

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

**2:00 p.m.
Tuesday, December 7, 1993**

Members Present: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler.

Members Absent: Jan Russell, Robyn Byars and Bill Williams

Staff Present: Mike Land and Pat Payne

Visitors Present: List

The first item of business was calling the public hearing to order at 2:05 p.m. by Co-Chairman Marge Clement.

The second item of business on the agenda was consideration and action on the minutes from the regular meeting of November 2, 1993. A motion was made by Roy Brewer and seconded by Joyce Rigler to approve the minutes as presented. Motion carried by the following votes: Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler. Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams. Abstentions: None.

The third item of business on the agenda was consideration and recommendation on a request by M. L. Cunningham to rezone 1531 Truelove Street from Single Family Two (SF-2) to Two Family (2F).

Ms. Clement asked Mr. Land if he wanted to make any comments regarding the rezoning request. After pointing out the area on the Zoning Map, he explained that the property is located at the terminus of both Truelove and S. Howeth Streets. Ms. Cunningham wishes to rezone the property to allow a duplex to be built on the property. He continued by saying that there are several other 2F zoned tracts within a six block radius of the referenced property. However, under State Statutes, a tract that has been isolated for a different zoning designation than that of the surrounding neighborhood is known as "spot zoning". That would be the only issue regarding Staff's position on the request.

Ms. Clement asked Ms. Cunningham if she wanted to speak for her request. She stated that when she purchased the property, a duplex was situated on the property and there were two addresses for that tract. However, it was an old dilapidated building and the structure was razed and removed.

Ms. Clement asked if anyone else had any comments. Mr. Fred Mitchell, 401 Meadow Drive, said that the previous structure had been in terrible condition and needed to be removed. However, he

said he wouldn't approve of any structure being rebuilt on that site unless there was enough space for parking and for front yards.

Ms. Clement asked if anyone else wanted to speak; there was none. She then asked if the Board had any comments. Joyce Rigler asked about the configuration of the proposed structure. Bob Moore explained that the duplex would have concrete driveways at the front of the proposed duplex and it would be situated in order that there would be ample parking for two parking spaces per unit. This was confirmed by Mike Land. He said the lot was big enough to accommodate required setbacks and parking areas. Each duplex will have two bedrooms and one bath. Mr. Land explained that a site plan will be submitted to the Community Development Department and staff will review it to determine that the proposed structure meets all requirements of the Zoning Ordinance before a Building Permit can be issued.

Mr. Mitchell differed with the view that the driveway, as shown on a drawing presented by Ms. Cunningham, would hold four cars due to it's configuration on the lot. Mr. Moore explained different ways the structure could be placed.

Mr. Brewer asked if an engineer or someone would recommend how the structure should be situated. Mr. Land said, yes, that safety will be of utmost concern, which is a consideration of the site plan review.

After no further comments by the Board, audience, or City Attorney, a motion was made by Joyce Rigler and seconded by Roy Brewer to **recommend approval of the request to rezone 1531 Truelove Street from Single Family Two (SF-2) to Two Family (2F)**. Motion carried by the following votes: Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler. Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams. Abstentions: None.

The **fourth item of business** was consideration and recommendation on a request by Ray Kinney, land owner, to rezone 20 acres, more or less, out of the B.P. Ticknor Survey and the W.C. Brown Survey, from Single Family Two (SF-2) and Single Family Three (SF-3) to Planned Unit Development (PUD), which tract fronts on Harris Street.

Ms. Clement asked Mr. Land if he had comments to make regarding the request. He said that Don Hawkins was present to represent the property owner and would like for him to participate in the discussion.

Mr. Land continued by saying that there have been several discussions over the past several weeks with Mary Lou Cunningham, developer, and Mr. Hawkins concerning the proposed use of the property and the proposed project. In the process, they have indicated that the project will be single family detached units, but only will be leased. Mr. Land said that after talking further with Ms. Cunningham and Mr. Hawkins, and after doing further research into the Zoning Code for the City, the land use as defined

by the Code is Community Unit Development. It is listed as a permitted land use under the zoning districts that this property already has in place. Therefore, when looking at the definition of a Community Unit Development, it (Code) talks about it being a three acre or more parcel; unsubdivided; being developed at the density that would be permitted under the current zoning. The parcel is approximately 20 acres; that would allow up to 130 units, which is slightly more than what is being proposed. The standard building codes apply to the setback requirements for the units. Therefore, staff's recommendation to Ms. Cunningham and Mr. Hawkins is that this is the more appropriate way to develop the project under the already existing approved land use designations within the City of Gainesville Zoning Code. However, they will still be required to go through site plan approval and normal processes of developing the site. The zoning will not have to be changed for the proposed project. There will be no subdivision of the property either.

At that time, Mr. Hawkins, speaking for Ray Kinney and Mary Lou Cunningham, **withdrew the request for rezoning of the 20 acre tract out of the B. P. Ticknor and W. C. Brown Survey**. Regardless of the withdrawal, he said the public still has the opportunity to learn about the proposed project.

Mr. Land said that Ms. Cunningham had a model of the project and would like to explain the proposed project at that time.

Ms. Cunningham said the proposed project will be named Willow Bend and will be a planned retirement community for persons 60 years of age and older, with exceptions for spouses. The units will be two bedroom, two baths, brick veneer with ground maintenance being a part of the lease agreement. Services such as food, medical, meeting halls, security etc. will also be available. The community project will not be a rest/nursing home. The units will be built in blocks of four houses with a center court. In the court the residents will have the opportunity have a flower/vegetable garden. There will be a cafeteria on grounds for breakfast and lunch. The units will be handicapped designed and tied into Lifeline. Children will be also be excluded from residing on the property. Ms. Cunningham asked for questions at that time.

Joyce Rigler asked what rent will be on the units. Ms. Cunningham said it is based on \$1000.00 a month. That will include the water but will exclude electricity. The project will be started with approximately 30 units.

Roy Brewer asked if the project will have a guard gate. She said it will; the gate, the residence entrance, will be located off of Kent Drive at the west entrance of the complex. There will be a total of three entrances, the other two will be for service only and will open off of Harris Street.

Tamara Sieger was present and asked what type of vehicles will be going up and down Harris Street since she has small children who will be outside playing from time to time. Ms. Cunningham said

only a few trucks for service will be on Harris Street. She also said there will be a fence around the entire complex. She also confirmed with Mrs. Sieger that the project is not Housing Authority funded and subsidized. Mrs. Sieger said she is also concerned that they moved into their home for country privacy and now it seems that will not be the case. Mr. Land explained that the tract was zoned for Single Family development with the same building density as the proposed project. Therefore, the development will amount to the same type of growth.

Mr. Frank Blagg, property owner on the north side of Harris Street and within the City limits, spoke next saying that he sees no reason why the project shouldn't work.

The fifth item on the agenda was consideration and recommendation on a request by James Ray Polk and Ronnie Ortowski for voluntary annexation of a 74 acre tract of land out of the A.C.C. Bailey Survey, which tract is bounded on the south by Harris Road and on the east by F.M. 3092.

Mr. Land reiterated that at the last P & Z meeting, a plat was reviewed and approved for development of a 44 acre tract with 31 lots. Said tract of land is a part of the proposed 74 acre tract requested for the voluntary annexation. If approved for further action, the City Council will approve a resolution this same date setting the dates for public hearings on the proposed annexation.

Ms. Clement asked Mr. Polk if he had any comments regarding the voluntary annexation request. He replied that everything they have set out to do is going very well and they are optimistic about the proposed annexation and subsequent development on the property.

Mack Barnhart, City Attorney, asked if the Service Plan had been completed for the proposed annexation; Mr. Land replied it had not, but was targeted for the December 21, 1993, City Council meeting. At that time, Mr. Barnhart recommended that the annexation request be set aside until the service plan can be presented; the issue being the sanitary sewer system being a major item to be addressed. He said the P & Z needs to see the service plan before making a recommendation to the City Council.

Joyce Rigler said it was her understanding that "...this issue was discussed thoroughly at the last P & Z meeting, and it was recommended that they would go with everything that was going to be required - so has something new developed since the (our) last meeting?" Mr. Land explained that after the last meeting, he, Mr. Barnhart, and Mr. Drescher had another discussion, after several prior to that one, concerning the Statute and Local Government Code regarding requirements for the Service Plan, re: our Subdivision Regulations recognizes the availability of using septic systems and staff was going along under that mode. After that, the Local Government Code did not allow the City an "out" regarding the sewer situation. So therefore, that raised an issue of whether that meant running the sewer line to the property or does the City have

an obligation to run it to each individual property within the proposed development. Also who will be responsible for paying for it was another question and isn't clear. The Subdivision Regulations plainly state that septic systems are permitted; so if those regulations say it's okay, and the City proceeds with that and then is petitioned to put in a sanitary sewer system, then what would the City's responsibility be. Mr. Land asked Mr. Barnhart if he concurred with that; Mr. Barnhart said that if the City has not run the sanitary sewer to the property within four and one half years, then the property owners can petition to be deannexed.

Roy Brewer asked if a recommendation can be made (to City Council) contingent upon that fact. Mr. Land said the Service Plan has to be produced and presented. Mr. Polk said this issue has come as a surprise to him, because he knows that there are areas within the City that do have septic systems.

Debra Beavers asked if the proposed development would be on City water, but not City sewer, as it is planned. She was told that it would. Mr. Land again explained that at the end of four and one half years, the City is responsible to have the sanitary sewer available to that property. The subdivision may choose not to go on the sewer system after it's available, but that is their prerogative.

Joyce Rigler asked if the recommendation can be made to go ahead with the project without the Service Plan. Mr. Barnhart again said he advises that the recommendation be delayed until the City has the Service Plan in place. Mr. Land said the plan could be completed within two weeks and a special meeting could be called. Ms. Rigler said she realizes that the intent is to keep the project going and meet all legal ramifications. She said she would feel more comfortable if the project could go forward within ten working days with all information needed and required. Mr. Barnhart said that the recommendation could be made without the Service Plan.

Roy Brewer asked if cost effects would be included within the service plan. Mr. Land said the service plan mainly includes police, fire, water service, garbage service, etc. It outlines services to be provided to citizens within the municipal boundaries of a city. Financing is not necessarily addressed, but that might change. He said the city does have an estimate of what the sanitary sewer would cost to be run to the property. The Statutes do not address financing; they only say the city has to make the services available.

Mr. Polk asked if there has been instances of deannexation for non-service for the property; Mr. Barnhart said yes, but he could not cite specifically who and where they were.

Mr. Land suggested that the Board wait until December 21, upon continuation of the matter, and have the service plan presented with the annexation request. The first public hearing would then be on January 4, 1994. He also said he recommended that **Item Six**, which includes the rezoning of a 44 acre tract out of the requested

annexation parcel on the present agenda, be continued until the 21st also.

After further discussion by the Board, a motion was made by Roy Brewer and seconded by Joyce Rigler to **continue the public hearing on the annexation request until December 21, 1993, and make recommendation at that time to the City Council.** Motion carried by the following vote: Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler. Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams. Abstentions: None.

The **sixth item on the agenda** was consideration and recommendation on a request by James Ray Polk and Ronnie Ortowski to rezone a 44 acre tract of land out of the A.C.C. Bailey Survey, also being a part of a 74 acre tract being annexed into the City of Gainesville, from Agriculture (A) to Single Family Estates (SF-E).

A motion was made by Roy Brewer and seconded by Joyce Rigler to also continue this item until December 21, 1993, as previously stated in **Item Five on the agenda.** Motion carried by the following votes: Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler. Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams. Abstentions: None.

The **seventh item on the agenda** was consideration and recommendation on an amendment to the Zoning Ordinance of the City of Gainesville to provide for Bed and Breakfast businesses as approved land uses in residential districts.

Mr. Land began by saying that after reviewing the existing City of Gainesville Zoning Code under the definitions of Primary Residential Uses, Section 8-102, a Bed and Breakfast is already defined as a Primary Residential Use. The proposed Bed and Breakfast Ordinance would allow the businesses as a permitted land use in the Single Family Residential Districts Two, Three and Four, the Two and Four Family Residential Districts, and the Multi-Family Residential Districts One and Two; also added to that, all Commercial Zoning Districts with the exception of Industrial Zoning Districts.

Mr. Land explained some of the definitions which would be included in the proposed ordinance, including what is a lodging room and what comprises an all-weather surface parking area. The ordinance also provides for notification to adjoining property owners and site-plan review by the Planning and Zoning Board.

Ms. Clement asked if anyone had further comments and questions. Joyce Rigler said she felt this issue has been gone over enough.

Mr. Barnhart said he had not gone over the ordinance and assumed that any single family structure can be a bed and breakfast business with some type of site plan and review; that was confirmed. He also said he had suggested to Mr. Land several weeks prior that the use be permitted in whatever residential zones the

Board wishes and tie this to some type of site plan. He said this is the best way to do it.

After no further discussion, a motion was made by Joyce Rigler and seconded by Roy Brewer to **recommend approval of the amendment to the Zoning Ordinance to allow Bed and Breakfasts as approved land uses in residential zones.** Motion carried by the following votes:
Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler.
Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams.
Abstentions: None.

The **eighth item on the agenda** was consideration and recommendation on an amendment to the Site Plan Ordinance, as amended, to provide for site plan review for any Bed and Breakfast business within the City of Gainesville prior to issuance of a Certificate of Occupancy.

Mr. Land said this item is a followup to creating the ability to having a Bed and Breakfast Ordinance and meeting the requirements to have a site plan review. It would also require, prior to having the public hearing, having notified the surrounding property owners of proposed Bed and Breakfast in their neighborhood. This will give the people an opportunity to express their opinions on the site plan.

After no further discussion, a motion was made by Roy Brewer and seconded by Debra Beavers to **recommend approval of amending the Site Plan Ordinance requiring site plan approval of any Bed and Breakfast business within the City of Gainesville's residential districts.** Motion carried by the following votes: Ayes: Marge Clement, Debra Beavers, Roy Brewer and Joyce Rigler. Nays: None. Absent: Jan Russell, Robyn Byars and Bill Williams. Abstentions: None.

After no further discussion, the meeting was adjourned at 3:10 p.m.