he consulted staff and selected the Planned Development Zoning Classification.

Mrs. Glynn Spaulding of 106 Glyndale Circle was present to speak in favor of this request.

Mr. Fields expressed concerns about the extension all the way down to Glyndale Drive. "At some point and time we have to draw the line." He asked if Mrs. Spaulding was willing to draw the line at her property. Mrs. Spaulding stated that the line has already been drawn on Howard Drive. She stressed that Mr. and Mrs. Hart have lived with the "riff-raff" long enough, and it is time for a change.

Ms. Julie Chapman, realtor, explained that with this type of text, the applicants were trying to allow the neighbors the most use of the buffer and afford them the most protection. She stated that they are willing to do whatever is necessary to make this work for everyone.

Ms. Ann McCormick stated that Mr. Hart commented that he intends to sell the property. She'd like to know to whom he plans to sell the property. Mr. Hart stated that he does not have a buyer at this time but he'd like to sell the property as commercial. Ms. Chapman stated that it would be difficult to market the property as residential. According to two appraisals, the highest and best use of the property is commercial.

Mr. Fields stated that his translation of the PD Text is 22 lots. Mr. Sutton stated that it is highly possible that there will be 22 lots. He pointed out that a traffic flow pattern would have to be established and a parking area, which might reduce the number of lots. Mr. Fields stated that the bottom line is there is the potential for at least 20 businesses to be located on this property, which would have a definite impact on the residential traffic coming in and out of Glyndale Drive.

Mr. Mack Burgess stated that he has lived on Glyndale Circle for 30 years and he knows how bad the area is in relation to the commercial development. However, "if you keep doing one at a time, you end up with it in your front yard." He stated that he is opposed to any more commercial development in the area due to the existing traffic problems. Mr. Burgess stated that he has nothing against Mr. Hart or Mrs. Spaulding, but he has lived in the area for a long time and he doesn't want to see any more commercial developments.

Mr. Stewart stated that sometimes it's better to withdraw an application, do a little more homework, and bring the application back with more details, i.e., the type of business that's being proposed, protection of buffer, etc. so that a decision can be made. Mrs. Spaulding stated that the buffer has not been protected to date. She stated that Hampton Inn was allowed to take down the 10 ft. buffer and Days Inn was allowed to remove the 25 ft. buffer. "Why should they be treated any differently." Mr. Sutton stated that in accordance with Article VI of the Zoning Ordinance, a buffer is required between commercial and residential property. He has noted Mrs. Spaulding's concerns and will forward a memorandum to Code Enforcement to investigate a possible violation.

At this time, Mr. Hart requested an extension to perhaps reconsider his application at a later date. He stated that he does not want to withdraw. He would rather defer the request. There was a brief discussion between staff and the applicant as to designating a "time certain" for the deferral. Afterward, Mr. Hart requested a deferral for 60 days. Mr. Fields suggested that Mr. Hart re-submit a PD Text that is less broad so that all of his neighbors would be able to understand it. Mr. Sutton pointed out that if the character of Highway 341 is Freeway Commercial, he would suggest that a PD Text be developed in keeping with the Freeway Commercial Zoning Classification.

Following discussion, a motion was made by Mr. Wayne Stewart to defer this application. The motion was seconded by Mr. Perry Fields and unanimously adopted.

Myers Hill Estates (PP-2001-07091542)

23.708 Acres, Located on Myers Hill Road
Zoned Forest Agricultural
DeWetCo, LLC, Owner/Developer

Mr. Ernie Johns was present for discussion.

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

The applicant is proposing to create a 32 lot subdivision. The minimum lot size for the FA Zoning Classification is 20,000 sq. ft. The total area for lots equals 20.68 acres. There is a proposed 2.75 acre area for roads and .27 acres common area. The public right-of-ways are 60 ft. and the names suggested are Wetzel Lane and Collett Court. An LDA permit will be required. The water supply will be a community well with septic tanks.

All county departments have reviewed the application. Planning & Zoning and GIS recommend denial because the name of the entrance to the subdivision is not the same name as the subdivision.

Mr. Sutton stated that originally, staff recommended approval if the issue surrounding the name of the entrance could be resolved. The issue has been resolved and staff's recommendation is for approval.

Regarding Lots 30 and 31, Mr. Perry Fields wanted to know if there were any proposals to fill in wetlands. Mr. Ernie Johns stated that there are no proposals to fill in wetlands at A or B. Mr. Fields wanted to know if there is adequate depth between the setback and the edge of the wetland area to put in a house and still accommodate a septic tank not located in the wetlands. Mr. Johns replied yes. He explained that this is a 100 scale drawing. The depth between the setback appears to be approximately 85 to 90 ft.

Ms. McCormick wanted to know who would own the road that leads back to Lot 30. Mr. Johns stated the road that Ms. McCormick is referring to is a flag lot and will be owned by Lot 30.

Mr. Fields wanted to know if there were plans to use any of the county right-of-way for the water distribution system. Mr. Johns stated that he is not aware of any, but the water system had not been discussed much at this point. He stated that when the construction plans are submitted, they would then determine where any easements are necessary.

Following discussion, a motion was made by Ms. Ann McCormick to approve this request. The motion was seconded by Mr. Perry Fields and unanimously adopted.

Laurel View (PP2001-07091648)

10.306 Acres, Located on Frederica Road
Zoned Forest Agricultural
M.F. Martin, III, Owner/Developer

Mr. Robert Ussery, Mr. Bobby Shupe and Mr. Martin were present for discussion.

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

The applicant proposes to create a 26 lot subdivision. The minimum lot size for this zoning classification is 9,000 sq. ft. The total area for lots equals 7.545 acres. There is a proposed 2.015 acre area for roads and .746 acre common area. The private right-of-way is 50 ft. and the name suggested is "Laurel View Drive." An LDA permit will be required and water and & sewer will be Glynn County.

All departments reviewed the application and staff is recommending approval.

Mr. Tom Swan, RUPA, wanted to know if a traffic survey had been done for this particular area. Mr. Sutton stated that no formal traffic survey was conducted by staff, but during review of the application he determined the average daily traffic count; 10 trips per day per residential unit, 26 lots, 260 trips. According to the Subdivision Regulations, "minor streets should be designed to convey an average daily traffic volume not greater than 250 for cul-de-sacs and 500 for loop streets." Mr. Sutton stated that the street in this case gives the appearance of a loop street but resembles that of a sub-collector street in that it accesses two different streets. In his opinion, this presents no traffic issues.

Following discussion, a motion was made by Mr. Wayne Stewart to approve this request. The motion was seconded by Mr. Perry Fields and unanimously adopted.

At this time, the Planning Commission took a 10 minutes recess. The meeting resumed at 10:50 a.m.

Mr. & Mrs. Irvine (SP01-06)

11,229 Square Feet, Located at 537 Beachview Dr.
Zoned General Commercial / Village Preservation
Larry L. Bryson, Owner/Developer

Mr. Larry Bryson and Attorney Tom Lee were present for discussion.

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

The applicants propose to construct a 1,926 sq. ft. residential structure as an addition to an existing 2,001 sq. ft. residential structure. The two-story finished roof elevation is proposed at 28 ft. 11 in. Site coverage has been calculated at 60%.

This application was considered by the Planning Commission previously, deferred for 60 days and withdrawn by the applicant. It was deferred in an effort to allow the agent an opportunity to address specific issues. During that time a carriage house was submitted separately, approved and then a variance was heard as to site coverage and separate levels were addressed per Article 712.3.1 of the Zoning Ordinance. The Board of Appeals granted a variance to allow for 60% site coverage. In addition, the Chairman requested the County Attorney's opinion regarding the separate levels issue. (The Chairman's letter and the County Attorney's response were included in the packages for consideration, along with Minutes from the Board of Appeals meeting.)

Ten parking spaces are required and 15 have been provided. The existing bed & breakfast is to be used as antique shop.

Building Inspections reviewed the project and advised that the addition is located too close to the roadways. Understanding that the zoning classification allows for no setback requirements, the intent of the GC Core Zoning District was to allow commercial facilities and not residential structures of this latitude. All zoning classifications for residential structures recognize the necessity of setback requirements for buffer and safety reasons.

Building Inspections and Planning & Zoning staff recommends denial of this request. The applicant is asking to construct a single family residential use attached to another single family district. This is not a permitted use, conditional use or special use in the GC Zoning District.

Mr. Mike Aspinwall had questions about the existing oak tree shown on the plan with regard to a true measurement. He stated that he measured the tree and believes that it is actually larger than 36 inches as shown on the plan and as such, would require a vote from the Planning Commission for its removal. Mr. Sutton stated that the Planning Commission has not addressed the issue of the tree in accordance with Section 709 of the Village Preservation Ordinance. Chairman Cole asked if there are plans to remove the tree. Attorney Tom Lee replied no. Mr. Larry Bryson stated that the tree is in close proximity of the project but it will not be removed. Judging by the location and size of the tree, Mr. Aspinwall stated that he doesn't think the developer could build around it. Mr. Sutton stated there is a very high probability that the root system could be damaged. Mr. Bryson pointed out that the structure would be within 5 ft. or 6 ft. of the base of the tree. He then elaborated on the history of the structure, which he stated was built in the 1930's, and the use of the structure up to this date. He stated that the applicants are asking for approval based on the additional information provided by the County Attorney.

Mr. Fields asked Mr. Bryson if he submitted any type of building plans other than a footprint for the new addition. Mr. Bryson stated that the plans are complete. Mr. Fields then asked what renovations are planned for the existing structure. Mr. Bryson replied that the intent was to remove one of the bathrooms to have enough space for an antique shop. The construction for the addition will also be retrofitted to meet handicapped requirements in accordance with the Building Inspections Office.

Ms. Ann McCormick wanted to know if the structure would be considered as one residence or two residences. Mr. Sutton explained that the only renovation that is being suggested to the original structure is the addition of handicapped requirements to accommodate a commercial business in a single-family residential structure. Mr. Fields stated that he once asked the Building Official if he considered buildings connected by a breezeway to be connected and Mr. Carter's response was yes. Mr. Ellis Carter stated that the air-conditioned space is considered part of the addition, and is not considered as two separate structures.

For clarification, Mr. Stewart asked Mr. Fields if it is his contention that the proposal is not two separate structures because of the breezeway and the connection, that it is just an extension of an existing building. Mr. Fields stated that it is not an open breezeway. Mr. Carter stated that if it is a conditioned space adjoining an addition, it is accepted as an addition. However, he pointed out that he objected to the initial way this proposal was presented to staff in that it was a separate level in terms of 18 inches constituting a separate level. This maligns the intent of the separate level and what is being proposed as a conditional use.

It was noted that Mr. Tom Swan, RUPA, was present to speak in opposition of this application.

Following discussion, a motion was made by Mr. Perry Fields to approve the site plan as submitted. The motion was seconded by Mr. Jonathan Williams. Voting Aye: Mr. Lamar Cole, Mr. Perry Fields, Ms. Ann McCormick and Mr. Jonathan Williams. Voting Nay: Mr. Mike Aspinwall and Mr. Wayne Stewart.

P. G. Archibald (SP01-12)

22,100 Square Feet, Located at 440 Kings Way
Zoned General Commercial & R-6 One-Family Residential
P.G. Archibald, Owner/Developer

Mr. Larry Evans was present for discussion.

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

This plan calls for the renovation of an existing structure for the purpose of operating a restaurant. Improvements to date include approved interior renovation only. A "stop work order" was issued until site plan approval from the Planning Commission was obtained. The business is open and operational. No calculations for patron space have been provided to determine parking requirements. The number of employees and estimated patron space indicates that the established parking area is not adequate to accommodate required parking. The architect, Mr. Larry Evans, has indicated in his report that 39 spaces were approved with a special use permit. If square footage requirements for 39 spaces are in excess of 6000 sq. ft. and approximately 5000 sq. ft. exists, not only can the site not accommodate those spaces; it also cannot accommodate the maneuvering area required. Furthermore, staff estimates indicate far more than 39 spaces are required in accordance with Section 611.6 of the Zoning Ordinance.

As a result of a memorandum from the County Attorney, which was included in the packages for review, it has been determined that the restaurant still retains its non-conforming status.

Building Inspections, Planning & Zoning, Engineering, as well as Environmental Engineering, GIS and the Fire Department have all reviewed this project.

The Planning & Zoning staff cannot recommend approval of the site plan as drawn. There is a discrepancy in the required parking (an estimated 50 spaces total for a seating capacity of 99) as compared to the agent's estimate of 36 existing spaces.

The County Attorney indicated in his letter dated May 22, 2001 that if the restaurant and its parking have not changed, it should continue to enjoy its non-conforming status. Section 709.6 of the Zoning Ordinance states that *any lawfully existing non-conforming conditions may be continued subject to the following conditions: Once changed to conforming, no building use or condition shall be permitted to revert to non-conforming. The change to another non-conforming condition is prohibited. Re-establishing of a non-conforming condition shall be prohibited after discontinuance for a period of sixty (60) days.*

The proposed addition of a new gazebo, and a new porch roof creates additional covered patron space that would be created and therefore require more parking demands on a site that is already too small to physically meet present parking demands. A change in the enlargement of any customer waiting area covered or enclosed spaces or the addition of a bar area is a change in whatever "pre-existing condition" existed on or before November 1992, the date of adoption of the Village Preservation Section of the Zoning Ordinance. To date, the applicant has not established what those "lawfully existing conditions are that existed on or before November 1992, which is the time of the passage of this village section of the ordinance. Whatever the pre-existing conditions may be that did not include the changes that are now proposed (gazebo and the roof) or the addition of the bar, which Mr. Archibald has already incorporated into the additional patron area.

Mr. Larry Evans gave a brief presentation. He stated that it is his understanding that the property has always been a lawful existing use under General Commercial. It was originally approved (in the 1970's) as Blanche's Courtyard with the knowledge that the courtyard space was patron area. That has not changed and neither has the footprint of the building. To his knowledge, the zoning definition of patron area has not changed. Mr. Evans pointed out that throughout the ordinance, the definition of patron area in relation to a restaurant includes patios, decks and sidewalk area. He stated that he has not added any patron areas to do a covered porch that already exists and a small gazebo, which is 12 ft. in diameter. He stated that adding these minor interior improvements to the courtyard has not disturbed the existing lawful use.

For clarification, Mr. Stewart asked Mr. Evans that with the addition of the porch and the gazebo would there be a change in the seating capacity of the restaurant. Mr. Evans stated that there would actually be less seating capacity.

Mr. Fields referred to Attorney Gary Moore's last comments in his letter dated June 27th as follows: "It is our understanding that the gazebo has been withdrawn and therefore no opinion is expressed as to it." Mr. Fields stated that there is no opinion from the County Attorney as to the gazebo. Attorney Tom Lee stated that the County Attorney does say that the parking that existed is sufficient. Therefore, that question should not come up. He explained that under General Commercial, parking requirements are to be determined by total patron space, including patios, decks, sidewalks and seating areas. It does not say anything about covered areas. He pointed out that the uses, tables, etc. have been in the area for a long time.

Mr. Jonathan Williams stated that every time this application comes up, parking is the main issue. If we could actually enforce the ordinance on parking/patron space, he wonders how many businesses in the village would have to close. He further stated that Archibald's/Blanche's has dealt with the parking problems for years and has operated

under these conditions. "Parking has always been a problem in the village area and always will be." Mr. Fields agreed. He added that parking is a problem in many cities, i.e., downtown Savannah, Charleston, New Orleans, etc. He stated that most people park their vehicles and walk to where they need to be. He doesn't know any way to resolve the problem.

Mr. Stewart stated that basically, this was a non-conforming use when the Village Preservation Plan was adopted. It was not vacated for 60 days, so therefore it is continuing a non-conforming status.

Mr. Sutton pointed out that a lot of staff time went toward researching issues surrounding this application. During staff's research, it was determined that Blanche's had a seating capacity approved by the Fire Department of about 200. Initially, Archibald's had a seating capacity of 200. When the bar was added the seating capacity was reduced to 175. Finally, staff is concerned about parking. There is not enough parking to accommodate 175 occupancy. However, Mr. Sutton suggested they move forward with the understanding that there is a seating capacity of 175 and any effort to increase that is a change, and therefore surrenders the non-conforming status.

Following discussion, a motion was made by Mr. Wayne Stewart to approve this request. The motion was seconded by Mr. Jonathan Williams and unanimously adopted.

Addition to 311 & 313 Mallory Street (SP2001-07110909)

2,700 Square Feet, Located at 311 & 313 Mallory Street

Zoned General Commercial - Core

Gordy Merrill, Owner/Developer

Mr. Larry Bryson was present for discussion.

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

This plan calls for the renovation of an existing structure that includes the addition of a second story for additional storage. No plan exists that would expand an existing business that would require additional parking or other site plan/village preservation consideration. The project proposes a 2,410 sq. ft. second story addition and a 420 sq. ft. first floor addition.

Building Inspections, Planning & Zoning, Engineering, as well as Environmental Engineering, GIS and the Fire Department have all reviewed this project.

Mr. Sutton stated that staff is recommending approval of this site plan and confirms that the proposal is in keeping with the requirements of the Village Preservation Overlay District, as long as no consideration is given to expanding patron space in the second story.

For clarification of the drawings, Mr. Larry Bryson pointed out the renovation, the roof structure, Island Rock and Rafters. He stated that Island Rock is basically a one-story structure with a pitched roof, which makes it appear taller. He explained that there has been some unauthorized use of the roof structure by the adjoining business. Patrons from Rafters frequently use the roof for an outside bar, and in doing so, they often leave a lot of debris. The roof structure is old and needs to be replaced. It has been repaired numerous times because of the foot traffic, etc. He stated that it has been difficult policing the roof. An easy solution to stop the proliferation of debris and to eliminate the liability would be to do a face-lift of the structure, replace the roof and simultaneously do a two-story structure for storage only on the second level.

Mr. Stewart asked if the second story was being built to keep beer bottles off of it. Mr. Bryson replied yes, and to eliminate the liability associated with unauthorized use. Mr. Fields stated that there are simpler ways of enforcing trespassing other than adding a structure. He stated that he's concerned that adding a two-story building will change the use.

Chairman Cole wanted to know how the adjoining patrons get to the roof. Mr. Bryson stated that they open the windows and step out on to the roof structure. If this addition is approved there will be a masonry wall built in front of the windows.

Mr. Gordy Merrill stated that this proposal would stop the damage to the roof. He elaborated on the extent of the damages to the roof and the type of materials used to repair it. He pointed out that the owners of Rafters have been unwilling to help with the repairs and have even laughed at his suggestions. Mr. Merrill stated that he just doesn't know what else to do.

Following discussion, a motion was made by Mr. Mike Aspinwall to approve this request. The motion was seconded by Mr. Wayne Stewart. Discussion continued regarding the color scheme for the door, window trim, signage and the canopy in accordance with the Village Preservation Ordinance. Mr. Sutton pointed out that the applicant is required to come back for review and approval of signage. The exterior could remain unfinished and could be reviewed for approval along with the signage. Meanwhile, the applicant could be issued a building permit to begin construction. Mr. Bryson agreed to bring in a color palette.

After discussion, Mr. Aspinwall amended his motion and Mr. Stewart amended the second to include approval conditioned on the applicant returning with signage and a color palette for approval. The motion was unanimously adopted.

Presbyterian Church (SP2001-07110929)

6.07 Acres, Located on Frederica Road
Zoned Planned Development
Sea Island Company, Owner/Developer

Mr. Charles Ezelle with Thomas & Hutton Engineers was present for discussion.

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

The applicant proposes to construct a 7,840 sq. ft. sanctuary, entrance road, parking lot and utilities to serve the site. One hundred parking spaces are required and 126 have been suggested. This calculation is based on a seating capacity of 400 and the one space per seat requirement. The proposed facility will access Frederica Road. Site coverage is based on a 6.07 acre area. The applicant has indicated that 71.34% open space will remain.

Building Inspections, Planning & Zoning, Engineering, as well as Environmental Engineering, GIS and the Fire Department have all reviewed this project. Staff recommends approval.

Following review, a motion was made by Mr. Wayne Stewart to approve this request. The motion was seconded by Ms. Ann McCormick and unanimously adopted.

Howser/Dixon Office Building (SP2001-07110941)

.40 Acres, Located on Main Street
Zoned Planned Development - General
Gary Howser & Larry Dixon, Owners/Developers

Mr. Larry Bryson and Mr. Don Hutchinson were present for discussion.

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

The applicant proposes to construct a 3,109 sq. ft. office building. Twenty-six parking spaces are required and twenty-eight have been provided. The proposed facility will front on the west side of Main Street. Site coverage is based on a lot with a total of 17,631 sq. ft. Grassed and landscape equals 3,641 sq. ft. or 20.7%

Building Inspections, Planning & Zoning, Engineering, as well as Environmental Engineering, GIS and the Fire Department have all reviewed this project. Staff recommends approval.

Following review, a motion was made by Ms. Ann McCormick to approve this request. The motion was seconded by Mr. Jonathan Williams and unanimously adopted.

412 12th Street-Screened Porch (VP01-14)

8,613 square feet located at 412 12th Street
Zoned R-6 One-Family Residential
Brent Taylor, Applicant

Mr. Brent Taylor was present for discussion.

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

This plan calls for the addition of a screened porch to an existing single-family residence. The addition is wood frame construction with galvanized metal roof. Colors consist of a matching yellow exterior paint with white trim. The shutters are suggested as "Charleston Green." (A color palette was available for consideration.) Staff recommends approval.

Following review, a motion was made by Mr. Perry Fields to approve this request. The motion was seconded by Mr. Wayne Stewart and unanimously adopted.

MINUTES

A motion was made by Mr. Wayne Stewart to approve the Minutes of the July 10th Planning Commission meeting. The motion was seconded by Mr. Perry Fields. Voting Aye: Messrs. Mike Aspinwall, Lamar Cole, Perry Fields, Wayne Stewart and Jonathan Williams. Ms. Ann McCormick was absent for the July 10th Meeting and therefore abstained from voting.

It was noted that there still was not a quorum of attendees of the June 5th Planning Commission Meeting to adopt the Minutes. Therefore, the June 5th Minutes were deferred until the next meeting. *(As a reminder, members in attendance at that time were Mr. Lamar Cole, Mr. Hal Hart, Ms. Ann McCormick, Mrs. Iris Tow and Mr. Jonathan Williams.)*

STAFF ITEMS

a) Update on Flood Mitigation Plan - Dick Newbern

Mr. Newbern, Grants Coordinator with Community Development Department, presented an update of the Flood Mitigation Plan. He stated that this plan has been in the development stages for some time and will soon be presented to the public. The Board of Commissioners received a grant to fund a portion of the cost and the Commissioners hired the Civil Engineering Firm of Woolpert, LLP of Columbia SC to conduct the study. The purpose of this plan is to evaluate the potential for flood damage in unincorporated areas of Glynn County. The impetus for this plan is to gain points toward our Community Rating System program, which over time can favorably affect our Flood Insurance Rating. (Excerpts from the plan were included in the packages for review.)

As one of the requirements, the Planning Commission needs to be aware that a public hearing is scheduled for Wednesday, August 22nd at 4:00 p.m. in Room 234 of the Office Park Building. Afterward, the plan is likely to be presented to the Board of Commissioners at their September 6th meeting for adoption. Mr. Newbern recognized Mr. Buster Reese and Mr. Ellis Carter for their work on the Flood Mitigation Plan.

b) Subcommittee Report - Staff

As an overview, Mr. Sutton explained that the Ordinance Review Subcommittee put together some ideas for ordinance changes. The County Attorney's office, along with the County Engineer and Community Development Director have been directed by the Board of Commissioners to put these ideas in the form of amendments. As an indication of the number of changes being proposed, Mr. Sutton stated that the GIS Department has an Addressing Ordinance up for adoption, which would require changes to the Subdivision Regulations and Zoning Ordinance. Also being proposed are changes to the Forest Agricultural Zoning District to include landfills. He stated that the County Administrator has suggested that these proposed changes be brought forth on a monthly basis. Mr. Sutton stressed once again the difficulties of undertaking this task along with other duties due to the department being understaffed.

Mr. Peterson gave an update of the staffing situation and the department's budget. He stated that two interviews have been conducted and he is waiting to hear back from the applicants. In the meantime, the County Commission is attempting to cut one of the planner positions. In an effort to show support for staff, Mr. Stewart asked if it would help if the Planning Commission sent a letter to the County Commission asking them not to cut any of the planning positions from the budget. Mr. Peterson replied yes. Thereupon, a motion was made by Mr. Wayne Stewart authorizing Chairman Cole to draft a letter and forward it to the Board of Commissioners stating the Planning Commission's position on the personnel matters in this department. The motion was seconded by Mr. Jonathan Williams and unanimously adopted.

There being no further business to discuss, the meeting adjourned at 12:25 p.m.