

**MINUTES
CITY OF GAINESVILLE
PLANNING AND ZONING COMMISSION**

**2:00 p.m.
Monday, April 4, 1994**

Members Present: Marge Clement, Debra Beavers, Bill Williams, Jan Russell, Robyn Byars, and Roy Brewer (2:20 p.m.).

Members Absent: Joyce Rigler

Staff Present: Mike Land and Pat Payne

Visitors Present: List

The first item of business was calling the public hearing to order at 2:06 p.m. by Chairman Bill Williams.

The second item on the agenda was consideration and action on the minutes of the regular meeting of March 1, 1994. A motion was made by Marge Clement and seconded by Robyn Byars to approve the minutes as presented. Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, and Beavers. Nays: None Absent: Rigler, Brewer. Abstentions: None.

The third item on the agenda was consideration and recommendation on a request by Brad Kane, dba Pro Choice Dog Food Company, for renewal of a Specific Use Permit for a mobile home at 2216 Refinery Road to be used for security purposes only. Tract is a 1.103 acre parcel of land out of the J.B. Botard Survey A-75 and is zoned Heavy Industrial (I-2).

Mr. Williams asked for discussion on the matter, either for or against the requested renewal of the Specific Use Permit--there was none. No one was present to represent Mr. Kane. A motion was made by Jan Russell and seconded by Marge Clement to **recommend approval of the Specific Use Permit for a 2-year period for a mobile home for security at 2216 Refinery Road.** Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, and Beavers. Nays: None Absent: Rigler, Brewer. Abstentions: None.

The fourth item on the agenda was consideration and recommendation on a request by Earl and Marge Clement to rezone Lot 3, Block 6, Clement 1st Addition from Office (O) to General Retail (GR).

Marge Clement stated for the record that she signed an Affidavit abstaining from voting on this item of business.

Mr. Williams then asked for discussion on the matter after he explained that Lot 3 contains 1212 and 1218 E. California as well as 115 N. Clements. He recognized members of the audience for comments. Edna Shauf spoke first stating her opposition to the request for rezoning. She said the surrounding property owners needed 20% [of surrounding land area] property owners to protest

the rezoning and they have that list. She said they don't particularly object to the proposed craft [fabric] shop that will be going in at 1218 E. California Street, but rather to the zoning which will allow land uses that they feel is contrary to the concept of their residential neighborhood's comfort and well being. She said their displeasure with the rezoning to General Retail lies in the fact that the property could 'change hands' at some future time and then other undesirable businesses could go in at that site that they felt would not be conducive to their neighborhood's family atmosphere.

Margaret Hays said she only wants to keep the site from being a high traffic-high volume type of business.

Mr. Williams then asked Marge Clement if she wanted to speak for her request. Ms. Clement said she and her husband have owned the property since 1988, and if they had wanted a car wash there, they would have already put one in since they have a fleet of eight cars that require constant cleaning and washing. Rather, they want to preserve the neighborhood and have bought the whole block in order to do just that in order not to drag down their primary business on that block. She also said they are not planning to ever sell the property. They plan to use it if they should need to expand their business. She explained that after the structure became vacant when a doctor moved out of it, they were approached by someone who wanted to put in a crafts and fabric shop, but the zoning was not conducive to that type of business. That is the reason they chose to ask for a rezoning of General Retail, since that zoning abutted the property on two sides.

Margaret Hays said she appreciates the comments Ms. Clement made and also the intentions she and her husband have for the property in not wanting to change the neighborhood; however, once something is rezoned, anything allowed under that classification can go into that spot. She said that no one ever knows when property might change hand, and if it did, the owner could put in any retail business they want that is allowed in General Retail zoning. 38% of the surrounding property owners have objections to the rezoning, Ms. Hays continued. She also said that there is enough traffic already in that block without more.

Mr. Williams asked the Board to make comments at that time. Jan Russell said it is the standard problem that's being faced, of the preservation of neighborhoods vs. progress. She said it goes back to the issue of spot zoning. It is a viable neighborhood. Mr. Land spoke up at that time and explained that to rezone the property from Office to General Retail would not be spot zoning since it is abutted on two sides by General Retail. Also, arts and crafts are not listed under Office Zoning to be allowed with a Specific Use Permit, as had been previously discussed; therefore, it is not an option. Ms. Russell asked if there was a way to satisfy both the neighborhood and the property owner. Mr. Land said Neighborhood Service is somewhat similar, but more restrictive.

Mr. Williams said he doesn't see anything wrong with the proposed art and crafts business that intends to go in at 1218 E. California Street. It would not cause any more traffic than the former Doctor's office that was there. However, the General Retail zoning would allow land uses that would be contrary to the neighborhood concept. He said he wants to find out what a specific use designation would do for the property.

Mr. Byars asked how the neighborhood coped with the Doctor's office traffic. Ms. Hays replied that there was a considerable amount of traffic and some parked on the street, but that was alright. However, it was not the type of traffic that would be associated with a drive-in, service station, etc.

Debra Beavers said she felt that a happy medium can be reached. Marge Clement explained that they had tried unsuccessfully many times to lease the property to another doctor. She said she felt that the prospective proprietors will keep the place very clean and neat and with someone in the structure, it will not deteriorate. Ms. Beavers asked her if a Specific Use Permit would be objectionable. Ms. Clement replied it would not.

Mr. Williams said he is tired of hearing that "Specific Use Permits" don't work. He said he knows there is a way to utilize that land use even in this situation. One way might be to recommend a Specific Use Permit for the life of the business. Mr. Land explained that because none of the allowable zoning uses for that area allow a Specific Use Permit for the arts and crafts [fabrics] type business, the Zoning Ordinance would have to first be amended and then the property owner could apply for the Specific Use Permit for that type operation. Mr. Williams asked Ms. Clement if she would be willing to go through this process; she replied she would.

The Board continued to discuss the issue. Ms. Clement withdrew her application to rezone Lot 3, Block 6, Clement 1st Addition from Office to General Retail. Staff said they would then arrange the proper paperwork and advertisement to amend the Zoning Ordinance to allow Arts and Handcraft Sales in the Office Zoning by Specific Use Permit; and to amend the Zoning Ordinance for a Specific Use Permit [as will be applied for by Earl & Marge Clement] for an Arts and Handcraft/Fabrics Sales Store in the Office Zoning land use.

The fifth item on the agenda was consideration and recommendation on a request by Cantex Healthcare Centers, dba Oak Tree Lodge, to rezone 2.79 acres in the W.J. Hawkins Survey, 2.41 acres in the E. Yeaman Survey, & 6.445 acres in the B.F. Carpenter Survey from Single Family Two (SF-2) to Multi-Family Two (MF-2), to facilitate replacement of a nursing home facility.

Mr. Land explained that the Cantex Healthcare Centers have been in contact with the Building Department from the very first when they knew they needed to rebuild the whole structure. They were advised that the zoning for their site was inconsistent with the type of land use that had been operating at that site. A complete new

facility will be built.

After no further discussion, a motion was made by Marge Clement and seconded by Robyn Byars to **recommend approval of the request to rezone 2.79 acres/W.J. Hawkins Survey; 2.41 acres/E. Yeaman Survey; & 6.445 acres/ B.F. Carpenter Survey from Single Family Two to Multi-Family Two.** Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, Brewer, and Beavers. Nays: None Absent: Rigler. Abstentions: None.

The **sixth item on the agenda** was consideration and recommendation on a request by Erwin L. Mosser to rezone 410 Yates Street from Single Family Three (SF-3) to Commercial (C). Said area is also known as lots 9-A, 10-A, 11-A, 12-A, 13-A, 14-A, & 15-D, Block 40, Montgomery Addition.

Mr. Williams explained where the exact location of the property is located for clarification to the Board. He then asked if any member of the Board had any objections or comments to the request. Roy Brewer asked what the reason was for the request to rezone the property. Mr. Mosser replied that he plans to build a metal building there to be used for a warehouse and storage. He also said he is the commission agent for Tetra-Pac and has one truck to deliver crated goods. He said the area is somewhat distressed and he felt the building on the rezoned site would be an asset. Mr. Brewer said he also felt the rezoning and the new building would be an asset to that area.

After no further discussion, a motion was made by Roy Brewer and seconded by Debra Beavers to **recommend approval of the request to rezone lots 9-A, 10-A, 11-A, 12-A, 13-A, 14-A, & 15-D, Block 40, Montgomery Addition from Single Family Three to Commercial.** Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, Brewer, and Beavers. Nays: None Absent: Rigler. Abstentions: None.

The **seventh item on the agenda** was consideration and recommendation on a request by Lacy B. Wheeler regarding site plan review on a Preliminary Plat for The Red Oaks Subdivision located within the Extraterritorial Jurisdiction of the City of Gainesville, situated within the F.H. Stroud Survey A-951, and containing 32.31 acres of land.

Mr. Land said that the plat contains a 16-lot subdivision with water service being obtained from the Back Forty Subdivision. There will be a septic system method of sewerage. He said there are no major concerns that staff has encountered while reviewing the plat. He said there will probably be no interest by the City in the near future to annex that tract of land because if that occurred, the City would have to buy the water system that is tied in to that particular subdivision, and that would be the Back Forty's water system; the City is not interested in acquiring it. Mr. Land pointed out some minor changes that may be changed such as the width of the cul-de-sac and the length of same. The larger lots make the longer length more feasible. With the larger estate-

type lots, the safety factor for emergency vehicles is not so rigid. Pat Payne verified that the soil testing [percolation tests] have already gone through the Commissioners' Court. Mr. Wheeler said the roads will be paved and the utility lines will be underground.

After no further discussion, a motion was made by Jan Russell and seconded by Roy Brewer to **recommend approval of the Preliminary Plat for Red Oaks Subdivision in the ETJ of the City.** Motion carried by the following votes: Ayes: Clement, Williams, Russell, Byars, Brewer, and Beavers. Nays: None Absent: Rigler. Abstentions: None.

The **eighth item on the agenda** was consideration and recommendation on a request by Lewis Pettigrew to rezone part of Lts. 5 and 6, Block 12, Woodsmith Addition, and also being 1033 and 1035 N. Morris Street, from Single Family Three (SF-3) to Office (O).

Mr. Williams asked if Mr. Pettigrew was present; he was not. Faye Handley, prospective buyer of the property, was in attendance to explain the request.

Marge Clement said she wanted to hear what Rev. Fincher, pastor of the church across the street from the lots and which church also owns a Commercial zoned tract next to the church, had to say. Rev. Fincher replied that again the issue is spot zoning. He commented that the lots have never been totally cleaned up and he feels that the City should have finished the clean up and placed a lien on the property. Also, he said with as many empty offices and buildings, he didn't understand why someone would want those lots to build a real estate office on. He also emphasized that there are many school children in the area and he feels that the real estate office would generate too much traffic and be dangerous, and he doesn't want anything across the street from the church.

Robyn Byars asked about the comment Rev. Fincher had made regarding two men in his church who are trying to buy the property to build a home on. He said the church has no interest in the property. He also said that the generalization is "the neighborhood be hanged". He then asked the Board if they had done anything in getting the property cleaned up-Mr. Williams replied that this Board has nothing to do with cleaning up the property.

Mr. Ellen Bush, 1000 N. Morris Street, spoke next and said that she does not object at all to the rezoning of the property in order for a real estate office to be built there. She said she feels that it would only help to improve the area. Hulda Moore, Ms. Bush continued, lives in the same block she lives in and does not object to the rezoning. She could not come to the meeting but did want her opinion expressed. She also expressed her displeasure with the church buses blocking the streets when they are bringing people in and out of the church property for services.

Debra Beavers asked if the traffic down that street had increased since Wal-Mart had relocated north of there-she replied it had and

had also increased because of people going to the Buy-For-Less supermarket and also to Highway 82.

Ms. Handley said Mr. Pettigrew would have been in attendance and offered to, but was told that his request, signed by him, was sufficient and she was there as the representative.

Roy Brewer said everyone needs to come together for the good of the City. He said there are other office spaces in the City that need to be filled up, other than possibly building a new one and wanting to rezone that particular site, especially two small lots.

Ms. Handley said it doesn't matter how many people Mr. Pettigrew has talked to concerning the purchase of the property, referring to Rev. Fincher's comments, but she said she does have a contract contingent upon the rezoning. She said her business would not create any more traffic than two homes built on that site.

Mr. Williams said it was time to make a decision on the matter. He questioned Ms. Handley's purpose for wanting that particular lot because it is not highly visible. She replied that she doesn't feel that a real estate office needs to be on a main thoroughfare, and the reason she picked that property was that all the other sites she looked at were simply too expensive. She said she has also looked at offices, but all of them would have to be remodeled and/or cleaned up extensively, and why not have a new office. Mr. Williams said he was trying to understand. Ms. Bush said she felt the lot could be fixed up really nice, with the trees being a true asset.

Mr. Brewer said he felt there are other alternatives and when making a motion he has to look at the welfare of the City of Gainesville. At that time, he made a motion which was seconded by Jan Russell to **recommend denial of the request to rezone 1033 and 1035 N. Morris Street from Single Family Three to Office.** After considerable discussion, the motion carried by the following votes:
Ayes: Clement, Williams, Russell, Byars, Brewer, and Beavers.
Nays: None Absent: Rigler. Abstentions: None.

Jan Russell said she would like to see a change in the Subdivision Regulations regarding septic systems in new subdivisions. Mr. Land said there is currently no ordinance requiring anyone that has a septic system to hook up to a sanitary sewer system if it is available. He said that Administration is aware of this slight problem and within the Subdivision Regulations, there is a provision to allow septic systems when sanitary sewer systems are not available for new subdivision, but are on a case by case basis.

After no further business, the meeting was adjourned at 3:43 p.m.