

SUMTER CITY - COUNTY PLANNING COMMISSION

Minutes of the Meeting

April 23, 2014

ATTENDANCE

A regular meeting of the Sumter City – County Planning Commission was held on Wednesday, April 23, 2014 in the City Council Chamber located on the Fourth Floor of the Sumter Opera House. Six board members: Mr. Burke Watson; Mr. Doc Dunlap; Ms. Qualisha Belton; Mr. Jim McCain; Ms. Sandra McBride; Ms. Bertha Willis – and the secretary were present. Mr. David Durham; Mr. Dennis Bolen and Mr. Todd Champion were absent. The meeting was called to order at 3:00 p.m. by Mr. Burke Watson.

MINUTES

Mr. Jim McCain made a motion to approve the minutes of the March 26, 2014, meeting as written. The motion was seconded by Ms. Qualisha Belton and carried a unanimous vote.

NEW BUSINESS

OA-14-04, Private Street Access for Large Lot Subdivisions (County)

Ms. Donna McCullum presented this request and stated the request deals with large lot subdivisions on private roads in the County. The request would involve amending Article Seven, subdivision procedures, Article 8, design process and Article 10, definitions related to subdivision access provisions and clarification of private easements for large lots, in order to allow private street access for new residential subdivision lots in excess of 5 acres. She stated the request has been generated by Mr. Harry Ives, who has an option to buy approximately 45 acres on Byrd St. and wishes to subdivide the property into five lots ranging in size from 5 acres to fifteen acres. The applicant submitted a plat to the Planning Department for the five lots in November 2013. The Planning Department could not approve the plat submitted and the applicant was sent a letter stating Staff's official position and the reason Staff could not approve the plat. Ms. McCullum stated Byrd St. is a private dirt road and in the current ordinance there is no provision for approving such a plat to add five additional lots on this private drive. This prompted the applicant to initiate this ordinance amendment – to be able to add 5 additional lots on private dirt roads.

Ms. McCullum explained that Byrd St. is approximately 7,000 feet long and runs from old Hwy. 521 to the new Hwy. 521. It currently serves twenty-one existing parcels that are platted and recorded. Byrd St. today is a non-conforming dirt easement/road and does not meet any of the standards of the zoning ordinance. It does not meet

the criteria for rural community drive or public street. Byrd street is just one of many private dirt roads in the County – approximately 530 miles according to information provided by Sumter County Public Works. She stated the applicant is asking to amend the Sumter County Zoning Ordinance to allow regular, market rate, large lot subdivision of five acres or more on private streets (either on new private streets or on existing private streets). Market rate lots means that the lots could be sold to anyone in the county, not just to family members. Ms. McCullum stated the current ordinance states that in order to subdivide and create new lots, the lot shall front on a public street. She explained that a public street is a street that is owned and maintained by the County. The only provisions for lots to be divided off a private street is through a Lifetime Transfer to a family member – parent to a child, grandparent to grandchild, sibling to sibling or some immediate family member; or through planned developments. By state law, this development does not meet a planned development because planned developments have to be a mix of uses, residential and commercial. The Byrd St. subdivision does not meet any of the above criteria and would have to be upgraded to a county paved road in order to add these five lots to the street.

Ms. McCullum stated the request has been broken into three sections and staff has offered the following options:

1. **Access to agricultural lands and timber parcels:** There is no specific guidance in the zoning ordinance providing for legal access to land locked agricultural or timber parcels. Planning Staff proposes a simple change which permits these parcels of 10 acres or more be served by a 15' private access easement and driveway, shown on a plat or described in a deed, so long as no primary residential or commercial uses exists on the property or provide a written statement of approval from the property owner(s) in lieu of a bone fide easement.
2. **Private Access for Large Lot Residential:** Expand the Rural Community Drive Section of the Ordinance - private street with public street access; lifetime transfers & **market rate lots:** (changes/additions are indicated in bold/italics)
 - Serve no more than five lots
 - ***5 acres or more in size for market rate lots***
 - 1 acre or more for lifetime transfer
 - 125 feet wide at the building line
 - Easement clearly shown on plat
 - Privately maintained by property owners
 - Restrictive Covenants – stating access, ownership and future maintenance responsibility is owners
 - Easement – 50 feet wide
 - All weather surface (crush & run)
 - 15 feet wide – family subdivisions

- **20 feet wide – market rate lots**
- **50 feet radius cul- de –sac**

Additional Requirements for Market Rate Lots

- ***Road shall be an all-weather surface with a base at least 4 inches thick of compacted stone***
- ***Road shall have a cul-de-sac terminus with a 50 ft. radius***
- ***Road shall not exceed 1200 ft. in length***
- ***Road shall adequately address drainage and stormwater management***
- ***Road design plans shall be approved by the County Director of Public Works***
- ***All plat documents, covenants, easements, maintenance agreements shall be reviewed & approved by the County Attorney***

3. Preexisting Nonconforming Private Streets

Ms. McCullum stated Staff supports the idea of private streets for large lot rural subdivisions, especially for future new development. The issue is still with preexisting nonconforming streets such as Byrd St. and the other approximately 530 miles of other county private drives. Byrd St. is in poor condition and staff feels it cannot absorb additional trips without some type of upgrade. She stated Byrd St., was put into place forty or fifty years ago. There are twenty platted lots on that street. Under whatever regulations that were in place at that time, the development was grandfathered; it does not comply with the new regulations. The ordinance states that if you add lots or do new development on a nonconforming site, it must be brought up to current regulations. The two issues are: 1) Should we permit private streets for large lot, market rate development? and 2) If yes, then what precautions (limitations) are necessary to ensure the public health safety and welfare? Staff feels the best option for private nonconforming streets is individual review with final approval at the Planning Commission. Review would include

- Development conditions as part of the approval
- Review conditions of road
- Total number of trips
- Input from public safety & public works
- Surrounding resident notification

Mr. Jim McCain asked if this amendment would apply to all private roads or just Byrd St.

Ms. McCullum stated it would apply to all private streets/roads in the County.

Mr. Doc Dunlap asked what improvements would have to be done to bring the road into compliance.

Mr. Eddie Newman, Sumter County Public Works director; Mr. Karl Ford, Sumter Fire Chief and Mr. Johnathan Bryan, Sumter County Attorney were present and spoke in opposition to the request.

Mr. Eddie Newman stated the County will only accept paved roads. In this case full drainage would have to be installed, acquire right-of-way from SCDOT where Byrd St. runs into old Hwy. 521. County is of the opinion that anybody subdividing on Byrd St. must bring it up to current County standards for the safety of those citizens who travel on the road.

Mr. Watson asked what would be the typical width for the right-of-way.

Mr. Newman stated the right-of-way would have to be a minimum of 50 feet with twenty-two feet of paved surface, which is a slab. He stated swells and ditches would have to be put in for proper drainage.

Ms. Bertha Willis asked who was responsible for bringing the road up to current regulations.

Mr. Newman stated it was the responsibility of the developer or whoever was selling the lots to bring the road up to current regulations.

Mr. Karl Ford, Sumter Fire Chief, stated this ordinance was created to get away from private roads. He stated trying to navigate down a road like Byrd St. is a tedious task and hinders a timely and safe response for the person being rescue and also responding personnel. He stated that for the safety of the public he is asking that this type of road not be permitted to come forth; not go against the ordinance as it reads because it is a safety issue.

Mr. Johnathan Bryan, County Attorney, gave several examples of roads that were shown on a plat but were not developed as promised. Lots were sold and houses built on substandard roads. The residents want their roads paved. It is difficult to get neighbors to come together and cooperate to the extent necessary to maintain roads. He stated you have to make sure that under the development standards the work is done correctly so that the roads can be turned over to the responsible entity – County Public Works – to maintain them. If you start letting dirt roads in what you have done is reduced the standards, rolled back the standards that have been set and caused problems down the road.

Mr. Dunlap asked if some type of compromise could be reached between the developer and the County to where neither party had to pay the entire cost for paving the road.

Mr. Bryan stated that Mr. Newman is limited as to what he can do by the County Road Policy. Anything outside of that would have to be

approved by County Council.

Mr. Watson asked who pays the taxes on the private road.

Mr. Bryan stated the private road is not a separate tax parcel and runs across other property and the people who own the other property pays the taxes, but in hid view, this was a prescriptive easement.

Mr. Watson asked who would be responsible for anything that might happen on the private road.

Mr. Bryan stated that liability would be on the people who use the road – the property owners.

Mr. Harry Ives and Mr. Robbie Boyd were present and spoke in favor of this request.

Mr. Ives stated he was informed that Byrd Rd. was a private road and the County did not maintain it. He stated he was under the impression that the subdivision plat he submitted was in compliance with regulations according to State Code of law which states that subdivisions with parcels five acres or more in size do not have to go before the Planning Commission, could be approved administratively. He further stated the legal question of liability was a concern to him. He stated he would respect any decision the board made on this matter.

Mr. Watson asked if it were correct that the State supersedes the County.

Mr. Ives stated it is he has been told that is correct and has experienced one time where State Code superseded the County regulations.

Mr. Bryan stated it all involves the definition of street and that word is not defined in State Code. He stated that according to State Code, a subdivision of five acres or more is exempt from subdivision regulations if no new road or street is involved. He stated that Byrd Rd. is not shown on a plat from start to finish which makes it a prescriptive easement and not a street.

Mr. Ives stated it was his understanding that the ordinances were drafted by State Code guidelines.

Ms. Qualisha Belton asked what improvements, if any, Mr. Ives was willing to make.

Mr. Ives stated he would have to know what improvements were involved before he could commit himself either way.

	<p>Mr. Doc Dunlap recused himself from any further discussion on this request.</p> <p>After further discussion, Mr. Jim McCain made a motion to recommend denial on all portions of this request. The motion was seconded by Ms. Qualisha Belton and carried a unanimous vote.</p>
OTHER BUSINESS	NONE
DIRECTOR'S REPORT	NONE
ADJOURNMENT	<p>With no further business, Mr. Jim McCain made a motion to adjourn the meeting at approximately 4:15 p.m.</p> <p>The next scheduled meeting is May 28, 2014.</p>
	<p>Respectfully submitted,</p> <p><i>Wanda F. Scott</i></p> <p>Wanda F. Scott, Planning Secretary</p>

