

NEWTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
July 17, 2007
MINUTES

Present: Chairman Aaron Varner, Commissioners Mort Ewing, Earnest Simmons, Ester Fleming, Jr., J.C. Henderson, and Monty Laster, Administrative Officer John Middleton, County Attorney Tommy Craig, Jenny Carter, James Griffin and County Clerk Jackie Smith

Newspaper: Covington News – Rachel Osborn
Newton Citizen – Crystal Tatum
Large group of citizens

Chairman Varner called the meeting to order, extended a welcome and read the thought for the day. Commissioner Ewing gave the invocation, followed by the Pledge of Allegiance to our great Flag.

Attorney James Griffin appeared before the board and requested that the agenda be amended to include abandonment of a road within Stanton Springs Development Park located on Hwy. 278 & Interstate 20.

Motion: To approve amending the agenda as requested.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

APPROVAL OF BOC MINUTES DATED JULY 3, 2007

Motion: To approve the minutes dated July 3, 2007 as printed.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner J.C. Henderson, District Four

Chairman Varner noted that on page 3 of the minutes (re Livingston Lane/Veal Road) the name Lisa Adcock was listed; however it should read Melissa Adcock. The clerk duly noted and corrected. Commissioner Ewing and Henderson amended their motion to reflect the stated change.

Motion: To approve the minutes dated July 3, 2007 with the correction on page 3 stating Melissa Adcock instead of Lisa Adcock.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner J.C. Henderson, District Four

Motion Carried

NEWTON COUNTY WATER RESOURCE DIRECTOR, CARL KELLY - UPDATE

Newton County Water Resource Director Carl Kelly appeared before the board and presented Newton County Water resources Department Drought Condition Status Update. Presentation is attached and made part of these minutes.

The board thanked Mr. Kelly for his presentation.

No official action taken.

APPOINTMENT TO LIBRARY BOARD – DISTRICT ONE

Motion: To reappoint Ms. Mellie Davis of 52 Deerfield Road to serve on the Newton County Library Board. Ms. Davis' term will expire on June 30, 2010.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner J.C. Henderson, District Four

Motion Carried

APPOINTMENT TO DFACS BOARD – DISTRICT FIVE

Motion: To reappoint Mr. Benny Phillips of 645 Mason Drive to serve on the Newton County DFACS Board. Mr. Phillips term will expire on June 30, 2012.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

BID 07-17 FIRE ENGINE PUMPER FOR FIRE DEPARTMENT

Newton County Fire Chief Mike Satterfield appeared before the board and noted the following:

- Received three very good, qualified bids
- Reviewed bids in detail
- Have several years experience with Rosenbauer/Central States Division and have always received excellent service and prices.
- Rosenbauer is the lowest bidder.
- Requested additional warranty from Rosenbauer and they have complied and signed warranty that was written by Attorney Scott Cole.
- Cost: \$421,587.00
- Funding: Fire Fund

Motion: To approve Bid07-17 Fire Engine Pumper for a not to exceed cost of \$421,587.00 and award to Rosenbauer/Central States Division.

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Monty Laster, District Five

Motion Carried

**ABANDONMENT OF A PORTION OF EAST COUNTY LINE ROAD
AND A PORTION OF STANTON ROAD LOCATED INSIDE OF
STANTON SPRINGS DEVELOPMENT PARK**

Attorney James Griffin appeared before the board to present this resolution to abandon. He noted the following:

- Road kept open because property owner south of Stanton Springs needed access to his property.
- We have now built part of Phase I Parkway and landowner can drive in through Stanton Springs Parkway.
- No longer serves as a public service.
- Recommends abandonment.

Commissioner Ewing

- Recalled that several weeks ago board had a preliminary resolution asking county attorney to work for us to abandon the roads.
- Noted this procedure will help in the development of the next phase of Stanton Springs.

Chairman Varner

- Declared a Public Hearing open and invited questions or comments from the public.
- No questions or comments were made.

Motion: To approve the R071707 To Abandon A Portion Of East County Line Road, And A Portion Of Stanton Road as presented.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried with Commissioner Simmons voting in opposition to the motion.

7:30 P.M.

ZONINGS:

Chairman Varner noted that each side would be allowed ten-minutes to address the board regarding the petition and this would not include any questions from the board.

Planning & Development Director Marian Eisenberg sounded the following zonings:

REZ07-010

Existing Land Use Map: DN (Development Node)

Existing Zoning: AR (Agricultural Residential)

Proposed Zoning: CG (General Commercial)

Watershed: Alcovy

Location: Georgia Highway 212 (East Side)

315.17 Feet of Frontage

Parcel Size: 3.35 Acres

Tax Parcel: 72A-041

Applicant's Intent: To develop 3.5 acre tract to operate a business selling and delivering mulch, sand, gravel and similar products.

Planning Commission Recommendation: Approval with changed conditions

(May 22, 2007)

District One

Commissioner Ewing

- Spoke with Mr. Miller and Mr. Alexander and recommends the deferral to August 21st meeting as requested.

Motion: To approve the deferral of REZ07-010 to August 21st BOC meeting at the request of the petitioner.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laser, District Five

Motion Carried

PROPOSED AMENDMENTS TO THE ZONING ORDINANCE

Staff is requesting a deferral until a work session can be held and board comments addressed.

Motion: To defer the Proposed Amendments to the Zoning Ordinance until a later date (to be announced) after a board work session.

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Monty Laster, District Five

Motion Carried

CUP07-010

Proposed Use: Home Occupation w/Customer Contact

Existing Zoning: MSR (Mixed Use Single-Family Residential)

Watershed: Yellow River

Location: 410 Ellington Road (Northeast Side)

90 Feet of Frontage

Parcel Size: 4.74 Acres

Tax Parcel: 57-33

Applicant's Intent: To allow operation of a home occupation w/customer contact in an accessory building. (Taxidermy studio)

Planning Commission Recommendation: Approval w/staff conditions (June 26, 2007)

District Three

Petitioner: Jerry Denney

- Agreed to comply with staff recommendations/conditions.
- Offered to answer any questions board might have.

Commissioner Simmons

- Questioned level of customer contact? Ans: At most, 30 people a year.

No opposition

Motion: To approve CUP07-010 Condition Use Permit for a Home Occupation with customer contact for 410 Ellington Road, Oxford, Georgia with the following conditions read by Planning Director Marian Eisenberg:

Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Single-Family Residence with accessory structure.
 - b. Home Occupation (Taxidermy Studio) in compliance with Section 510-310.
2. To the owner's agreement to abide by the following:
 - a. To the site plan and legal description received by the Department of Planning and Development on April 30, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. To the owner's agreement to abide by the following standards:
 - a. Limit hours of operation to 8:00 a.m. – 5:00 p.m. and days of operation to Monday –Saturday.
 - b. Prior to the issuance of a new business license and at each renewal, submit to the Department of Planning and Development a copy of the State license and a letter addressing the method of disposal of non-domestic waste material.

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Monty Laser, District Five

Motion Carried

CUP07-011

Proposed Use: Commercial Kennel – Sec. 510-355

Existing Zoning: AR (Agricultural Residential)

Watershed: Little River

Location: 825 White Pine Lane

50 Feet of Frontage

Parcel Size: 5.1 Acres

Tax Parcel: 126A-13

Applicant's Intent: To operate a Commercial Kennel with up to 20 adult dogs. A variance petition (VAR07-021) for reduction of one of the minimum standards was denied by the Board of Zoning Appeals on June 28, 2007.

Planning Commission Recommendation: Denial (June 26, 2007)

District One

Petitioner: William Kieling (did not attend meeting)

- Petitioner (through staff) requested 90 days to remove dogs from property

Opposition:

Gene Bates (on behalf of many residents)

- Understands situation has been handled.
- Peaceful, spacious 5-acre lots
- Concerned about treatment of animals. Complaint filed with Animal Control that 30/40 pit bulls were tied out in the woods.
- Request does not meet requirements
- There is a known fear factor regarding pit bulldogs. Concerned about pit mauling.
- Would be setting a precedent
- No limit on number of animals petitioner could have
- Just found out the petitioner also has 50 dogs somewhere off Panola Road. Petitioner said he had 1000 acres in Hancock County. 1000 acres would be better than quiet, residential neighborhood.
- Request that a time limit be set for petitioner to remove dogs from property if petition is denied.
- Wife is afraid of walking outside anymore. Neighbors feel the same way.

Commissioner Ewing

- Petitioner is not in compliance with our county code.
- Code Enforcement should proceed immediately to bring Mr. Keiling into compliance

Motion: To uphold the Planning Commission recommendation to deny the request for CUP07-011 Conditional Use Permit for a Commercial Kennel. Also, Code Enforcement will follow-up with petitioner to bring him into compliance with ordinance.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

REZ 07-015

Existing Land Use Map: DN (Development Node)

Existing Zoning: MHP (Mobile Home Park)

Proposed Zoning: CN (Neighborhood Commercial)

Watershed: Yellow River

Location: 4006 Salem Road (East Side)

235 Feet of Frontage

Parcel Size: 0.75 Acres (Portion of 21.19 acres)

Tax Parcel: 13-54, 54A

Applicant's Intent: To reuse an existing residential home as professional office or retail space with two tenants.

Planning Commission Recommendation: Approval w/staff conditions (June 26, 2007)

District Three

Motion: To approve the withdrawal of REZ07-015 at the request of the petitioner, Mr. Doug Burggraaf.

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Earnest Simmons, District Two

Motion Carried

REZ 07-016

Existing Land Use Map: RR (Rural Residential)

Existing Zoning: A (Agricultural)

Proposed Zoning: RE (Rural Estate)

Watershed: Little River

Location: Hodges Circle (North Side)

200 Feet of Frontage

Parcel Size: 2.115 Acres (Portion of 35.377 acres parent parcel)

Tax Parcel: 126-12

Applicant's Intent: To subdivide a single lot for a family member.

Planning Commission Recommendation: Approval w/staff conditions (June 26, 2007)

District One

Petitioner: Terry Ozburn

- Speaking on behalf of mother, daughter and son-in-law.
- Been here all my life
- Purchased farm in early 60's
- Wants to give daughter a place for her and husband to live.

No Opposition

Commissioner Ewing

- Have known the Ozburn since the first grade in Mansfield School.
- The Ozburn family is an asset to Newton County and the Pine Grove Community.
- Very glad to see this board approve request.

Motion: To uphold the Planning Commissions recommendation and approve REZ07-016 Zoning Change from A (Agricultural) to RE (Rural Estate) with the following conditions as read by Commissioner Ewing:

Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Single family detached dwellings and accessory uses and structures.
 - b. The minimum heated floor area per dwelling unit shall be 2,400 square feet with a 600 square-foot garage.
2. To the owner's agreement to abide by the following:
 - a. To the site plan and legal description received by the Department of Planning and Development on May 4, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance or Residential Building Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laser, District Five

Motion Carried

REZ 07-017

Existing Land Use Map: DN (Development Node)

Existing Zoning: R2 (Single-Family Residential)

Proposed Zoning: CN (Neighborhood Commercial)

Watershed: Yellow River

Location: 4006 Salem Road (East Side)

771 Feet of Frontage

Parcel Size: 5.47 Acres

Tax Parcel: 13-51

Applicant's Intent: To develop a 15,000 square feet of retail space and a 11,230 square foot day care center for 235 students at a density of 4,795.24 square feet per acre.

Planning Commission Recommendation: Approval w/ revised staff conditions

(June 26, 2007)

District Three

Petitioner: Carlyn Hall

- Would like to defer the request until August 21st.

No opposition

Commissioner Fleming

- Would like to see 50 foot undisturbed buffers with a fence
- Would like it spelled out in the conditions what property “cannot” be used for.
Answer. Concur

Commissioner Simmons

- Voiced his concern that board had denied a similar request...felt board has inconsistency.

Commissioner Fleming

- Strongly noted it was definitely not the same and requested Director Eisenberg to comment on issue.

Director Eisenberg

- Noted request that Commissioners refer to was more residential and not in a common area.

Commissioner Henderson

- Agrees with Commissioner Simmons, but it always takes three votes to get something approved or denied.

Motion: To defer REZ07-017 Zoning Change request to BOC meeting on August 21st to review site plan and changes.

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Mort Ewing, District One

Motion Carried 4 to 1 with Commissioner Simmons voting in opposition to the motion.

REZ 07-018

Existing Land Use Map: DN (Brick Store Development Node)

Existing Zoning: AR (Agricultural Residential)

Proposed Zoning: CG (General Commercial)

Watershed: Bear Creek & Little River

Location: Highway 11 (East Side)

1,287.1 Feet of Frontage

Parcel Size: 74.162 Acres

Tax Parcel: 112-9, 9C, 19

Applicant's Intent: To develop 17.08 acres commercial as shown on concept plan, remaining 57 acres of property to be developed commercial after sanitary sewer system ceases operation.

Planning Commission Recommendation Approval w/revised staff conditions (June 26th)

District One

Petitioner Representative: Frank Turner, Jr., Attorney

- Speaking on behalf of LLC
- 74 acres east sit of Hwy. 11
- Lends itself to community development
- Close proximity to interstate
- One curb cut on Hwy. 11
- Incorporates building road
- Street Trees
- Parking Lot Trees
- Prepared to follow all requirements
- Dedicate 150' buffer on Hwy. 11
- 57 acres dedicated to sewer plant

Commissioner Ewing

- Reminder that this is just another step that was started in 1999
- Brick Store Committee came to this board and board approved Brick Store Ordinance and adopted plan done by community and the Rural Village Overlay
- Thanked Mt. Pleasant LLC and very excited about project

Motion: To approve REZ 07-018 Zoning Change from AR (Agricultural Residential) to CG (General Commercial) with the following conditions as read by Commissioner Ewing:

Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas.
 - b. Limit the height of the building(s) to no more than 35 feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan and legal description received by the Department of Planning and Development on May 4, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
 - b. Prior to submittal of a Land Disturbance Permit, submit a Preliminary Plan to the Planning Commission for their review and approval on 57 acres as indicated on the referenced site plan.
3. To the owner's agreement to abide by the following development standards:

- a. Provide 150-foot undisturbed buffer along the entire frontage of Highway 11. Plantings and specifications shall comply with section 435-040 C.2., subject to the approval of the Newton County Arborist.
- b. Comply with all applicable standards of section 435-040 (Rural Village Overlay).
- c. Provide a left-turn lane and a deceleration lane at each proposed entrance, subject to approval of the County Engineer.
- d. Dedicate, at no cost to Newton County, additional right-of-way as may be required by the County Engineer or Georgia DOT, as well as necessary right-of-way from back-of-curb of any road improvement to provide for placement of utilities.
- e. Stormwater plan to be reviewed and approved by County Engineer.
- f. Provide downcast lighting.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

MOD 07-007

Proposal: Modification of Conditions 13 & 17

Existing Zoning: PUD (Planned Unit Development) approved September 15, 1998

Location: Brown Bridge Road (North Side)

353.38 Feet of Frontage

Parcel Size: 1.5 Acres

Tax Parcel: 17-70A

Applicant's Intent: To (1) allow a curb cut on Brown Bridge Road and (2) remove requirement for wrought iron fence along Brown Bridge Road.

Planning Commission Recommendation: Approval w/staff conditions (June 26, 2007)

District Two

Petitioner Representative: Geoff Griffin

- Worked hard trying to get one driveway work, but that is not possible.
- Requesting approval of second driveway.

Commissioner Simmons

- Roof will be similar to residential area.
- Answer: Yes, with brown architectural shingles

Commissioner Henderson

- Original request called for a wrought iron fence and brick.
- Answer: Yes, we are asking those conditions to be removed.

Commissioner Laster

- Questioned if the county engineer had reviewed the request and what was his recommendation?
- Answer: Yes, county engineer has reviewed the request and recommends approval.

Commissioner Ewing

- Questioned if anyone was present that new why the original conditions were made relative to the fence? No

No Opposition

Motion: To approve MOD07-007 Modification of Conditions with the following changes as read by Commissioner Simmons:

All driveway/curb cuts for commercial development shall be off internal driveways and no access shall be directly onto Brown Bridge Road with the following exception: One curb cut (right-in/right-out only) on Brown Bridge Road shall be allowed for parcel 13-70A.

Proposed by: Commissioner Earnest Simmons, District Two

Second by: Commissioner J.C. Henderson, District Four

Motion Carried

ALCOHOL LICENSE:

Final Reading

Oak Hill BP Store

3300 Highway 81 South

Covington, Georgia 30016

Owner: Badruddin A. Dharani (100% Owner)

District One

Motion: To approve Alcohol License request for Oak Hill BP Store located in district one at 3300 Highway 81, Covington, Georgia.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laser, District Five

Motion Carried

COUNTY CHECKS:

Motion: To approve the county checks as read by Chairman Varner.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District Five

Motion Carried

EXECUTIVE SESSION

Time: 8:30 P.M.

Motion: To enter into Executive Session for the purpose of discussing pending litigation.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

REGULAR SESSION

Time: 9:35 P.M.

Motion: To enter into Regular Session.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

ADJOURN

Time: 9:35 P.M.

Motion: To adjourn the meeting.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

Respectfully Submitted,

Jackie B. Smith, County Clerk