

CITY OF GAINESVILLE
PLANNING AND ZONING COMMISSION

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2:00 p.m.

May 10, 1989

Members Present: Van Knight, Chris Kaden, Russell Duncan, John Schmitz and Luann Shortnacy,

Members Absent: Don Hawkins and Allen Fleitman.

Staff Present: Gene Cravens, Pat Payne, and Gilbert Villa.

Visitors Present: List attached.

The meeting was called to order by Chairman Van Knight at 2:05 p.m.

The **second item on the agenda** was consideration and approval of the minutes from the April 12, 1989 meeting. A motion was made by Luann Shortnacy and seconded by Russell Duncan to approve the minutes as presented. Motion carried by the following votes: Ayes: Knight, Duncan, Shortnacy, Schmitz and Kaden. Nays: None. Absent: Hawkins and Fleitman.

The **third item on the agenda** was discussion of and action on the Wheeler Creek South Subdivision and discussion on property owned by Eddie Jones out of that area. Mr. Knight asked Mr. Cravens to present any comments he had. Mr. Cravens stated that he felt the issue had been kicked around too long after the extension of one year for preliminary plat review had lapsed in February, after failure of the Foree Company to file a final plat. He further stated that the City has not heard from the Foree Company nor has there been any correspondence regarding this matter from them stating they wished to either extend their allowed time on the preliminary plat or to withdraw all consideration of the subdivision. Mr. Cravens said, first of all, he would suggest that the City rescind the preliminary plat, approved in 1988. Also, once that is done, Mr. Jones, pastor of the First United Pentecostal Church, who purchased the corner property from Mr. Foree, should contact the Foree Company himself, since the tract of land was not sold according to the Subdivision Regulations of the City of Gainesville. That makes the City unaccountable for the purchase, since there was no final plat filed with the County Clerk prior to the purchase and the tract was purchased on metes and bounds only, not by Lot and Block. There can be no building permit issued for construction on that property until the final plat is filed of record. Mr. Duncan asked if the developer is normally contacted when the year time limit is up on a preliminary plat time schedule. Mr. Cravens said, according to the Regulations [**Subdivision Regulation, as adopted January 15, 1974**], the developer has twelve months in which to file the final plat and the Foree Company knew that since they had a

copy of the Regulations and it is up to them to notify the City of their intentions; otherwise it is automatically rescinded, unless an extension is granted. Also the Foree Company, until this meeting, has been given two extra months to comply and they have done nothing. Mr. Cravens stated he had tried to talk with the Foree Company, but he could only get through to a secretary who would tell him nothing of their intentions.

At that time Mr. Knight asked Mr. Jones if he would like to speak. Mr. Jones replied by stating he felt that he first knew of the problem when he tried to obtain a permit to build on his property. He said the property was sold by a local relator, a local attorney drew up the contract and deed; a portion was financed through a local bank and still no one told him that it would not be a legitimate sale of property. Mr. Jones indicated that a local doctor had offered to buy a portion of his tract to build a house on. He also said that when he talked with a representative of the Foree Company last year (1988), the person told him he could get no one interested in the project and had decided to "drop" it [meaning the Wheeler Creek South Subdivision]. Mr. Jones said he just wanted to do something with the piece of property and that was his interest in being at the meeting.

Mr. Knight asked Nancy Williams if she had any comments. She said the only question she had was the proper procedures for vacation of the plat. Mr. Cravens told her it had not been finally platted. She further explained that there is a prohibition for providing utilities if someone is in violation of local subdivision *restructions and regulations.

Mr. Cravens said the Highway Department is also concerned about curb cuts and driveways on the corner lots.

John Schmitz spoke next stating he felt "...the City should try again to talk with Foree and find out if there is an arrangement, agreement, someway to make them interested in finishing the project."

Mr. Cravens explained that the elder Mr. Foree started the project and wanted the subdivision and when he died in 1988, the remainder of the family and the business associates lost interest in the subdivision.

Mr. Kaden said he felt the City had given the Foree Company ample time and notices and something should be done without dragging out the matter any longer.

Mr. Jones reiterated again that he would like for a decision to be handed down regarding any action that he/the church can take at this time.

Mr. Cravens responded by outlining the options which the Planning and Zoning Commission can consider: 1) Take no action which will automatically rescind the preliminary plat, and do nothing in regards to Mr. Jones' problem, since the City is not involved in that problem; 2); a provision in the Subdivision Regulations which allows for the P & Z and the City Council to create a variance; 3) or, take action by vote to rescind the preliminary plat.

Mr. Duncan agreed with Mr. Cravens in that the problem with the church [Mr. Jones] and the Foree Company does not lie with the City and he feels that the City should not start granting variances that they cannot put an end to. That's exactly what the Planning and Zoning Commission is trying to get away from-the bad practices and irregular precedents that seemed to have somehow gotten out of hand over the years. He further stated that he feels the P & Z should either cancel the plat or put more pressure on the Foree Company to go ahead and file the final plat.

Mr. Knight said he agreed with Mr. Duncan in that he would be willing to go another thirty-day extension if they all felt "...there would be someone to approach them [the Foree Company]". It would be better for the City if they did file the Final Plat, but the issue cannot be dragged out.

Ms. Williams said she felt the Foree Company had been given every opportunity to continue the proposed subdivision.

Mr. Kaden asked Mr. Jones if he had talked with anyone representing the Foree Company recently. Mr. Jones replied by saying he didn't feel that was his responsibility since the plat was between them and the City and they [as the church] bought the land on metes and bounds through a reputable attorney and bank. Mr. Cravens explained to him that the Foree Company put him and the church in the situation they are in, not the City. He also told Mr. Jones that they [the church] were not in violation by buying, but the Foree Company was in violation for selling them the land. Nancy Williams emphasized to Mr. Jones and the panel that the sale was not a "permissible sale" unlike an illegal sale.

After no further discussion, a motion was made by Russell Duncan and seconded by Chris Kaden to **recommend rescindment** of the Preliminary Plat on the Wheeler Creek South proposed subdivision due to a time lapse of one year from date of approval [as approved by Council, **February 16, 1988**] with no further action on submission of the Final Plat. Motion carried by the following votes: Ayes: Duncan, Shortnacy, Kaden, Knight and Schmitz. Nays: None Absent: Hawkins and Fleitman.

The **fourth item on the agenda** was consideration and recommendation on a request from Earl Clement, d/b/a/ Vernie Keel Funeral Home, for a zone change on property located at 204 South Grand Avenue from Office (O) to Parking (P) to establish a parking lot. Mr. Cravens explained that Mr. Clement originally came to the City to apply for a zone change for General Retail on the property which would be conducive to his business. A parking lot has to be located in the same zone as the business, according to the Zoning Ordinance. However, the funeral home is in a General Retail area and the lot which Mr. Clement wished to make into a parking lot is located in an Office zoned district. In looking at the Master Plan and according to what should be established on South Grand, according to that plan, General Retail might not be the right answer to set precedent since South Grand Avenue is still

primarily residential. By making the lot a Parking zoned district, parking will be the only use that can be allowed for that property.

Mr. Cravens presented a slide program of the area and surrounding neighborhood.

Mr. Knight asked if anyone would care to speak in favor of the request. Mr. Clement spoke stating that the structure which was on the lot was in bad disrepair and inhabitable. The property was originally bought for future parking lot usage, but since the house was unusable, they moved their time table up to expand their parking facilities.

Mrs. Broyles, who owns rent property to the south of the lot stated she felt that moving the house off and making a parking lot of the property was a good idea. When they purchased the property some eleven years earlier, they knew it might be a parking lot at some later date.

Mr. Duncan asked Mr. Clement if the parking lot would be paved or graveled. Mr. Clement answered by saying that if it is rezoned to Parking, it will be surfaced and paved as soon as it settles.

Mr. Kaden asked if the curb cut will be on Grand Avenue or Main Street [on the north side of the lot]. Mr. Clement said it would be on Main Street.

Mr. Knight asked if anyone would care to speak in opposition. Ms. Margaret Hayes spoke saying she was not speaking so much in opposition, but would like to have clarification on some things. She asked if the Parking classification in zoning was a new classification; she was told it was not. Mr. Cravens told her the requirements were basically the same as for residential; the only thing extra allowed is off-street parking and there cannot be any commercial, office or retail use of the property. She expressed her concern about keeping a sidewalk on the west side of the lot as several senior citizens use the sidewalks in that neighborhood to walk and a gravel parking lot would be dangerous to them. She also said she is concerned about the trees and a crepe myrtle bush at the rear of the lot and would like for Mr. Clements to keep and maintain them.

Mr. Clements said he felt they are trying to make their property more attractive and are working very hard at doing so. He said he is not trying to destroy public image, but to add to the neighborhood and will not do anything detrimental in the long run and the neighborhood will look better when everything is in place.

After no further discussion, a motion was made by Russell Duncan and seconded by John Schmitz to **recommend approval of the zoning request** from General Retail to Parking. Motion carried by the following votes: Ayes: Duncan, Shortnacy, Kaden, Knight and Schmitz. Nays: None. Absent: Hawkins and Fleitman.

The **fifth item on the agenda** was consideration and recommendation on a request from Ruth Monden for a Specific Use Permit to operate a

registered Day Care Home in her residence at 1010 Truelove Street to keep six or less small children for a two year period. Mr. Cravens stated that it is a small day care home and should not cause any traffic problems in the neighborhood. Mr. Knight asked if anyone would care to speak in favor of the request. Mrs. Monden spoke stating she wants to stay home and keep a few small children. The children she will keep are on staggered schedules and are brought and picked up at different times.

Others speaking in favor of Mrs. Monden's request were Agnes Kneupper and Doris McKinney. Speaking in opposition was Mr. C. T. LaRue. He has a mobile home next door to the Monden's and said that the widths of the lots in the neighborhood are only fifty foot wide and are too narrow to support any more traffic on a narrow street. Mrs. LaRue also spoke in opposition on the same grounds. Rita Lemons, who lives behind the Mondens, spoke in opposition, as did Ruth Morrison. Mr. Monden expressed his opinion as to the reasons he and Mrs. Monden wish to run a day care home. He said an alley behind the houses is not used for traffic, as Mrs. Lemons stated.

Mr. Kaden said he didn't feel there is a problem since the pickup of the children is staggered and no more than five to ten minutes is utilized each time. He also said he didn't feel that there is a problem with traffic. He didn't feel six or less small children would present a noise problem either.

Mrs. Shortnacy asked Mrs. Monden if the five children she is presently keeping is for a year round term; Mrs. Monden said yes. Mrs. Monden stated she will never have more than six small children at one time, which the State requires through her particular registration.

Mr. Knight stated that a precedent had been set through the years in granting Specific Use Permits in that when there is opposition from neighbors regarding day care centers/homes, the permit is usually always denied.

Mr. Duncan clarified that the Specific Use Permit would be reviewed again in two years. He said he agreed with Mr. Kaden.

After no further discussion, a motion was made by John Schmitz and seconded by Chris Kaden to **recommend approval** of the Specific Use Permit for a two year period to keep six or less children in Mrs. Monden's Day Care Home which will be registered by the State of Texas. Motion carried by the following vote: Ayes: Duncan, Shortnacy, Schmitz, and Kaden. Nays: Knight. Absent: Hawkins and Fleitman.

The next item on the agenda was **item # 9** on the agenda, consideration and recommendation on an ordinance regulating recycling units within the City of Gainesville. Mr. Cravens said the intent of the ordinance is to try to provide a means for various units, such as the Joe Walter Workshop recycling van for metals, etc., in other than Light Industrial zoning districts. Mr. Edwin Fulton, who owns the Fulton Supply and Recycling, located on West Denton Street, was present to present further comments and input to the proposed ordinance. Mr.

Fulton presented items for discussion which would enhance the proposed ordinance.

Mr. Cravens suggested that the ordinance be reviewed further before consideration and recommendation to the City Council.

A motion was made by Luann Shortnacy and seconded by John Schmitz to table the proposed ordinance for further review. Motion carried by the following votes: Ayes: Shortnacy, Duncan, Knight, Schmitz and Kaden. Nays: None. Absent: Hawkins and Fleitman.

The next item of business was the **sixth item on the agenda** which was consideration and recommendation on an amendment to Ordinance No. 401-1-89, the Single Family Four Zoning Ordinance, amending Section Four, C, requirements of placement and length of structures that are placed on the lots. Mr. Cravens explained that when the ordinance was adopted, the requirement specifying the placement of structures on the lots in the SF-4 zoning districts was ambiguous and needed to be clarified. The recommended amending of the ordinance stated that (1) at least 35% of the total square footage of the walls shall face the front of the lot [rather than 15%], and also, (2) all dwelling units must be oriented on the lot so that the long axes' of the structure is parallel with the street it faces upon.

After no further discussion, a motion was made by Luann Shortnacy and seconded by Chris Kaden to **recommend approval** of the amendment to Council. Motion carried by the following votes: Ayes: Shortnacy, Duncan, Knight, Schmitz and Kaden. Nays: None. Absent: Hawkins and Fleitman.

The next item of business, being the **seventh item** on the agenda, was consideration and recommendation on an amendment to Ordinance No. 309-11-86, the Site Plan Review Ordinance which establishes site plan review for the I-35 Corridor and the Single Family Four zoning districts. This amendment encompasses the same requirements of the amendment just voted on [being Item No. six]. A motion was made by Chris Kaden and seconded by Luann Shortnacy to **recommend approval** of the amendment to Council. Motion carried by the following votes: Ayes: Shortnacy, Duncan, Knight, Schmitz and Kaden. Nays: None. Absent: Hawkins and Fleitman.

The next item of business, being the **eighth item** on the agenda, was consideration and recommendation on an amendment to the Zoning Ordinance definitions of Auto Parts and Accessories and Auto Storage or Auction. Mr. Cravens **recommended the item be tabled for further review**. A motion was made by Russell Duncan and seconded by Luann Shortnacy that the item be tabled for the present time. Motion carried by the following votes: Ayes: Shortnacy, Duncan, Knight, Schmitz and Kaden. Nays: None. Absent: Hawkins and Fleitman.

The **tenth item** of business was discussion on the proposed Sign Ordinance. Mr. Cravens explained that he and Mr. Villa had reviewed the present sign structures within the City. He said he felt the maximum height should be raised to 35 feet which would take care of most of the taller signs already in place. Any sign which is taller

than that will be grandfathered for five years, unless they are blown down or destroyed before that time, at which time they will not be allowed to be rebuilt back to their former height. Discussion ensued concerning height of various signs located on Highway 82. P & Z members agreed that extreme height of signs, i.e. service stations, is not necessary since the speed limit within the City limits is mostly limited to 45 and 35 mph. Mr. Cravens said he felt that multiple signs on one lot should be eliminated.

Mr. Cravens reviewed his findings of the signs located at the downtown businesses with changes being made in the proposed Sign Code regarding those signs.

Variations were discussed. Mr. Cravens said any business could apply for a variance regarding sign heights. McDonald's were granted a variance for their sign when the business was built several years ago.

Mr. Cravens said a public hearing will be held at the June 14 Planning and Zoning Commission meeting for the proposed Gainesville Sign Code.

After no further business the meeting was adjourned at 3:52 p.m.