

June 26, 2001

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
June 26, 2001 6:00 P.M**

PRESENT: Chairman John Mayes, Commissioners Chuck Hufstetler, Garry Fricks, Jerry Jennings, and Tim Mahanay.

OTHERS

PRESENT: County Manager Kevin Poe, County Attorney Wade Hoyt, County Clerk Michele Fountain, and Assistant County Manager Tom Tully.

CALL TO ORDER: Chairman Mayes called the meeting to order.

INVOCATION: Commission Mahanay led the Invocation.

PLEDGE OF

ALLEGIANCE: The Pledge of Allegiance was led by Commissioner Fricks.

ADOPTION OF

MINUTES: Commissioner Fricks made a MOTION to adopt the minutes of the Regular Meeting of June 12, 2001 as presented. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

SECOND READING/PUBLIC HEARING

**AMEND FLOYD COUNTY CODE,
SECTION 2-9-70 (HOTEL/MOTEL EXCISE
TAX) RELATING TO DEFINITION OF
PERMANENT RESIDENT.
(FIRST READING WAS HELD JUNE 12, 2001,
AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler to open the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings
" Mahanay
Chairman Mayes

Motion Carried

Chairman Mayes stated the Public Hearing is now open. County Manager Kevin Poe stated that the amendment is to revise the definition of Permanent Resident. For clarification in enforcing the Hotel/Motel Tax Ordinance it had been determined that the term "permanent resident" needed to be redefined.

There being no one present to speak for or against the matter, MOTION was made by Commissioner Hufstetler to close the Public Hearing. SECOND by Commissioner Jennings.
VOTING:

	YES	NO
Commissioner Hufstetler		
" Fricks		
" Jennings		
" Mahanay		
Chairman Mayes		

Motion Carried

MOTION was made by Commissioner Fricks to amend County Code Section 2-9-70 (Hotel/Motel Excise Tax) relating to the definition of permanent resident. SECOND by Commissioner Mahanay. VOTING:

	YES	NO
Commissioner Hufstetler		
" Fricks		
" Jennings		
" Mahanay		
Chairman Mayes		

Motion Carried

**AMEND FLOYD COUNTY CODE,
ARTICLE II ENTITLED SELF-SERVICE
FUEL DISPENSING PUMPS, SECTION
2-10-20, 2-10-22, 2-10-23 AND 2-10-24.
(FIRST READING WAS HELD JUNE 12, 2001
AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Fricks to open the Public Hearing. SECOND by Commissioner Mahanay.
VOTING:

	YES	NO
--	-----	----

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

County Manager Kevin Poe stated that this amendment deals with self-service fuel dispensing pumps. Due to issues which had come up regarding enforcement of this code section, dispensing stations are being redefined. They are also dealing with the situation of dispensing pumps which are unattended. He asked that action be deferred on this item. MOTION was made by Commissioner Mahanay to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

No action was taken on this item.

**FILE #04-2001SUP, CHATEAU DRIVE,
TAX MAP #262, AREA #00, PARCEL(S)
#5C AND #12, REQUEST A SPECIAL USE
PERMIT IN A SUBURBAN RESIDENTIAL
ZONING DISTRICT TO CONSTRUCT
DUPLEXES AT TOTAL OF 40 UNITS
IN PHASES.
(DEFERRED FROM MAY PLANNING
COMMISSION MEETING
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE – 3 FOR, 6 AGAINST])
(FIRST READING HELD JUNE 12, 2001 AT 2:00 P.M.)**

Chairman Mayes called for a MOTION to open the Public Hearing. County Attorney Wade Hoyt, III stated that for the first time in ten years he had recuse himself as County Attorney and advising the Board on this matter. The applicant, Jack Pearson, is married to his daughter and he would therefore have a conflict. He stated that he had asked Andy Davis, City Attorney, to sit in for him and answer any questions the Board might have on this matter. Chairman Mayes recused County Attorney Hoyt on this matter. MOTION was made by Commissioner Hufstetler to open the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings

" Mahanay
Chairman Mayes

Motion Carried

Assistant County Manager Tom Tully reviewed the location on the tax map. The applicant's site plan, which had been submitted to the Planning Commission, was also reviewed. The setback for the rear is 60 feet and the minimum is 30 feet, so there is a buffer of 60 feet from the rear property line. It was noted that the adjacent property is zoned S-R and the applicant is seeking a Special Use Permit to build duplexes. Also presented was an aerial view of the site and showing the buffer. A topographical map of the area was not available. The 60-foot buffer is would be between the duplexes and Woodfin Subdivision. Assistant County Manager Tully noted that these maps are hand drawn and not to scale, it is an estimate based on information available and that the property had not been surveyed.

SUPPORT

Frank Jones, 339 Broad Street, Rome, an attorney representing the applicant, Mr. Pearson and Pearson Properties, Inc., stated that he is there to speak in support of the request for Special Use Permit. He stated that this is a 17 acre tract of land located off Chateau Drive. It is directly across the street from Chateau Apartments. Mr. Paul Camp had provided a report and an appraisal of the property at the request of Mr. Jones and it had been previously submitted to the Board members. Mr. Jones stated that the reports give a detailed analysis of the feasible uses of the property and its characteristics. One of the important factors in deciding zoning as well as Special Use Permits is to determine the character or characteristics of the property in the area. On the left hand side of Chateau Drive is the automobile dealership and then Hampton Inn, then this property, then the Hillwood or Hillcrest Duplexes and Triplexes, which are shown on the aerial photo. The property line of Hillcrest actually is about 60 feet toward Chateau Drive, in other words this property extends out only about 60 feet from the rear property line of the Hillcrest Subdivision, which is duplexes and triplexes. There are eight duplexes and triplexes along Hillcrest that currently back up to Woodfin. The distance along which those have been constructed is approximately 300 to 400 feet. The proposed development provides for seven duplexes, which will back up to Woodfin, but they are spread out over an area of approximately 1,000 feet, so it is considerably less dense. In addition, along Chateau Drive, there are an additional 51 duplexes and triplexes along that road. On the other side of the road from Highway 411, is the Winthrop Manor Assisted Living area, together with Winthrop Academy, Holiday Inn at the top of the hill, Heatherwood, which appears to be a three story subsidized housing, a convenience store, a service station, Three Rivers Substance Abuse Service area and then Chateau Apartments. This tract is already zoned S-R which has certain uses that are permitted within that area. If the owner wanted to subdivide the property, he could put in approximately 80 mobile homes on the 40 lots without a Special Use Permit, without anything from the Board of Commissioners, it is just a matter of having it subdivided. That is not their desire, they do not think it is consistent with the uses in the area. The consistency in the area is to continue the development of property so that it will not affect the value of the other properties in the area and also provide a reasonable buffer to the residents in Woodfin. Based upon his knowledge, most of the lots in Woodfin have a 300 or 400 foot lot and in addition to the 60 foot buffer zone, there would be a distance of more than a football field between the developments, between house and house. They feel that is sufficient to protect the integrity of the neighborhood as well as the property values. They understand that most people would like to have forest and undisturbed real estate around them for miles, but when there is development of property, compromises have to exist. The law says people have the unfettered right to the use of their property, subject to the legal imposition of certain zoning restrictions. In this particular case, Mr. Pearson plans to develop it for duplexes and triplexes. In the ordinance, the minimum lot size is 8,500 square feet, what would actually be permitted. That would allow the development of 70 lots in this tract. Rather than do that, Mr. Pearson has reduced the size, scope and density of it approximately

40% down from 70 lots to 41 lots. The sizes of these particular lots are two and three times the minimum lot sizes as set out in the code. The building setback line required by the ordinance is 25 feet, in addition to that Mr. Pearson is willing to provide a 60 foot buffer zone. The way the buffer zone is drawn could mean it is possibly more than the 60 feet. If the Special Use Permit is not granted, they believe that the law is clear that this would be an arbitrary and unreasonable taking and a violation of U. S. and State of Georgia constitution. It would constitute a taking of private property without just compensation and has no relation to public health, safety, morality or general welfare. In short, the test that has been given by the courts is there damage to the individual who is seeking to have it rezoned and is there substantial damage to him and little benefit to the public. The courts of this state have indicated there are several factors that people must consider who have the duty and are charged with making this decision. One is the character of an area, and this not only is a similar use, but also is an identical use to the adjoining property. Another is the suitability of the use. Encouraging the most appropriate use of the land, and Mr. Camp's appraisal shows that the highest and best use is duplexes, the next use is mobile homes and the last use would be single family residential. There is significant injury to the landowner as pointed out by Mr. Camp in his appraisal; there is a 25% reduction in value if a special permit is not granted. Mr. Pearson has purchased the property and paid approximately \$190,000. If the Special Use Permit is not granted, Mr. Camp estimates that the reduction in value will be approximately 25% or \$50,000. All of these guidelines, if answered honestly, require that the Special Use Permit be issued. In addition to the Georgia law, the local ordinance has set forth seven guidelines and each of them, if answered honestly, would demand that the Special Use Permit be granted. They ask that not only their interest be considered, but in evaluating this see that there is no injury to the property owners of Woodfin. This is a decision that the Commission has to look at what the law requires rather than numbers. In this incidence they submit that the law does require it. He thanked the Board for their time.

Commissioner Jennings asked if, when Mr. Pearson purchased the property did he know the zoning in existence at the time. Mr. Jones replied that he did, he purchased it on May 25. The first Planning Commission meeting was May 3 and he had attended the meeting. Mr. Pearson felt that it was an appropriate decision based upon the fact that people had mentioned a buffer. Mr. Jones was not involved in the matter at that time. Commissioner Fricks asked that if currently there are any area where duplexes would be allowed without a Special Use Permit. Assistant County Manager replied, not in the existing code. He noted that in the proposed code there will be areas for duplexes. Commissioner Jennings asked the elevation from the property line down to Chateau Drive. Mr. Jones stated those figures were not available. He noted that it is feasible to develop it because roads are currently in existence on Hillwood or Hillcrest. Commissioner Jennings asked the footage on Hillcrest from Chateau Drive to the back duplexes on Hillcrest. Mr. Jones replied that in this situation what he had attempted to state was that the back line of Hillcrest is only 60 feet closer to Chateau Drive than the back line of this property. He stated that he feels the scale on the aerial map is distorted somewhat. If a line was drawn directly along the back line of the Hillcrest property or Hillwood Subdivision, you would only have an offset of approximately 60 feet to come back to this property and then go straight across. Mr. Jones noted that the purpose of the buffer should coincide with the property lines of Hillcrest Subdivision, if it were to scale. Commissioner Jennings stated that the duplexes are close to the road, but the property line could be further back. Commissioner Jennings requested the number of feet from Chateau Drive to the duplexes on Hillcrest. Mr. Jones stated that he would hesitate to guess, and he would not want to mislead them. Commissioner Jennings also asked the depth of the property from Chateau to Coventry. Mr. Pearson informed Mr. Jones that it is approximately 500 feet from the front of Chateau to the rear of the property line. Mr. Jones stated that the deed he has looks more like 380 feet so he would estimate it as 400 to 500 feet. Commissioner Fricks asked the total depth of the tract. Mr. Jones replied the tract is approximately 1,320 feet in length and 400 to 500 feet in depth. Commissioner Mahanay asked if this included the 60 foot buffer. Mr. Jones replied that it does. Commissioner Fricks asked if construction is proposed to go against the buffer or will it be an additional setback from there. Mr. Jones stated that they would be willing as a stipulation or as a condition of the granting of the Special Use Permit to come back another 25 feet, have the setback 25 feet from the buffer. Commissioner Jennings stated that they do not know how the land falls off since they do not have a topographical map for the area. Assistant County Manager Tully noted that a setback line is measured by the lay of the land. Mr. Jones stated that they

had no problem with 100 feet, lay of the land measurement, and the house could be constructed at that 100 feet instead of a horizontal line. He stated that Mr. Pearson is not trying to do anything which would harm these people in any way, he is trying to cooperate and make this a good development.

Commissioner Jennings asked if there was a storm water management plan, since an area of this density is public safety issue. Mr. Jones replied that it is his understanding that when this goes through the subdivision regulations, this will have to be signed off on before it can go forward. Assistant County Manager Tully stated that this would be a part of the permitting process and would include grading and land disturbance and would fall under the code. The project would go back through the Planning Commission to approve the subdivision. This is only one step in the overall development of the property. It was noted that a storm water runoff pond was included in the site plan.

OPPOSITION

Preston Smith, an attorney with Smith, Shaw, Maddox law firm, represented a number of the families who live in the Woodfin Subdivision and around that, Twickenham, Saddlebrook Downs, Saddle Mountain and those areas. The family members are concerned because of the extraordinary increase in population density proposed by the project. Although the Board has been told that this is essentially within the same plan that Chateau drive has, actually there is no other example of 350 people living in 80 duplexes in one spot anywhere on Chateau Drive. They do not have any problem with the duplexes that are lining Chateau Drive. The problem is the map is truly not drawn to scale; the lots back directly up to the Woodfin lots. The Woodfin lots are approximately .7 acres each, there is not a large forest area as is depicted there. The line on the back side of the subdivision backs right up to the Woodfin homes. They are talking about 40 duplexes which means on each duplex, two different families so 80 family residences, in the neighborhood of 300 to 350 people potentially living in the small area. The concern they have is over the health and safety and the environmental impact that this will have on their neighborhood. They have concerns about the increase in traffic, the increase in crime, the increase in problems associated with the density, noise, privacy, pollution, and the destruction of all of that land. He stated that he lives in Twickenham and his children Trick or Treat on this street, they have friends that live there, it is a very private neighborhood. This will have an impact on their property values. The notion that Mr. Pearson is somehow subject to an unfair taking by you is not reasonable because on May 3, the Planning Commission voiced its concerns over this project and there was a significant opposition in that meeting. Mr. Pearson decided to go ahead and buy the property on May 25, knowing that there was this opposition and knowing that the Planning Commission had serious reservations about the plan as submitted. In fact it was not approved at that time. The courts have acknowledged that you have great discretion to make decisions particularly in the line of the overall view of the health, safety and welfare of the people in this area. This is the concern they have, that this will have a desperate impact on their standard of living, on their property values, but most importantly on the health and safety of their families putting this kind of population density in their back yard. The reason the questions of Board has remained unanswered, are the same reasons the residents have so many concerns. As it currently stands, there is somewhat of a vague plan of promises of different types of buffers, but there has not been a survey of the property, which is why they are guessing about where the line might be and how big the forest might be. There is not a single topographical study, the reason the topographical study is so important in this case is because that is a significantly steep grade that drops off. When you talk about a 60-foot buffer, the residents will look out of their backyards onto the duplexes and this is a significant one to them. The problem is the duplexes are being brought right into their back yards. The buffer they are talking about will not be a significant protection for them given the topographical nature of this area. Those are the questions, which cannot be answered because no homework has been done. No one knows the distances, no one knows the survey, no one can really tell you where the line is because no studies have been done. Mr. Smith presented copies of photographs of the homes on that ridge and the duplexes that line Chateau Drive. He then yielded the remainder of his time to the residents wishing to speak and stated he would then be available for questions.

Karen Tucker, 18 Coventry Drive, stated that she is an adjacent property owner, but she is also speaking as a member of the Woodfin Community League. She is a Resource Committee Chairman for the League and therefore had a chance to hear a lot of the statements from her neighbors as to why they oppose this development. She then asked that her neighbors who are opposing this to stand and stated they had petitions of approximately 450 names from people who could not necessarily attend, but are in opposition. They know there are other duplexes and businesses on Chateau Drive, they are not opposing the building of duplexes, but as can be seen in the Hillcrest Subdivision, they are not approaching them nearly as close. With the addition of more than 300 to 350 people that close to their subdivision, there is a great loss of privacy and there is an increase of noise. If at some time pets are allowed in these duplexes, stray animals could wander up into their neighborhood and would threaten the safety of their children. In addition for their property values to be maintained, appraisals done on their homes and lots have listed them as a quiet low density single family dwelling neighborhood. Their property values need to be maintained and that can only be done through an adequate buffer. There is a lot of question over how much the buffer will actually be. She stated that if you stand in her backyard and look down the hill, 100 feet looking under a mature tree canopy does not afford you a lot of privacy. Although it is possible to construct duplexes on this steep hillside, it can be done by clearing the trees off, by cutting into the hillside. It's possible, but they are concerned about a lot of unknowns. Will the excavation create instability in their property and their structures. Could there be damage even to the duplexes later on because of the instability created. They are also concerned about erosion. Because of these concerns and many others, they do oppose this development as planned.

Dr. Bill Naguszewski, stated that he has made Woodfin and Rome his home for the last eleven years. His home is directly adjacent to the proposed development. He stated that he would like to speak to the Board on behalf of their children. The children of Woodfin community and the children that will be living in this crowded development. Speaking from personal experience, good kids can do foolish things. He stated that he grew up in Roxbury, New Jersey, not too dissimilar to Rome. The woods were his favorite place to play and he smoked his first cigarette in those woods. Thank God, Roxbury was properly zoned in 1966, a fairly dry summer that year. There was a five-acre buffer between housing developments, and he needed that because it was his cigarettes which set the woods on fire. As he ran to the nearby pond, he dislodged a boulder, which rolled down the slope and just barely missed his friend's head, who was trying to fill a bucket from the stream below to help him. He stated that he was lucky that no one was hurt, and he received no charges or juvenile time. The children of this congested development will be drawn into the woods or onto Chateau Drive, a four-lane highway. Neither area is a safe playground and the plans do not allocate an appropriate place for these children. There is no reasonable fence which he can erect to protect their house, neighborhood and children from fire, windstorms blowing down trees from a destroyed forest, trespassing or scared or lost pets wandering into an unfamiliar Woodfin community. Nor can he deter the children from being enticed to climb the 22-foot keystone retaining wall of his backyard. No insurance umbrella policy could ever comfort he and his wife should harm come to these innocent inquisitive children. He thanked the Board for providing time for them to publicly state their concerns and to remain in support of the wisdom of the original zoning of this property.

Jim Kerscher, Saddlebrook Downs, President of Saddlebrook Downs Association, stated they have three concerns. They have been saturated with duplexes, apartments and various other rental properties and they believe that this area definitely has enough of this kind of thing. They are concerned about the environment and landscape of the region between Woodfin and Twickenham on the east ridge of this area. There are two beautiful hills on both sides of the Rockmart Highway. There have been expansions of all three subdivisions, Woodfin, Twickenham and Saddle Mountain. Single dwelling homes have been built in these areas without destroying the landscape or the beauty of the area. The proposed duplexes will not be an asset to the area because of its size and density at this particular building site. The members of Saddlebrook

Downs are concerned about the watershed affect with the buildings at this large complex in the area proposed. He invited them to come to the main street of Saddlebrook Drive during a downpour and they will be aware of the huge amount of water that moves through the subdivision and under the houses in this particular part of the valley. The continual removal of trees in the area such as the proposed complex will only add to the problems that already exist in the valley where Saddlebrook Downs is located. Because of these reasons, the members of Saddlebrook Downs Subdivision ask the County Commissioners to vote against this proposed complex located on Chateau Drive in East Rome. He thanked the Board for giving them the time to present their concerns.

Ed Wilson, stated his house backs up to this property and he thanked the Board for the opportunity to comment on this terribly flawed project. He stated that he had written the Board a letter and they had received a lot of details about environmental issues. He asked that they remember photographs that they had seen of rice paddies of the far east, pictures taken from a hilltop with tiny little plots of ground stair stepping down a hillside with hundreds of people cramming as many rice plants as they can into every square inch. Second, remember the beautiful vistas of the ridge and valley providence of Floyd County. We have all been blessed with that and we all have those pictures in our mind. We recently acquired a tract of land and according to the newspaper, it was done just because it was a beautiful place that needs to be preserved. This developer has not even considered the many impacts of this project. He doesn't know where the property line is, he doesn't know what the slope is. If you drive your car up the driveway to the Hampton Inn, it is the same slope. When this was discussed in the Planning and Zoning Commission Mr. Pearson did not know how steep the slopes were and stated that he did not know what was on the back of this property, he did not know where Woodfin Estates was. As a result of this lack of planning, this planned development, if approved, has the very real possibility of creating a torrent of runoff water on Chateau Drive and adjacent properties, cause serious soil erosion and soil slippage on the hillside, irreparable damage to the environment including the potential habitat of an endangered plant species, known to exist in Floyd County on just this sort of terrain and property. This is not Atlanta and there are lots of places in Floyd County where this type of high-density housing can be constructed without the needless destruction of property life styles and the environment, but this isn't one of them. He asked that the Commissioners not allow anyone to convert this corner of their homes into little rice paddies with rent checks growing on every square inch of them. We ask as constituents, for our children's sake and for Floyd County's sake, please don't do it.

Brian Kinder, 16 Coventry Drive, stated that at the risk of oversimplifying and being redundant, this is just a summarization. We have had zoning laws since 1998 in Floyd County that are designed to protect our neighborhoods, property values and green spaces. There are really four reasons that the people oppose this proposal. In short it is too close, too much, wrong type and is in a bad location. It is too close to Woodfin, an established neighborhood, it is too much construction for an area zoned low density, it is the wrong type. This many duplexes do not belong in an area zoned for single-family homes. It is a bad location, the project requires cutting into a wooded hillside and as Mr. Wilson had stated, there has been no environmental study and absolutely no concern for its affect on the surrounding communities. The planners have already recommended six to three, after hearing these same arguments, against this proposal. He asked that the Board support their decision and support them by voting no.

Commissioner Hufstetler asked Ms. Tucker for clarification if she is not against duplexes on Chateau Drive, but is against the closeness and density. Ms. Tucker replied that to be correct. He asked her for her opinion of what she would envision as reasonable. She replied that in speaking for herself only, she thought it should be in keeping with the others, which are already there. She does not feel it should be such a far reaching expanse up the hillside. Obviously there are other duplexes on Chateau, she just doesn't want them to cut into the hillside and see

an eyesore like the red clay hillside behind the Hampton Inn. If it was in keeping with the others, personally, she would not be opposed to that.

Commissioner Jennings posed the same question to Mr. Smith as far as the group is concerned what an adequate buffer, possibly a 250 foot buffer, would be in keeping with what already exists there. Mr. Smith replied that it is nearly impossible to field that question since they do not have any survey or topographical map. His understanding is the consensus among the 450+ people who voiced their concern is that nobody objects to duplexes along Chateau, they have a concern about coming up the hill and what that will do to their property and their families. If they did have a football field or two, that would preserve some of the woods, the tranquility and the density problems. He stated that he could not give an actual number today without a study. He stated that the duplexes along Chateau are not a source of objection, as far as he knows, it is the notion of building a 300 person park of duplexes that concerns them.

Commissioner Hufstetler asked if they would be opposed to the second line on the map. Mr. Smith replied that he thought it would be preferred to the duplex in the backyard idea, but without the numbers he did not know. He stated they would have to ask the residents and it is his understanding that it is not acceptable to Mr. Pearson. Without hard numbers and without concrete restrictions, there is nothing to protect the residents from an expansion or continued expansion once this happens in the future. Mr. Smith stated that the people are concerned and appreciate the careful consideration each Commissioner has given this and appreciate the time taken to hear their concerns.

REBUTTAL

Frank Jones, stated that there were only three areas he wanted to address. One is there is a complaint about the density, but he suggested that the density as proposed in the ordinance allows twice as many as is proposed by Mr. Pearson. He has already reduced it by about 40% in order to alleviate those concerns. Some other comments have been that this is a flawed project because there is no planning. There might be erosion, there is a water shed problem, there might be a drainage problem, there might be a need for a topographical survey. All of these things are accomplished when a subdivision plat is prepared and submitted to the Planning Commission for review. All of these things have to be dealt with appropriately before they are approved. The other issues, he suggested are simply speculation. That there is any adverse affect as to the health, safety, welfare or morality, is speculation. He submitted that under the law, under the county's ordinance and the guidelines, the seven points that are issued for the granting of Special Use Permits, that this is appropriate with regard to the setback line. Most projects have a 25-foot setback line and they have proposed one which is 100 feet. In addition, he thinks it is appropriate to take into consideration that the landowners in Woodfin's houses are not constructed even close to the back boundary line; most of them are 300 and 400 feet from the back property line. He suggested that this is a good development for the area; it will not impact or adversely affect these people in Woodfin. He stated they understand their concerns and have attempted to deal with them.

Commissioner Jennings stated that he had attempted to walk the property and has attempted to go up onto Coventry and those houses are closer to their property lines than 300 or 400 feet. He feels they are less than 100 feet from their property lines.

Commissioner Fricks asked for clarification on the amount of the proposed setback being 100 feet. Mr. Jones replied that as a condition of the granting of the Special Use Permit to impose a 100-foot buffer, so that any construction could not take place within 100 feet. He stated that he feels that clarified the horizontal distance and as the land lies. Commissioner Hufstetler asked how that would affect the number of units. Mr. Jones replied they would have to be reconfigured, once they are down to 41, according to Mr. Pearson and Mr. Camp, it is just not feasible once it is

reduced below 41. Commissioner Hufstetler stated that there seems to be a discrepancy due to a lack of a survey and differing opinions as to how close this is. He asked Mr. Jones if he had a recommendation as to how that they can all look at this and come up with what true distances they are talking about. He also stated that he did not feel that could be done today. Mr. Jones stated that Mr. Pearson had done his homework and normally this is done in the process of a subdivision which is then submitted, to the Planning Commission. They have no objection, if that seems to be an issue, to provide exact distances. Commissioner Hufstetler asked if there was protection lost when it went for subdivision approval. Assistant County Manager Tully stated that once the Board takes action, once it goes to Building Inspection for subdivision review, the only thing they are bound by is the building code. The only opportunity for the Board to place any kind of conditions is during rezoning or granting of a Special Use Permit. Commissioner Fricks stated that could be done by specifying setbacks or a site-specific site plan. Commissioner Mahanay stated that they need a topography map, surveys, scale drawings and environmental impact projection and confirmation of the density percentage. Until all of that information is received he does not see that they can make a decision. Assistant County Manager Tully stated that all of that information is incumbent on the applicant to provide to the Board. It was noted that no action could be taken today and it will automatically defer to the next meeting in an effort to gain more information and request more information of the applicant. Mr. Jones stated they would provide whatever the Board feels is appropriate in order to assure themselves that they are making a decision which is fair to everyone.

Mr. Smith stated that this is the same issue that was brought from the Planning Commission on May 3, the Planning Commission had the same concerns about the initial proposal which was presented. In the more than two months that has transpired since that time, the only thing that has happened is Mr. Pearson bought the property. He respectfully requested that the Board consider this issue. He does not think anyone disputes the grade or that these are deciduous trees that are without leaves through roughly half of the year and the impact it will have.

Commissioner Mayes asked Mr. Smith if one of the big issues is the buffer. Mr. Smith replied that it is. They believe that the impact on health and safety will be an impact on them, whether they are talking about a 60 or 100-foot buffer. He stated that Mr. Jones is indicating that this won't be profitable for them unless they have at least 40 units. Regardless of what the topography maps show, they will still put at least 40 units there. Mr. Jones stated that the reason some of these things have not been done obviously is the expense, but the main reason is the Commissioners are the decision makers and if it is determined that they are needed, they will provide them. Commissioner Mayes asked the group opposing this what number in terms of a buffer did they want. An answer of 250 feet was made. Commissioner Fricks stated that he would like to know the distance to the closest structure. Assistant County Manager Tully stated that it might be more appropriate to use the term building setback as opposed to buffer. Imposing a building setback from the rear property line, you will know that there will not be a building any closer than the minimum setback line. The code calls for 25 feet setback. Mr. Jones stated that if deemed appropriate, they would provide the distance from the nearest structure in Woodfin to the property line and then to the proposed buffer. Mr. Smith stated that as he understands Mr. Pearson's proposal, as dense as it looks on the information provided, it is half as dense as it could be, so even if a buffer is placed which is half the distance, he still will put 40 units and they will still have the same density problems and health and safety questions. Commissioner Fricks asked if in terms of high density, with a larger buffer and they state that health and safety questions would be the same, what would exist in terms of their health and safety questions. Mr. Smith acknowledged that it would be better, but in some ways it creates other problems, they will be putting 350 people in a very tight space right on Chateau Drive. It was clarified that Mr. Smith is referring to the residents of the proposed duplexes regarding health and safety. Mr. Jones stated that it is interesting that the number is 350 people, there may be two in one house, and so they may be talking about half that number. Commissioner Hufstetler questioned if it could be stipulated that they are no further back than the other developments. It was noted that they still do not know where the lines are. Commissioner Mahanay stated that he understands the

urgency of a decision from the residents standpoint, but feels they need due diligence regarding this decision. It was noted by Commissioner Fricks that they do not want to create an impact to the neighborhood. Commissioner Jennings questioned how quickly could they come back with the needed information. Assistant County Manager Tully replied that the code calls for a one year time limit on coming forth with the same application, but the Board has the authority to waive that if there is compelling reason, they do have some discretion in waiving or modifying that time limit. Mr. Jones stated that as far as distances, it would not be difficult and at the next meeting they could have surveys or at least distances from a surveyor which would tell them how far the property goes back from Chateau Drive and how far the nearest structure in Woodfin is to the property line. Regarding the environmental impact and drainage, that will be handled appropriately when it goes to the Planning Commission for approval of the plat. Commissioner Jennings also requested the fall of the property for the first 100 feet.

Mr. Smith stated that they are in favor of the Commissioners being fully informed, because it is extraordinarily important that the 100-foot measure on the ground may only be 30 feet because of the grade. Their biggest concern is that even if the buffer is down, they are still going to put the same number

of divisions on that property. They feel that is a reason to reject this petition for Special Use Permit; it is not suited for this area. They respectfully request that this be denied.

Andy Davis, acting County Attorney, stated that he had provided the Board with an outline generally of the basis upon which their decision must be made. They must balance the individual property owners right along with the health, safety and welfare, and the basis of the ordinance.

MOTION was made by Commissioner Hufstetler to close the Public Hearing. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

"

Fricks

"

Jennings

"

Mahanay

Chairman Mayes

Motion Carried

MOTION was made by Commissioner Jennings to **deny** the Special Use Permit. SECOND by Commissioner Hufstetler.

Commissioner Hufstetler stated that he would like to see more information to see if something can be worked out, but they do not need for people to take up their time to come here. He feels they need to be clear on what information is there and make sure that it is clear that the decision will be made one way or another at the next meeting. This would be his preference. Chairman Mayes stated that he agrees to taking time to get the proper information. He feels the opposition is in agreement for them to obtaining additional information. Mr. Smith replied that he understands the Board's position, but it does not alter the fact of them building 40 duplexes there and they remain opposed to the impact it would have. Assistant County Manager Tully stated that it also needs to be pointed out the minimum frontage and minimum lot size and that the staff has minimum parameters and we can come back at least in terms of the number of units that would be allowed under a variety of scenarios given the minimum density in road frontage, which is a key component. It was noted that minimum lot size as well as road frontage would be

affected by the setback. It was noted that the burden for providing the information requested is on the applicant. Assistant County Manager Tully stated that he will provide only information on what the building code would allow, based on minimum lot size and frontage and all of this will be subject to review and approval for the subdivision.

The Motion died for lack of a vote.

MOTION was made by Commissioner Hufstetler to table this Motion. (It was noted that a second is not needed for this Motion.) VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Commissioner Mahanay stated that he appreciated everyone taking their time to attend the meeting and that this is taken very seriously.

At this time there was a recess.

**FILE #11-2001Z, CORNER OF TODD
STREET AND BAKER ROAD, SHANNON,
TAX MAP #42B, AREA 3, PARCEL 2,
LOTS 23, 24, 25, 26, 27, 28, 29, 30, 31 AND 32;
REQUEST REZONING FROM S-R (SUBURBAN
RESIDENTIAL) TO C-C (COMMUNITY
COMMERCIAL).
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – 9 FOR, 1 AGAINST])
(FIRST READING WAS HELD JUNE 12, 2001 AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Assistant County Manager Tom Tully stated the property is located off Highway 53 north toward Calhoun. Todd Street is at an Exxon station and is a shaded parcel on the map shown. A site plan had been presented and access will be off of Todd Street. There is a gas station and car wash in the area. It was noted that there are some residences in the area. The applicant

plans to build a Dollar General Store on the property. MOTION was made by Commissioner Fricks to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

MOTION was made by Commissioner Fricks for **approval** of rezoning of File #11-2001Z from Suburban Residential to Community Commercial. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

**FILE #13-2001Z, HIGHWAY 411 EAST,
TAX MAP #106, AREA 00, PARCEL 019,
REQUEST REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO A-R
(AGRICULTURAL RESIDENTIAL).
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE - 5 FOR, 4 AGAINST])
(FIRST READING HELD JUNE 12, 2001 AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler to open the Public Hearing. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

SUPPORT

Joseph Engelland, 217 Brook Highland Lane, Birmingham, Alabama, son of the property owner stated they requested the zoning change back to A-R because it was originally A-R when the land was purchased in 1985. They always had plans to either have cows or broiler chickens there. Now they want to have broiler chickens on the property. They plan to put it in the middle of the 35+/- acre site. From the point where the chicken houses will be to the property line will be at least 150 feet, if not more. He stated that if the opposition is because of the odor, the chicken houses will be surrounded by trees so he doubts there will be any odor. It will be 200 feet or more from Highway 411, so it will not be visible from the highway. Commissioner Jennings asked their plans for disposing of the chicken litter. Mr. Engelland stated they plan to sell it and they also have a cattle farm in Piedmont, Alabama and it will be used as fertilizer there. It was noted that the only access will be off of Highway 411. They also plan to build a home there. It was noted that the property is currently wooded. Assistant County Manager Tully had stated during the Caucus Session that there are a number of other properties which had relied on the original zoning which he wanted to bring to their attention, but this is not one of them since it had been broken out, but he recalls that a large area going out of town on Highway 411 was A-R, and he thought that the original zoning only went 500 feet off the roadway. Mr. Engelland stated that the property in front of them on the other side of Highway 411, it is still A-R.

OPPOSITION

Sid Wright, 309 East Second Avenue, Rome, an attorney representing Mickey Swims who is a property owner, who owns property to the east, south and southeast. He stated that his client opposes the zoning request for issues of smell, sanitation, and noise. He noted that there is a Georgia Power easement which runs through the property and he is not sure the placement can be as planned without violating that easement. Even more pressing, the elevations, and he noted the subdivision areas, and that the runoff from the chicken houses will run downhill to the residential area. This has been classified S-R, it is a logical area, given the fact that there is already some subdivision building there. The neighboring areas will be affected by the smell as well as the other waste issues which naturally flow from such an activity. They oppose this and ask the Commission to deny the rezoning request.

Jim Smith, 1 Hillindale Drive, Rome, stated that he is part owner of Smith Steel and Supply, which is immediately adjacent to the tract of land being discussed. The question of the odor is a real concern of theirs; they feel it devalues their property, which he feels is a valid point. In the broiler business and the confined birds, they die spontaneously, they die when the weather gets hot and sometimes by the pick-up truckloads. It is necessary for someone to get the birds out of the houses and pile them up and dispose of them. There are probably billions of flies involved in that. He submitted to the Board that there is a very real health question associated with having the broiler business at that location. In a broader sense he wondered if this is the correct land use for them to be starting on Highway 411. As they come to the wonderful community on 411, right by the Welcome to Rome sign you would have this odor wafting about there and he thinks it would give the community a black eye. He recommended that the request be turned down.

Anthony Lang, 12 Hillindale Drive, Rome, stated he has been living there since 1985. He opposes this request because for some time the Welcome to Rome sign was in Bartow County and it had been opposed so they moved it to its current location and now they want to put this nice smell there. Next to the Welcome to Rome sign is the Woodlawn Baptist Church, which has 75 members, and he was there recently to notify them since they did not receive a notice. The wind was coming from the south side into the church yard and he does not feel the members would appreciate that. It is one-half mile from the new proposed by-pass. The Rome Speedway is a quarter to a half-mile uphill from this location. He stated that there are approximately 40 houses within a one-half mile radius of this area. He noted that there is a drainage problem, that any waste flows through his yard. He noted also that there are over 300 lots in a subdivision in

the area that has been there since 1962. He stated that he thinks it still needs to remain Suburban Residential.

REBUTTAL

Joseph Engelland, stated regarding the Georgia Power line, it does not exist any more, they have a letter from Georgia Power allowing them to construct on the site. Regarding the grading, the grading goes to the middle of their property down to 411. He stated the chicken houses are self contained and any drainage of the chicken house would go toward the bottom part of their property. They plan to put in an incinerator to dispose of the chickens and this is also self-contained. He stated they bought the property in 1985 as A-R and thinks they should still be able to use it for the original purpose, which was agricultural.

MOTION was made by Commissioner Jennings to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Chairman Mayes stated the Public Hearing is closed. MOTION was made by Commissioner Jennings to **deny** the request for rezoning from Suburban Residential to Agricultural Residential. Commissioner Hufstetler asked for input from the County Attorney since it is a complicated issue from the zoning from 1985 and the other issues mentioned by Assistant County Manager Tom Tully regarding another application. Commissioner Hufstetler asked the applicant when he filed the application to go back to the original zoning. *Response was not audible*. Commissioner Hufstetler noted that it was at the Coosa School, which would have been last year. *Other comments by the applicant were not audible*. It was noted that the Planning Commission had already taken action on this matter. County Attorney Wade Hoyt stated that since it was purchased as A-R, it would be grandfathered, but they had not taken any steps to vest themselves by spending any money on the A-R, so this would be a judgment call. Commissioner Hufstetler asked the length and width of the property. It was noted that it is 1,050 long and *width was not audible*. The first Motion died due to a lack of a Second.

MOTION was made by Commissioner Jennings to **deny** the request for rezoning from Suburban Residential to Agricultural Residential. SECOND by Chairman Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

Commissioner Jennings

" Mahanay

Chairman Mayes

Motion Carried

**STREET LIGHT RESOLUTION FOR
RIVER RIDGE SUBDIVISION
(HUNTINGTON ROAD, WINDSOR
ROAD, KENSINGTON ROAD AND
KENSWICK PLACE).**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION to open the Public Hearing was made by Commissioner Hufstetler. SECOND by Chairman Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

John Stewart, County Engineer, presented the petition for street lighting for an existing subdivision. The property owners were required submit a petition with all of the property owners. It passed with 81% signing. The reason the Board is hearing this is because it was not signed by 100% of the property owners. The new subdivisions require the developer to sign the petition which gives 100% participation.

SUPPORT

Susan Seagraves, 6 Kenswick Place, stated that she, along with Glen Johnson who is out of town tonight, obtained the necessary names and square footages.

MOTION was made Commission Mahanay to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

MOTION was made by Commissioner Mahanay for approval the street light resolution. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

CHAIRMAN'S REPORT

APPOINTMENTS

MOTION was made by Commissioner Mahanay to for the following appointments.
SECOND by Commissioner Fricks.

Jeff Brown to the Sara Hightower Library Board of Trustees and Floyd County Library Board, term of 3 years, ending June 30, 2004.

Jean Miller to the Northwest Georgia Region 1 EMS, term of 2 years, ending June 30, 2003.

Callie Martin to the Floyd County Board of Family and Children's Services, term of 5 years, term ending June 03, 2006.

Robert Kinney on the Rome/Floyd Parks and Recreation Authority, term of 5 years, term ending June 30, 2006.

VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

COMMISSIONER'S REPORT

ADMINISTRATIVE/FINANCE COMMITTEE

Commissioner Hufstetler, Committee Chairman, asked that they accept the Audit for the year 2000 presented by Read, Martin and Slickman. MOTION was made by Commissioner Hufstetler to place on the Agenda the acceptance of the 2000 Audit by the firm of Read, Martin and Slickman. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks

" Jennings
" Mahanay
Chairman Mayes

Motion Carried

MOTION was made by Commissioner Hufstetler to accept the Audit for the year 2000 by the first of Read, Martin and Slickman. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

PUBLIC WORKS COMMITTEE

AMEND BFI CONTRACT RELATED TO REMOTE COLLECTION SITE OPERATION.

MOTION was made by Commissioner Fricks to amend the BFI Contract related to the Remote Site Collection and Operation. County Manager Kevin Poe stated this is per the letter from BFI dated June 15, 2001. SECOND by Commissioner Hufstetler. Commissioner Fricks noted that this is a significant savings for Floyd County and they will be getting better service at a lesser cost. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

DISCUSS PROPOSED CHANGES TO REMOTE COLLECTION SITE OPERATION.

This was deferred to a future meeting.

CLERK'S REPORT

CONSENT AGENDA.

County Clerk Michele Fountain stated there are four items on the Consent Agenda, with Item 4(b) requiring a 4/5 vote, which she submitted for consideration if there were no additions or deletions. MOTION was made by Commissioner Hufstetler that the Malt Beverage Application for Lori Garcia for One Second Trip placed on the Agenda. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

MOTION was made by Commissioner Hufstetler to accept the Consent Agenda. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

1. Tax Refunds:

- a. Donald Jerome Bell, P.O. Box 5384, \$10.26
- b. Odessa & Sarah V. Buffington, 28 Harvey Street, NE, \$90.02
- c. Retirement Care Assoc., Inc. , 101 Sun Avenue, Albuquerque, NM \$2,021.60
- d. James A. & Marty C. Lowery, 20 Wood Valley Terrace, NW, \$287.75
- e. Donald W. & Jo Anne P. Mullins, Rt. 2, Box 253, Silver Creek, \$47.55
- f. Paul E. & Lila M. Layman, 283 Doyle Road, SE, Lindale, \$17.54
- g. L. Dale & Brenda Rogers Bullen, 94 Branson Road, \$45.37
- h. Airtouch Cellular of GA. 089, P.O. Box 98309, Atlanta, \$80.22
- i. Dr. Seaborn J. & Kay R. Whatley, 166 Plainville Road, \$217.89
- j. Mildred T. Blankenship, 523 East 8th Street, \$16.49
- k. Roy E. & Marion L. Thompson, 530 Chubb Road, SW, Lindale, \$75.24
- l. Barbara & Clarence Christian, 3534 Telfair Way, NE, Atlanta, \$50.01
- m. Cleave S. Dodd/Suntrust Bank, P.O. Box 4655-MC252, Atlanta, \$.37
- n. Cleave S. Dodd/Suntrust Bank, P.O. Box 4655-MC252, Atlanta, \$113.61
- o. George W. Tanner, 414 East 20th Street, \$90.12
- p. Elizabeth Jean Barrett, 2615 Garden Lakes Blvd., \$27.13
- q. Doutlas J. Callaway, 1001 Wayside Road, \$.53
- r. Willis J. Potts, Jr., 2614 Horseleg Creek Road, \$829.71
- s. Melanie H. & Michael McCary, 44 Wellington Way, SE, \$52.28
- t. Gerald G. & Sandra B. Pless, 9 Charleston Drive, NW, \$16.80
- u. Paul F. Fitzgerald Est., 11 Benvenue Drive, \$43.31
- v. Charles E. Teat, 11 Benvenue Drive, \$.44
- w. Wilmasmith & Narion Leslie Holsomback, 988 Little Texas Valley Road, NW, \$13.66

- x. James W. Shellnut, P.O. Box 202, Shannon, \$40.66
 - y. Doyce Morgan Green, Jr. & Rohanda Faye Green, 259 Pleasant Valley Road, Silver Creek, \$1.50
 - z. Roy D. & Dianne L. Reecer, 15 East Creekview Drive, \$34.54
 - aa. Bethany Price & Leslie Neil Gordon, 847 Ward Mountain Road, Kingston, \$113.62
 - bb. Greg D. & Shena Gravitt, 5544 Fosters Mill Road, Cave Spring, \$132.32
 - cc. Christopher A. Rowles, 10 Limon Place, SW, \$8.00
 - dd. Joseph Pinkney Blankenship, 637 Wayside Road, NE, \$584.24
 - ee. Mrs. Dura C. Gann, 707 1/2 17th Street, \$54.02
 - ff. Steven R. & Barbara Kay Ramey, 81 John Ingram,, Silver Creek \$13.48
 - gg. Carl C. & Nell C. Sidwell, 8 Oakmont Drive, \$208.96
 - hh. Brian K. Phillips, 103 Hawthorn Street, SE, \$142.57
 - ii. Donna S. Thompson, P.O. Box 88, Lindale, \$26.97
 - jj. Inland Container Corp., 238 Mays Bridge Road, SW, \$139.25
 - kk. Frank Joseph Geiger, 39 Timberwood Drive, SE, Silver Creek, \$239.23
 - ll. Betty Young/Lynda Daniel/ Nancy Taylor, 418 Billy Pyle Road, \$5.70
 - mm. Bill & Charlotte McCary, 181 Conn Lake Road, Ext., Lindale, \$82.59
 - nn. Charles S. Ford, 148 Shadow Lane, \$48.75
 - oo. Thomas Frederick Payne, Jr., 22 Woodvalley Terrace, \$58.45
 - pp. Airtouch Cellular of GA. 089, P.O. Box 98309, Atlanta, \$802.92
 - qq. Frank Camp, 790 Billy Pyle Road, SW, \$10.11
 - rr. Hoyt E. & Sandra T. Brown, 3911 Everett Springs Road, NE, Armuchee, \$137.83
 - ss. William Earl Davis, 439 Bells Ferry Road, NE, \$17.10
 - tt. R. Mitchell & Nancy Horton Wright, 1011 Avenue A, \$6.06
 - uu. Phil H. & Ramona G. Carver, 349 New Hermitage Road, NE, \$14.48
2. Authorize execution of Children and Youth Coordinating Council grant for In-School Probation Officer, amount of \$28,432, County match \$15,495. (CN-0209)
 3. Authorize execution of Transportation for the Elderly Agreement and Memorandum of Understanding for Department of Human Resources Coordinated Transportation between Coosa Valley Regional Development Center and Floyd County.
 4. Malt Beverage Applications:
 - a. Rafiq Rahim, Taylor Market, 4672 Martha Berry Highway, NE (convenience store).
 - b. Lori Garcia, One Second Trip, 2995 Cedartown Highway (convenience store).
 (4/5 vote required)

MANAGER'S REPORT

DISCUSS MEMORANDUM OF AGREEMENT BETWEEN THE PLANNING COMMISSION, CITY OF ROME AND FLOYD COUNTY REGARDING JOINT PLANNING SERVICES.

County Manager Kevin Poe presented the Memorandum of Agreement between the Planning Commission, City of Rome and Floyd County related to Joint Planning Services. There

has never been a formal agreement related to Planning Services. Initially the Planning Office was located at the RDC and came under their administration, when it moved from there, it reported directly to the Planning Commission. In 1999 some changes had been agreed upon, detailing functional administrative changes and responsibilities. Basically it took financial and administrative personnel responsibilities away from the Planning Commission and put them under City/County administration. The Planning Commission staff are considered City employees and are directly administered by City Management. In the agreement County Management is involved in personnel decisions, the County as a whole is involved in agreeing to an annual budget for the Planning Commission. This is the only joint operation where they do not have a formal agreement or contract related to Planning Commission services. Some of the terms of the contract deals with handling personnel matters and budgeting. This is proposed to be a five-year term beginning January 1, 2001 and would terminate December 31, 2005. Either party could terminate the contract at the end of the term with a one-year notice. Commissioner Hufstetler stated that that part concerns him since there have been some other contracts which have gone on for years and in which problems were found later on. He stated that he feels that considering two-thirds of the County is under the Manager's jurisdiction, on zoning issues, etc., he thinks the County Manager should have an equal say in at least the Director. Commissioner Jennings stated that he thinks the time has come for Planning to be Floyd County operation with the City certainly participating, but now that we have a Unified Land Use Plan for the City and County and the City is within the County, we should, instead of having a four year agreement, we should be moving in the direction of this becoming a Floyd County operation as opposed to a City of Rome operation. It is more inclusive under the operation of the County. Chairman Mayes expressed concern for the termination terminology; notice has to be given of no less than one year to terminate the agreement. It was noted that this is only for the year 2004. Commissioner Jennings stated that this should be tabled and to explore the whole operation becoming a Floyd County operation. He stated that he did not know if this would affect the operations of the Planning Commission since they have been operating without the Memorandum of Agreement. Commissioner Jennings stated that he would like to negotiate Floyd County taking over this operation. Commissioner Mahanay stated that it seems unusual that the City is obligated to provide through the Planning Department planning services for all of Floyd County, including the City of Rome. Assistant County Manager Tom Tully stated that this goes back to pre-1998 when there were very few zoning cases heard by the County Commission, and that has obviously changed, and was discussed when zoning was being considered. Commissioner Jennings stated that he did not view this as power, but as something that makes sense for the community moving forward as far as consolidated services. This is a good opportunity for a unified operation. County Manager asked if they wanted certain people to work on negotiating a new agreement. It was mentioned that this could be a project for Joint Services Committee. It was the consensus that they would continue the current operation and try to have something in place beginning January 1.

**AUTHORIZE SUBMISSION OF GRANT
APPLICATION TO GEORGIA DEPARTMENT
OF NATURAL RESOURCES, ENVIRONMENTAL
PROTECTION DIVISION FOR ENVIRONMENTAL
AND SOLID WASTE ENFORCEMENT AND
EDUCATION PROGRAMS. (CN-0210)**

County Manager Kevin Poe stated this was originally known as the Scrap Tire Management Program. It actually is an Environmental Solid Waste Enforcement Program. This program was started in 1999 through a grant, then received a second year extension and this is a third year extension. The application amount is \$43,984. An officer in the Floyd County Police Department handles enforcement, with education being handled through our recycling program. This program is being operated without additional personnel, but the grant helps offset some of the cost of initiating the program. He stated that in the Motion authorization of the grant application and a approval of the resolutions which are part of the grant application is needed.

MOTION was made by Commissioner Jennings to authorize submission of grant application to Georgia Department of Natural Resources Environmental Protection Division and approve the resolutions as presented to be part of the grant application for the Environmental and Solid Waste Enforcement and Education Programs. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

MOTION was made by Commissioner Hufstetler to approve Items 3 through 9 on the Manager's Report. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

**AWARD ROADWAY AND WATERLINE
CONSTRUCTION BID FOR NEW PIRELLI
DRIVE IN FLOYD INDUSTRIAL PARK.**

**REQUEST FROM JUVENILE COURT TO
AMEND BUDGET TO PURCHASE TWO
SOUTHERNLINC RADIOS.**

**REQUEST FROM COURT ADMINISTRATOR
TO AMEND SUPERIOR COURT BUDGET
TO COVER COST OF LEGAL PUBLICATIONS**

AWARD BIDS:

**PICK-UP TRUCK FOR WATER DEPARTMENT
4X4 SUV FOR COUNTY POLICE
15 PASSENGER VAN FOR PRISON**

**AMEND ANIMAL CONTROL EQUIPMENT
BUDGET FOR PURCHASE OF CHEMICAL
CAPTURE GUN AT A COST OF \$422.**

**AMEND INMATE MEDICAL EQUIPMENT
BUDGET FOR DENTAL CHAIR AND
ATTACHMENTS AT A COST OF \$5,615.**

**AMEND FACILITIES MANAGEMENT
EQUIPMENT BUDGET FOR PURCHASE
OF A PAINT SPRAYER FOR \$800, RADIO
FOR \$500 AND LADDERS FOR \$700, WITH
A TOTAL AMENDMENT OF \$1,300.**

ADJOURNMENT:

There being no further business to come before the Board, MOTION was made by
Commissioner Hufstetler, SECOND by Commissioner Mahanay, that the meeting be adjourned.
VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

JOHN MAYES, CHAIRMAN