

WORKSESSION MINUTES
November 1, 2006
7:00 p.m.

PRESENT: W. F. Hite, Chairman
J. Curd, Vice-Chairman
T. H. Byerly
S. N. Bridge
K. A. Shiflett
J. Shomo
J. D. Tilghman
R. L. Earhart, Senior Planner and Secretary

STAFF PRESENT: D.D. Wolfe, County Engineer
J. Wilkinson, Zoning Administrator
S. L. Rosenberg, County Attorney

The Planning Commission met to consider the comments received at the Joint Public Hearing and throughout the comment period regarding the Subdivision and Zoning Regulations.

Doug Wolfe began with an overview of the public hearing where approximately 200 people attended and 30 spoke. The County also received 55 written comments. Mr. Wolfe indicated that the format for the evening would be to discuss the general comments on the ordinance and land development in the County, discuss the major changes and comments on those changes, as well as the technical issues raised. The goal would be to hear from the Commission and reach a consensus where possible prior to the Commission's November 14th meeting.

Mr. Wolfe stated that an area of concern to a great many speakers was the impact on personal property rights. Mr. Rosenberg reminded the Commission that everything in the Subdivision and Zoning Regulations has some impact on property rights; it is part of what the County does.

Mr. Wolfe stated that there were several comments concerning the ability of families to divide property in accordance with the provisions of wills. Mr. Rosenberg indicated that there is nothing in the proposed ordinance that is any different regarding division of property for wills than the existing ordinance. There is an increase in the time delay in terms of frequency of the lots being

created, but nothing that precludes land being divided in accordance with someone's will. He explained that judicial partitions are allowed by State Code and nothing the County does in an ordinance can override the State Code.

Mr. Byerly asked if the existing ordinance forced a partition suit. He indicated that suits are expensive and he asked if there was any other way to allow that.

Mr. Rosenberg stated that up until 1995, there was a provision in the ordinance for voluntary judicial partitions of land among co-owners. Mr. Rosenberg cautioned against allowing an "exemption that swallows the rule". You don't want to allow people to get around the lot creation rule by way of the will.

Mr. Shomo asked that Mr. Rosenberg look into allowing lots to be created as provided for in wills without the expense of court action.

Mr. Wolfe stated that the County had received 27 comments voicing opposition to the County's "elimination of conventional septic systems". Mr. Wolfe stated that the advertised ordinance does not eliminate conventional septic systems; the only thing the County wants to eliminate is direct discharge systems for new construction, although they could be used as a system of last resort in the case of a failure.

Mrs. Earhart reviewed other misconceptions and concerns raised at the public hearing or in the written comments. Those included the number of building permits currently being issued in the County, the median household income in the County relative to other jurisdictions in the state, the recommendation to wait until after the Comprehensive Plan is complete to address the minor subdivision regulations, a recommendation to zone more land to residential to effect the supply of buildable lots, the need to compensate landowners if division rights are taken away, suggestions regarding the tax structure, drainage, and HOAs, and the impact that the proposed changes will have on "pre-sold" lots.

Mr. Wolfe indicated that there appeared to be three major themes to the comments and some technical comments. He suggested that the Commission look at each of the areas separately.

Mr. Wolfe presented the issue of lot creation to the Commission and reminded them what the current ordinance allowed and what the advertised changes would allow.

Mrs. Tilghman suggested that this was one area that might need to wait until after the Comprehensive Plan was completed. If there is any place where that makes sense, it is in the area of lot creation. There is a direct correlation between the Comprehensive Plan and lot creation provisions.

Mr. Byerly stated that he listened at the hearing, read the comments, and has been listening in the community. He stated he feels like the County has heard from a large acreage base and the question comes up why are we suggesting the changes? We are getting caught up in regulating an industry's profitability. He stated that it is a myth that if we tighten up the regulations, we will end the abuse. He further stated that if we have 14,000 lots that could be subdivided and we are only creating 175 new lots per year, it really isn't much of a problem. If it was more, maybe he could see a reason to change the regulations. The holding period takes out the land speculator; we don't need to lengthen the time period to 3 or 5 years. One lot every year or two years, maybe, but treat both districts the same. He indicated that large tracts of agricultural land have been purchased in his district by younger farmers and the sale of a lot makes it possible for operators to continue farming the land.

Mrs. Shiflett stated that she didn't disagree with most of what Mr. Byerly said, but what the people at the Comprehensive Plan meetings in January said was that the County has failed to implement the Comprehensive Plan that we have and that is due to the lot creation occurring in the rural areas. She stated that the County needs incentives to discourage lot creation, but we also need disincentives or we won't have any viable farms. She further stated that even a couple of houses create more conflicts for the farmers. If we want to keep the farm economy, we need to implement some form of these restrictions.

Mr. Bridge remarked that it was the same people at the January meetings that are now opposed to the proposed regulations.

Mr. Hite stated that farmers want to maintain the farm economy, but don't want to be told they can't sell off a lot. He indicated that he firmly believed that spouses should be eliminated, but wanted to see children and grandchildren in the ordinance. He stated that there is less choice land on virtually every farm that can support houses for the family.

Mr. Byerly stated that farmers make good decisions. They won't sell off fertile soils unless they can't do anything else.

Mrs. Shiflett stated there have been abuses of the Family Member Exception.

Mr. Byerly replied that you are going to have abuses with any regulations; we just need to come up with an acceptable level of them.

Mr. Bridge asked why waiting for the Comprehensive Plan to be completed would be beneficial.

Mrs. Tilghman said that if the County decides on this issue they are really telling the Comprehensive Plan Steering Committee what they should be doing. She recommended waiting a few more months and seeing where the Plan goes.

Mr. Byerly said this is really a matter of managing our growth over the next 20 years. We need to allow more residential growth in the Urban Service Areas.

Mr. Wolfe presented the issue of family member exception to the Commission and reminded them what the current ordinance allowed and what the advertised changes would allow.

Mrs. Shiflett said she felt that there was a lot of misconceptions about this. A lot can be given to anybody as long as it has road frontage.

Mrs. Tilghman said the original intent of the Family Member Exception was to give/sell family members a lot to keep children on the farm to work. We know there are abuses to that exception- more than 44% of the lots are being created as Family Member Exception lots. We need to close the loopholes, children may be too restrictive, but we have an obligation to close the loopholes. We need to make it right or eliminate the exception altogether.

Mr. Shomo stated he didn't agree with eliminating it, but thought a holding period would cut down on speculation.

Mrs. Tilghman asked about land splits in the case of a divorce.

Mr. Rosenberg stated that he wasn't prepared to speak to that issue right now, but would at the next worksession.

Mr. Shomo asked him to think of a way to leave land without a partition suit and the court having to divide the land.

Mr. Bridge said that the draft stated that involuntary transfer doesn't count.

Mr. Curd stated that he agreed with Mrs. Shiflett that there needed to be incentives for agricultural land owners and until we have them we shouldn't add any more restrictions. He asked if part of the reason that we have abuses of the Family Member Exception clause is because we have too many restrictions on lot creation. A lot has been said about sprawl and uncontrolled growth, but Family Member Exception lots are not the greatest contributors to sprawl. He asked how we are going to preserve farming if we don't protect farmers. We may lose more farmers and force them to sell entire farms if we don't allow them to create lots. He stated that he may be able to support small, reasonable changes to the ordinance, but that is all. He agreed with the staff comment that we need to look at the issue of lot creation in agricultural areas more holistically. He indicated that the County needs to decrease the demand for these lots somehow, but realize that not everyone wants neighbors. We need to create more lots in our Urban Service Areas and Community Development Areas and get the infrastructure there to support them. We need to look at viewshed protection,

limiting the size of lots- making the minimum and maximum size 1 acre, decreasing the ability for subdivision- both Family Member Exception and Minor Subdivision- to a % of the land owned. We need to look at allowing lots to be created, not just through Family Member Exception. He summarized by saying that the County needs to make small, reasonable changes, allow 1 lot every 12 months, eliminate spouse from Family Member Exception, but there are estate reasons why that is needed.

Mr. Byerly stated that he felt the holding period- 2, 3, 4, or 5 years would be the deterrent.

Mr. Curd reiterated that he thought lot creation needed to be slowed down, but the regulations need to be reasonable.

Mr. Byerly stated that the County needs to manage, not control, growth. We need to take the incentives out for the abuses.

Mrs. Tilghman said the farmers need incentives, like PDRs. The question is does the County have the will to put the money towards the incentive programs. She stated that she doesn't have a feel for what the will of the County is, but if they want to protect the rural character of the County, they need to put the money towards the programs that will achieve the goals.

Mr. Wolfe brought up some technical issues for discussion, starting with alleys.

Mr. Bridge stated that he thought there should be some construction standards for alleys, but they didn't have to meet state standards.

Mr. Hite recommended that HOA be required to maintain alleys.

The consensus of the Commission was to exempt alleys from state design standards.

Mr. Wolfe brought up the concern raised regarding requiring sewer laterals to be shown on the preliminary plat. He stated that the concern was that was too much detail at a preliminary stage of project development. He indicated that he has talked to the Service Authority and they agree that it doesn't need to be required.

Mrs. Shiflett stated that if the Service Authority doesn't have a problem with not requiring it, she is fine with it.

The Commission set Tuesday, November 14, 2006 prior to their regularly scheduled meeting for a follow-up worksession on changes to the subdivision regulations.

There being no further business to come before the Commission, the Planning Commission adjourned.

Chairman

Secretary