

CHATHAM COUNTY-SAVANNAH METROPOLITAN PLANNING COMMISSION

MPC MINUTES

**ARTHUR A. MENDONSA HEARING ROOM
110 EAST STATE STREET**

January 18, 2005

1:30 P.M.

Members Present: Timothy S. Mackey, Chairman
Patricia McIntosh, Vice Chairman
Lacy A. Manigault, Secretary
Robert Ray, Treasurer
Russ Abolt
Michael Brown
Melissa Jest
J. P. Jones
Stephen R. Lufburrow
Alexander S. Luten
Freddie B. Patrick

Members not Present: Walker McCumber
Lee Meyer

MPC Staff Present: Thomas L. Thomson, Executive Director
Clyde M. Wester, Assistant to the Executive Director
Amanda Bunce, Development Services Planner
James Hansen, Development Services Planner
John Howell, Development Services Planner
Charlotte L. Moore, Director of Development Services
Gary Plumbley, Development Services Planner
Marilyn Gignilliat, Secretary

Advisory Staff Present: Tiras Petrea, City Zoning Inspector
Robert Sebek, County Zoning Administrator
Marlon Epps, County Zoning Inspector

I. Call to Order

Chairman Mackey called the meeting to order. He explained the agenda for the benefit of those citizens who are attending the meeting for the first time.

II. Notices, Proclamations and Acknowledgments

A. Introduction of Chatham County Zoning Inspector

Chairman Mackey introduced Mr. Marlon Epps, who has joined the Chatham County Building Safety and Regulatory Services Department as a Zoning Inspector.

B. Item(s) Requested to be Removed from the Final Agenda

National Wireless Construction, LLC
705 East Anderson Street
Hayden Horton (National Wireless Construction, LLC), Applicant
Jonathan Yates, Agent
R-4 Zoning District
PIN 2-0054-12-0016
MPC File No. T-040702-52437-2

The petitioner has requested that this item be continued until February 1, 2005.

III. Consent Agenda

A. Approval of the January 4, 2005 MPC Meeting Minutes and Briefing Minutes

Mr. Ray **moved** to approve the minutes. Ms. McIntosh seconded the motion.

MPC Action: The motion to approve the January 4, 2005 MPC Meeting Minutes and Briefing Minutes carried with none opposed. Voting were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Lutten, Ms. McIntosh, Mr. Ray, Mr. Jones, Mr. Patrick, Ms. Jest, and Mr. Abolt.

B. Zoning Petition – Map Amendment

James and Cindy Lynah, Petitioners and Owners
5651 Ogeechee Road
MPC File No. Z-041222-37053-1

Issue: The rezoning of a portion of 5651 Ogeechee Road (approximately 2.36 acres of a 9.2 acre parent tract) from A-T (Agriculture-Tourist) and R-A (Residential-Agriculture) zoning classifications to a P-B (Planned Business) zoning classification.

Policy Analysis: The proposed rezoning is consistent with the County's Future Land Use Plan, which calls for heavy commercial uses on the east side of Ogeechee Road at this location, and will establish a zoning district that is compatible with adjacent land uses.

Staff Recommendation: **Approval** of the request to rezone a portion of 5651 Ogeechee Road (approximately 2.36 acres of a 9.2 acre parent tract) from A-T (Agriculture-Tourist) and R-A (Residential-Agriculture) classifications to a P-B (Planned Business) classification.

Mr. Lufburrow **moved** to approve the staff recommendation. Mr. Ray seconded the motion.

Ms. McIntosh stated that South Carolina, Georgia, and Florida have a joint effort to study the development of the U. S. Highway 17 corridor as a Heritage Corridor and a Scenic By-Way. She requested that staff look at what is being done in our planning efforts toward achieving that goal.

Speaking about the petition: Marcus T. Hall, seeking information about another site on Ogeechee Road that will be on the agenda for the next MPC meeting.

MPC Action: **The motion to approve the staff recommendation carried.**
Voting in favor of the motion were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. McIntosh, Mr. Ray, Mr. Jones, Mr. Patrick, and Mr. Abolt. Ms. Jest voted against the motion.

C. Master Plan Revision/General Development Plan

Gateway Townhomes
151 Al Henderson Boulevard
PUD-C Zoning District
PIN 2-0054-12-0016
Ryan Thompson (Thomas & Hutton), Agent
MPC File No. P-041215-38895-1

Nature of Request: The petitioner is requesting approval of a Master Plan Revision and a General Development Plan (General Plan) in order to construct 60 townhome units on the south side of Al Henderson Boulevard within a PUD-C (Planned Unit Development-Community) zoning district. No variance is requested.

Staff Recommendation: **Approval** of the Amended Henderson Lakes Master Plan subject to the following conditions: 1) approval by the County Engineer; and, 2) provide a revised Land Use Map of the Henderson Lakes Master Plan area. Staff also recommends approval of the General Development Plan with the following conditions: 1) a landscaped buffer between the right-of-way of Abercorn Street Extension and the detention pond shall be provided in order to screen the Henderson Townhomes from the highway. The buffer shall be of sufficient density to diffuse the view of the highway. The buffer shall be approved by the MPC staff; 2) the Specific Development Plan shall demonstrate that there will be no land disturbing activity within 25 feet of a defined wetlands channel; and, 3) the Specific Development Plan shall provide for stormwater detention basin maintenance access and shall resolve any possible conflict between the access and the landscape buffer required by the MPC.

Mr. Jones **moved** to approve the staff recommendation. Mr. Ray seconded the motion.

MPC Action: The motion to approve the staff recommendation carried with **none opposed**. Voting were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. McIntosh, Mr. Ray, Mr. Jones, Mr. Patrick, Ms. Jest, and Mr. Abolt.

D. General Development Plan/Group Development Plan

Mall Terrace Office Building
3 Mall Terrace
PIN: 2-0492-02-009
P-B-C Zoning District
Mark Boswell (Boswell Design Services), Agent
MPC File No. P-041228-54941-2

Nature of Request: The petitioner is requesting approval of a General Development Plan/Group Development Plan in order to construct an office building within a P-B-C (Planned Community Business) zoning district. A variance to allow proposed parking spaces within the front yard building setback is requested.

Staff Recommendation: **Approval** of the General Development Plan/Group Development Plan and **approval** of a variance to allow parking within the front yard setback, with the following condition: provide on the site plan the surrounding land uses and buildings within 100 feet of the property lines.

Mr. Lufburrow **moved** to approve the staff recommendation. Mr. Jones seconded the motion.

MPC Action: The motion to approve the staff recommendation varied with **none opposed**. Voting were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. McIntosh, Mr. Ray, Mr. Jones, Mr. Patrick, Ms. Jest, and Mr. Abolt.

V. **REGULAR BUSINESS**

A. Amended Specific Development Plan

Jonesville Baptist Church Phase 2
5201 Montgomery Street
PIN 2-0111-13-001
P-B-G -1 Zoning District
Phyllis Frazier Rodges, Agent
MPC File No. P-050103-40343-2 (Original MPC File Link: P-020430-35258-2)

Nature of Request: The petitioner is requesting approval of an Amended Specific Development Plan for an existing church complex located at the southwest corner of Montgomery Street and Staley Avenue within a P-B-G-1 (Planned General Business – Transition) zoning district. The petitioner is requesting a variance to allow more than 12 successive parking spaces without a planting island.

Staff Recommendation: **Approval** of a variance to allow more than 12 successive parking spaces without a planting island and **approval** of the Amended Specific Development Plan, subject to the following conditions: 1) revise the Landscape Plan to show a canopy tree in the greenspace adjacent to the detention pond. The Landscape Plan, including the required Tree Quality Points, must be approved by the City Arborist; and, 2) approval by the City of Savannah review departments.

Speaking about the petition: Phyllis Rodges, agent, described the events that lead to unintentionally placing parking spaces within planting areas. Satellite parking is available at the Pulaski Elementary School, as well as APEX. The church is willing to plant additional trees to mitigate the areas that were paved.

Mr. Lufburrow **moved** to approve the staff recommendation subject to the condition that two additional trees be planted and that the church obtain approval of the City Arborist for these trees and that written agreements be presented for remote parking spaces. Mr. Manigault seconded the motion.

Mr. Petrea stated that remote parking is handled by the City Zoning Department. He would meet with the petitioner to resolve the issue.

MPC Action: **The motion carried.** The motion was to approve the staff recommendation for approval of a variance to allow more than 12 successive parking spaces without a planting island and approval of the Amended Specific Development Plan, subject to the following conditions: 1) revise the Landscape Plan to provide not less than two additional canopy trees. One of the additional trees must be located in the greenspace adjacent to the detention pond. The remaining tree should be located as near as possible to the parking lot where the planting islands were paved; 2) the Landscape Plan, including the required Tree Quality Points, must be approved by the City Arborist prior to the issuance of a Certificate of Occupancy Permit; 3) submit a signed letter of understanding between the church and another property owner to allow the church the use of off-site parking; and, 4) approval by the City of Savannah review departments. Voting in favor of the motion were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. McIntosh, Mr. Ray, Mr. Patrick, Ms. Jest, and Mr. Abolt. Mr. Jones voted against the motion.

B. Major Subdivision/Final Plat

Richardson Creek Subdivision
158 Oatland Island Road
PIN 1-0124-03-005
R-1-A Zoning District
Richard Guerard, Agent
Richardson Creek Investors, LLC, Owner
MPC File No. S-041209-87995-1

Mr. Abolt stated that his wife works closely with the spouse of one of the investors in this project. He submitted a Conflict of Interest Statement. He **abstained** from discussing and voting on this petition.

Nature of Request: The petitioner is requesting MPC approval of a Final Plat for a six-lot Major Subdivision located on the north side of Oatland Island Road approximately 550 feet east of Grays Creek within an R-1-A (Single Family Residential – 3.5 units per net acre) zoning district. The petitioner is also requesting the following variances: 1) an eight foot lot width variance (from the required 100 feet) for Lot 4; 2) a 25 foot lot width variance (from the required 100 feet) for Lot 2; 3) a 29 foot lot width variance (from the required 100 feet) for Lot 3; and, 4) a 303 square foot lot area variance (from the required 30,000 square feet) for Lot 6; and, 5) a variance from providing sidewalks along all lots on Oatland Island Road.

Staff Recommendation: **Approval** of an eight foot lot width variance (from the required 100 feet) for Lot 4; 2) a 25 foot lot width variance (from the required 100 feet) for Lot 2; 3) a 29 foot lot width variance (from the required 100 feet) for Lot 3; 4) a 303 square foot lot area variance (from the required 30,000 square feet) for Lot 6; and, 5) a variance from providing sidewalks along all lots on Oatland Island Road. Staff further recommends approval of the proposed Final Plat subject to the following conditions: 1) approval of an environmental Site Assessment by the County Engineer; 2) show the address of all lots on the Final Plat as follows: Lot 1-158 Oatland Island Road, Lot 2-160 Oatland Island Road, Lot 2-162 Oatland Island Road, Lot 4-164 Oatland Island Road, Lot 5-166 Oatland Island Road, Lot 6-168 Oatland Island Road; 3) revise the Final Plat to show a 10 foot tree easement on all lots along Oatland Island Road; 4) show the signature of a Georgia registered land surveyor (across the State of Georgia Seal) and the owner on the Final Plat; 5) the establishment of private wells within the marsh buffer on Lots 5 and 6 must be approved by the State of Georgia. In addition, no vertical construction such as a pump house will be allowed within the 50 foot marsh setback; 6) the secondary and primary septic tank fields located within a required building setback on all lots shall be limited to septic tank systems that do not require the construction of structures above ground unless such structures are approved by the County Zoning Administrator; 7) revise Note No. 7 to identify the front yard setback and side yard setback consistent with the restrictive easements; 8) revise the Final Plat to increase the area established as a restrictive easement from 71, 580 square feet to not less than 76, 935 square feet (an increase of 5,355 square feet). This will satisfy the 30 percent greenspace requirement for the total site and provide each lot

a 20 foot wide driveway through the restrictive easement; 9) revise Note 10 to read as follows: “The restrictive easements located and depicted on each lot shall be for the purpose of establishing greenspace. No structures, with the exception of a fence and one driveway on each lot, shall be permitted within these areas;” 10) approval of the Final Plat does not approve or imply approval of any dock. All docks shall be subject to permitting by the Georgia Department of Natural Resources and Chatham County; and, 11) approval by the County Engineer and the County Health Department.

Speaking about the petition: Richard Guerard, agent, stated that he would be in agreement to installing a standard four foot sidewalk.

Marianne Heimes, submitted information on the previous ownership of the subject property. She was also seeking information about the proposed development.

Mr. Ray **moved** to approve the staff recommendation, subject to the condition that a sidewalk would be required.

MPC Action: **The motion carried.** The motion was to deny a variance from the requirement to provide a sidewalk along all lots on Oatland Island Road. The motion further approved an eight foot lot width variance (from the required 100 feet) for Lot 4; 2) a 25 foot lot width variance (from the required 100 feet) for Lot 2; 3) a 29 foot lot width variance (from the required 100 feet) for Lot 3; and, 4) a 303 square foot lot area variance (from the required 30,000 square feet) for Lot 6; and the proposed Final Plat subject to the conditions stated in the staff recommendation. Voting in favor of the motion were Mr. Brown, Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. Jest, Mr. Ray, and Mr. Patrick. Mr. Jones and Ms. McIntosh voted against the motion. Mr. Abolt abstained from voting on the petition.

C. Zoning Petition – Text Amendment

Text Amendment to the City Zoning Ordinance

Re: Amend Section 8-3025(a) to Create a New Use (65e)

Petitioner: Harold Yellin, Agent

(for Sharon Stinogel and Lisa Carr, Owners)

MPC File No. Z-040702-37207-2

Issue: Amending Section 8-3025(a), Subsection (c), of the City of Savannah Zoning Ordinance to create a New Use, 65(e), Restaurants, sit-down, serving wine. The use is proposed to be allowed only within the RIP-A-1 (Residential Urban) zoning district.

Policy Analysis: The proposed text amendment would allow a nonconforming restaurant to become conforming in an RIP-A-1 zoning district where it is not compatible with other permitted uses. Also, the proposed performance standards would not adequately protect nearby residences from potential nuisances.

Staff Recommendation: **Denial** of the petitioner's proposed text amendment to create a new use, Use 65(e), Restaurants, sit-down, serving wine, within the RIP-A zoning district.

Speaking about the petition: Harold Yellin, agent reviewed the procedural history of the petition. He also described the conditions under which the proposed Use would operate.

Lamar Walter, 412 E. Charlton St., was concerned about traffic and noise in the area if the use were approved.

Ken Sirlin, 408 E. Jones St., spoke in favor of the proposed text amendment.

Jim Wilkinson, 314 Habersham St. was opposed to the proposed text amendment. He submitted a letter from his wife, who was also opposed to the proposed text amendment.

Gerald Cohen, 316 Habersham St. was in favor of the proposed text amendment.

Patricia Mason, 119 E. Jones St., was opposed to the proposed text amendment. She is a member of the Technical Advisory Committee for the Tricentennial Plan and there is a process underway to study the issue.

The chair polled the audience and noted that many more people wanted to speak on the issue but the consensus was the person who already spoke represented the positions (for and against) on the item.

Mr. Jones **moved** to deny the petitioner's requested text amendment to create a new Use, 65(e) that would allow Restaurants, sit-down, serving wine within the RIP-A-1 zoning district. Ms. Jest seconded the motion.

Mr. Brown stated that the Mayor and Aldermen returned this petition to the Planning Commission in order for the Commission to determine under what conditions alcohol should be allowed at this location and other locations. The issue is should there be restaurants with very limited consumption of alcohol. Even if this text amendment is denied, some recommendations should appear in the Minutes. The items mentioned by Mr. Brown to the proposed text amendment are: 1) there shall be no alcohol sold for consumption off-premise or anywhere other than in-premise (i.e. you could not go out to the sidewalk tables and chairs to consume alcohol); 2) there shall not be a dedicated bar (i.e. the preparation area should be a service station only, not available to patrons); 3) trash and waste generated from the restaurant shall utilize no more than two household trash receptacles. No dumpsters shall be permitted. Whenever possible the restaurant shall have in-door compactors; 4) the entranceway to the restaurant shall be a certain minimum distance from the nearest residence (perhaps 50 feet, but this may

not apply); and, 5) the structure shall be a commercial design (there is strong precedent in our Zoning Ordinance that if a structure has been a commercial structure, that should be considered.)

Mr. Brown **moved** that the Planning Commission consider under what conditions alcohol sales could occur. Next, have a vote on whether such a text amendment should be adopted by this body.

Mr. Abolt stated that the Commission has a responsibility to provide choices for the elected officials, even though the Commission does not approve one of those choices.

Mr. Thomson indicated staff attempted to find an option acceptable to the residents but did not achieve any consensus on allowing wine at this restaurant. He suggested that staff to re-evaluate what we thought we heard from the Mayor and Aldermen in order to bring back other options.

Mr. Manigault asked that the Commission be provided with a second option to consider.

Ms. Moore stated that one option was the map amendment that went forward to City Council. Council said they did not want to consider rezoning. Therefore, the only other alternative for the petitioner is a text amendment. The petitioner's proposed text amendment to create a new use is before the Board today. An alternate text amendment to amend the Nonconforming Use section of the Zoning Ordinance was discussed at the November 29, 2004 neighborhood meeting. This option was rejected because one of the existing conditions for converting a nonconforming use cannot be met. Then, there was another neighborhood meeting. At the second neighborhood meeting it was very apparent that there was not going to be consensus about serving wine at this location. The only choice was to move forward with the petitioner's proposed text amendment. There were number of concerns related to the text amendment that staff felt would create a precedent for this location, for the R-I-P-A-1 district and for other zoning districts within the City and that is the reason that the staff recommended denial. There are some facts that were not available to City Council on October 28, 2004 that will be available to them now.

Ms. Moore added that the only other alternative that staff is aware of is rezoning the property with a site plan and placing conditions on that site plan relating to only this property. The property is already developed. The footprint will not change. Thus, it seemed unusual to rezone the property with a site plan.

Mr. Brown stated that he has talked with staff about the petition. Many cities have a third path, which is to have significant detail as to how alcoholic beverage establishments are allowed to operate. In some cases there is a neighborhood compact with the establishment. We should look at these conditions with more sophistication. Under what conditions can alcohol be served in a neighborhood setting and not damage the neighborhood? It is important to have those suggestions on the record.

Mr. Lufburrow stated that if the Commission were to consider the approach Mr. Brown is recommending, it might be necessary to have better enforcement.

Mr. Brown stated that the rules that we have now are enforced.

Ms. McIntosh stated that the place to deal with this matter is in the update of the Zoning Ordinance. There are broader issues to be applied to the entire city. We should use the update process.

Chairman Mackey stated that there is an opportunity here. At some point the issue will return at this location or another location. Perhaps getting our Executive Director in here with a core group would solve the problem for the entire Historic District and not just the Firefly Café.

MPC Action: The motion to deny the proposed text amendment carried.
Voting in favor of the motion were Mr. Lufburrow, Mr. Manigault, Mr. Luten, Ms. McIntosh, Mr. Ray, Mr. Jones, Mr. Patrick, Ms. Jest, and Mr. Abolt. Mr. Brown voted against the motion.

Chairman Mackey asked to have this matter presented during a Planning Session.

Mr. Jones added that it may be necessary to have a comprehensive study of alcoholic beverage regulations in order to work out a system that would prevent things like this.

Chairman Mackey stated that the Commission is in agreement with this.

VI. Adjournment

There being no further business to come before the Commission, the January 18, 2005 Regular Meeting was adjourned.

Respectfully submitted,

Thomas L. Thomson, P.E., AICP
Executive Director

Note: Minutes not official until signed