

May 25, 2004

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
May 25, 2004 6:00 P.M.**

PRESENT: Chairman Chuck Hufstetler, Commissioners Tom Bennett, Garry Fricks, Jerry Jennings and John Mayes.

OTHERS

PRESENT: County Manager Kevin Poe, County Attorney Tom Manning, Deputy Clerk Monnie Toole, and Assistant County Manager Sammy Rich.

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

INVOCATION: Commissioner Mayes led the Invocation.

PLEDGE OF

ALLEGIANCE: The Pledge of Allegiance was led by Boy Scout Troop 118. Scouts participating were Steven Reynolds, Andy Godfrey, Houston Pope, Matthew Pearson, Jerod Ivey, Randall Cooper, Ben Peak, Drew Carroll and Matthews Hicks.

PUBLIC PARTICIPATION

**TERESA WATSON REGARDING
POLICIES OF PARKS AND
RECREATION AUTHORITY.**

Teresa Watson, 109 West Eighth Avenue, Rome, expressed her concerns regarding the level of noise whenever there is a concert at Ridge Ferry Park. She stated that there are a lot of people who live downtown that have their walls and windows vibrate. Some people have reported vibrations in their teeth and jaws as well as a thudding in their chest. She had complained repeatedly to the Park and Recreation Department. She had also addressed the City Commission. Chairman Hufstetler explained to her that Ridge Ferry Park is in the City and not the County, and therefore is regulated by the City. Chairman Hufstetler stated that this would be referred to the County Attorney regarding whether the County has any authority. Commissioner Bennett, a member of the Recreation Authority, invited Ms. Watson to their next meeting, June 21st. Chairman Hufstetler thanked Ms. Watson for attending the meeting.

ADOPTION OF

MINUTES: Chairman Hufstetler asked County Attorney Tom Manning if the minutes were in order. County Attorney Manning replied that they were in order. Commissioner Fricks made a MOTION to adopt the minutes of the Regular Meeting of May 11, 2004 as presented. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

RESOLUTIONS

JUROR FEE DONATION PROGRAM.

Chairman Hufstetler stated that this would allow Jurors to designate part or all of their Juror Fees to either the Youth Sports Scholarship of Rome/Floyd Parks and Recreation Authority, Special Collections of the Local History Area of the Rome/Floyd County Library, the Open Door Home, the Spay/Neuter Program of the Rome/Floyd County Humane Society or to the Senior Adult Recreation Center. Commissioner Mayes made a MOTION to approve the Juror Fee Donation Program Resolution effective as of today. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

SECOND READING/PUBLIC HEARING

(FIRST READING HELD MAY 11, 2004 AT 2:00 P.M.)

**FILE #17-2004Z, REQUESTS REZONING
FROM C-C COMMUNITY COMMERCIAL
TO S-R SUBURBAN RESIDENTIAL TO
CONTINUE USE AS SINGLE-FAMILY
RESIDENTIAL ON PROPERTY
LOCATED AT 3940 MARTHA BERRY
HIGHWAY/U.S. 27 NORTH.**

ZONING MAP J11X – 010.

**(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – UNANIMOUS])**

Chairman Hufstetler called for a Motion to open the Public Hearing.
Commissioner Jennings made a MOTION to open the Public Hearing on File #17-2004Z.
SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

There being no one present wishing to speak in support or opposition and since the Commissioners did not need a presentation from Sue Hiller, Rome/Floyd County Planning Commission, Chairman Hufstetler called for a Motion to close the Public Hearing. Commission Bennett made a MOTION to close the Public Hearing on File #17-2004Z. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler called for a Motion. Commissioner Bennett made a MOTION to **approve** the rezoning from C-C to S-R for File #17-2004Z. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**FILE #21-2004Z, REQUESTS REZONING
FROM M-R MULTI-FAMILY RESIDENTIAL**

**TO C-C COMMUNITY COMMERCIAL TO
OPERATE PEST CONTROL OFFICE AND
SERVICES ON PROPERTY LOCATED AT
4459 MARTHA BERRY HIGHWAY / U.S. 27
NORTH. ZONING MAP J10Y – 314.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – 9 – 0])**

Chairman Hufstetler called for a Motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing on File #21-2004Z. SECOND by Commissioner Mayes. VOTING:

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

Motion Carried

Chairman Hufstetler stated that the Public Hearing was open and asked if anyone would like to speak in support or opposition on this zoning request for 4459 Martha Berry Highway. He then asked if the Commission needed a staff report. Chairman Hufstetler then called for a Motion to close the Public Hearing. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Fricks. VOTING:

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

Motion Carried

Chairman Hufstetler called for a Motion to approve or deny. Commissioner Fricks made a MOTION to **approve** the rezoning from Multi-Family Residential to Community Commercial on File #21-2004Z. SECOND by Commissioner Bennett. VOTING:

	YES	NO
Commissioner Fricks		

" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**FILE #22-2004Z, REQUESTS REZONING
FROM S-R SUBURBAN RESIDENTIAL TO
C-C COMMUNITY COMMERCIAL WITH
SPECIAL USE PERMIT TO BUILD TOWNHOMES
ON PROPERTY LOCATED ON U.S. 27 SOUTH/
CEDARTOWN HIGHWAY. ZONING MAP I17X – 005.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – 9 – 0])**

Chairman Hufstetler called for a Motion to open the Public Hearing.
Commissioner Bennett made a MOTION to open the Public Hearing on File #22-2004Z.
SECOND by Commissioner Jennings. VOTING:

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

Motion Carried

Chairman Hufstetler asked if there was anyone wishing to speak in opposition or support of this issue. He also asked if the Commission needed a report from Sue Hiller. Commissioner Fricks made a MOTION to close the Public Hearing. County Attorney Manning suggested that they reference the Planning Department report that is contained in the Board Packet on all of these and then move forward. Chairman Hufstetler stated that they do have a full report on all of these from the Planning Commission. SECOND by Commissioner Bennett. VOTING:

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

Motion Carried

Commissioner Mayes made a MOTION to **approve** the rezoning from Suburban Residential to Community Commercial with Special Use Permit to build townhomes on File #22-2004Z, with reference to the Planning Commission’s report. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

FILE #23-2004Z, REQUESTS REZONING FROM S-R SUBURBAN RESIDENTIAL TO H-I HEAVY INDUSTRIAL FOR MARKETING AND DEVELOPMENT PURPOSES FOR PROPERTY LOCATED AT TURKEY MOUNTAIN ROAD/HIGHWAY SR 140. ZONING MAP M09 – 27, 28. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE – 6 – 3])

Chairman Hufstetler stated that this was the item that he thought most of the people in attendance were there to address. He called for a Motion to open the Public Hearing. Commissioner Bennett made a MOTION to open File #23-2004Z for Public Hearing. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated that the Public Hearing was open and he asked that Ms. Hiller present a report on this request.

Sue Hiller, Rome/Floyd County Planning Commission, presented slides showing a map showing the property and pictures of the property and surrounding area.

She stated that it had basically been used for agricultural and residential uses in the past. It was noted that the next item on the Agenda will be the parcel to the east. Assistant County Manager Rich noted on the map the location of Highway 53, Highway 140, Church Chair and Florida Tile and also zoning in the vicinity of this property. He mentioned that Florida Tile is zoned L-I, but in his opinion it does not meet the requirements of L-I, he thought that they were an existing Heavy Industrial industry. Commissioner Fricks asked Ms. Hiller for a review of the zoning standards here, that the questions that they go through and then the comments on each one of those, if she'd kind of review those with them (the Commissioners). Ms. Hiller said she was sorry, she did not hear the question. Commissioner Fricks asked her to review the standards for zoning changes to make sure they had hit all the elements on that.

Ms. Hiller stated this is what the staff tries to look at when they make their comments, are the requirements that the ULDC gives for zoning standards. It says, "Is the proposed use of development consistent with the stated purpose of the zoning district?" It would certainly be consistent with the stated purpose of the H-I Heavy Industrial district. It is, although it appears to be sort of a spot zone, there is agricultural and residential uses around it, there is industrial use to the south, along the Highway 53 corridor and back in 1993 the future land use map designates this area for industrial development. She stated she thought whenever there is development there is potential for some adverse impact but she would point out again that any development on this property has to meet development standards that include some pretty hefty buffers that would be placed between the development and any surrounding uses. Is it compatible in purposed intent with the Comprehensive Plan? Yes, it is. The comprehensive plan indicates industrial development for this area. Are there substantial reasons why the property cannot or should not be used a currently zoned? Certainly, it could continue to be what it is now. There is agricultural and residential use in the area. This could continue to be used in the same way; however, in light of what the Comprehensive Plan indicates, in light of the fact that you have the intersection of two major transportation routes, in light of the fact that there's a railroad spur on the property, it certainly is appropriate also for that type of development. There are services available to the property. That doesn't mean that they are right to the property. They are close enough, certainly, to be, to provide water and sewer. Fire, Police, all of those things are available. Is it supported by the Comprehensive

Plan or by any changes that have happened in the area? She said she thought, again the Comprehensive Plan does support it and when you talk about a reasonable balance between the promotion of public health, safety, and the right to unrestricted use of property, she thought that's kind of the heart and soul of zoning right there. In this case, you do have an industrial corridor along a major transportation corridor, you have utilities available to that site for industrial development, you have... but on the other side of the issue you have development standards in place, including buffers to protect the... any adverse affects that might that be perceived or real for surrounding property owners. She asked if that answered Commissioner Frick's question. Commissioner Fricks said you reviewed all the standards there I think that y'all have... the process that y'all (the Planning Commission staff) review in order to make your recommendations? "Absolutely," replied Ms. Hiller.

Commissioner Jennings asked if Ms. Hiller had talked about restrictions, noxious odors, dust, fumes, gas, noise, or vibrations... Ms. Hiller replied that they had. Commissioner Jennings stated he presumed... a member of the audience interjected that no one could hear. Commissioner Bennett asked if they could hear the commissioners or what they could not hear. Chairman Hufstetler asked if Ms. Hiller would hold the microphone closer to her. Ms. Hiller said what she was explaining to the County Commissioners and, rather than run through it step-by-step again, there are eight criteria that the Planning staff and the Planning Commission look at when they evaluate a rezoning application. In this particular case, the Planning staff and the Planning Commission felt that these properties and the proposed rezoning met those criteria. Those things have to do with impacts on surrounding property versus the right of these individuals to use their land as they choose to. They have to do with development standards – will there be protection provided in the way of buffers and setbacks to surrounding property and are services available to the site and just to summarize, yes. This is the intersection of two major highways. One of those highways is an access point to the interstate system. There is a railroad spur on the site. There is... utilities are available to this site and, again, this would

be an extension of what exists along Highway 53 at this point, which is an industrial corridor, including heavy industrial uses such as Florida Tile.

Commissioner Jennings stated he had two questions for Ms. Hiller: They heard her talk about the Heavy Industrial district has restrictions on noxious odors, dust, fumes, gas, noise or vibration. He asked, "Does an industry have to come back to be zoned as Heavy-Industrial... does an industry have to come back in front of us (the Board of Commissioners) to address those issues or is that part of our Code in terms of the operation of a facility?" Ms Hiller stated she thought the code certainly anticipates that heavy industrial uses may cause some of those things and that's the reason why there's a very large minimum lot size and very large buffer requirements that go with those. Even within the Heavy Industrial district, though, the more noxious types of uses, like a tannery, a meat packing plant, a landfill would require a special use permit from this Commission. Commissioner Jennings replied, "So really it depends upon the use and our Code whether a special use permit would be required but, basically, those more noxious potential uses would have to come down in front of this board?" Ms. Hiller stated he was right. She pointed out that, even though these are Heavy Industrial uses that may cause those things, there's a higher authority called the EPA, and in our case the EPD, that regulates a lot of those things. Heavy Industry isn't the same Heavy Industry today that it was 50 years ago. Commissioner Jennings said his second question was, "I believe it's a 200 foot buffer is required in a Heavy Industrial area?" Ms. Hiller stated, "It is on the sides and the rear unless it's adjacent a railroad track. In this case, the railroad track runs, I believe, between these two properties." She asked Mr. Rich to show where it is. She said it runs at the site of the property and they would be able to avoid the buffer from that side; however, the railroad corridor itself would run between that industrial use and any use, of course, that was on the other side of it. Commissioner Bennett said, "And the side and the rear that would be rear or side, depending on where it fronted and this right here (he pointed to a place on the map) would also be rear or side... Ms. Hiller said that was right... Commissioner Bennett continued, "So any development would set back a minimum of 200 feet... Ms.

Hiller said, " Side is any portion that is perpendicular to a street frontage and rear does not touch a street frontage so, with the exception of the part that's actually along the highway on either side, the rest would be either side or rear." Commissioner Bennett said, "So this would actually be a hundred feet, right here I guess, is that right?" Ms. Hiller agreed. Commissioner Bennett stated, "A hundred feet there, this then becomes the rear and that becomes the side until you get to the street so that would be 200 feet basically." Ms. Hiller responded, "Right. Anything along a street is a front. Anything else would be 200 feet. She asked if there was anything else. Chairman Hufstetler asked if there were any other questions for Ms. Hiller.

Chairman Hufstetler asked who wished to speak in Support of the item.

SUPPORT

Eddie Wilson, 5 Horseshoe Bend, Rome, spoke on behalf of Sam Freeman, Chairman of the Development Authority. He presented reasons that the Development Authority feels that this property needs to be rezoned Heavy Industrial. Also presented was information from an Industrial Site Study done by Georgia Power Company for the Development Authority. Mr. Wilson stated that this site had been ranked number one in the study. The Development Authority has a Purchase Agreement on this property at this time and the rezoning will allow them to respond quicker to the needs and opportunities of industrial prospects when they come their way. There were no questions from the Commissioners at this time.

OPPOSITION

Chairman Hufstetler stated that preference will be given to the adjoining landowners in opposition and asked that they stand. There were five people wanting to speak and he stated that they would have three minutes each.

Dean Sammons, 94 Tipperary Drive, Shannon, President and one of the owners of Church Chair, stated that they are Light Industrial, sewing, light welding and environmental friendly. He expressed his concern with the buffers which had been discussed. He expressed concern for the health of his employees and urged them to not rush into this until they know that they are doing the right thing.

Dr. Seaborn Whatley, 383 Plainville Road, stated that he is part owner of a veterinary clinic at 415 Plainville Road. He is the property owner on the north border of this property, where he farms. He expressed his concern that all of the adjacent roads surrounding the property are heavily populated. It is an old community of established families. There are over 3,000 active mailboxes. He stated that they had received 802 signatures on petitions against heavy industry, which had been previously given to the

Commissioners. They would like to see it classified as Light Industrial. Dr. Whatley answered questions from Chairman Hufstetler.

Thornton Whatley Morris, 977 Erwin Coker Road, Rome, stated that he lived immediately north of Seaborn Whatley. He stated that he, as well as his children, had grown up on this farm. He had driven all the way from Atlanta every day to come home at night to raise his children on this farm. They need help in protecting this area, which they had been stewards of during their generation. They do not want Heavy Industrial, Light Industrial is okay. He stated that they needed consistent use especially north of Highway 140 and they can work with the County to help in the development of Floyd County and help preserve the rural life in the north part of the County. He had talked with the owner of the property, who is not a resident of the County. They need to have people who have a long-term interest in this county. They are not opposed to progress, but they want it to be non-invasive to their way of life. There were no questions from the Commissioners at this time.

Spence Ramsey, 166 Plainville Road, stated that she owned the little half oval piece of property shown on the map and can see the property which is directly across from her. She does not want to see it. She does not want to look at the back of the building, especially one that has a very tall tower. They had moved back to Floyd County for the simple reason that it was home and family. There are a lot of houses within a one-half mile radius. She stated that she would like to see jobs in Floyd County, but not necessarily manufacturing, but more professional jobs so the young people, such as herself, will not think they would have to go to Atlanta to find a job if they are not in the education or medical field.

Dr. Kathy Sherman, 764 Thomas Bluff Road, Rome, stated that she has spent the last 11 years developing a veterinary practice and had made a significant investment in northern Floyd County. She plans to continue this practice started by Dr. Seaborn Whatley and of increasing the staff of the growing business. She also had purchased a significant amount of land and built her home in this neighborhood. Dr. Sherman stated that she is concerned about the impact that heavy industry would have on this area. She and her neighbors would prefer to see light industrial use come to this area. Her concern was for air, noise and light pollution. There were no questions from the Commissioners at this time.

Kay Whatley, 383 Plainville Road, stated that in doing research, this had been a real learning curve for her during the past two weeks. She presented a list of questions for which she would like to have the answers from the Planning Board about the research that they had done and what they have found out about this. Questions from Mrs. Whatley included the source of water supply, cost of expansion since heavy industrial sewers and water only go as far as Florida Tile, whether a site of 100 acres would support and payback that amount of investment, who is paying for this option and what is the cost, and current unemployment rate, which is better than average. She asked that they help them stay there, which they cannot do if it goes heavy industrial.

Chairman Hufstetler stated that they do have plans on water, they could buy from the City of Rome the amount that is currently bought from Adairsville, but the price from Adairsville is slightly better. Additionally they are drilling for more water sources all of the time so there are more plans for water in the future. He could not speak regarding the sewer because that is City of Rome, but the water extension to the property had a five-year payback. Commissioner Jennings mentioned that there is a 50-year water plan for the community, which had been developed in conjunction with the City of Rome. Their plan is that they are not going to be without water. Mrs. Whatley mentioned that there are wells down the Plainville Road which any industry could ruin, and they do not have a choice of County water and they do not have water hydrants for fire protection. She also expressed concern for the people in the area.

Commissioner Fricks stated that one perspective that he had looked at is if he was going to be living next door, most of them that have the obtrusive odors are not allowable usage. He noted that Light Industrial setbacks are not as great as with Heavy Industrial.

REBUTTAL

Eddie Wilson, 5 Horseshoe Bend Road, Rome, stated that regarding the comment “we don’t need heavy industrial.” He reminded the citizens and Commissioners that the last four of the last five or so industries that have announced in this area are heavy industrial. There are heavy industries that are good neighbors. There are some that the Development Authority does not want in Floyd County. Regarding putting certain restrictions in there to begin with, ultimately this is a marketing question. If this is zoned Heavy Industrial, the Commission has the power to say no to a business that they do not think Floyd County needs. He stated that the Development Authority thinks that it serves the best interest of Floyd County to have this property zoned Heavy Industrial.

Commissioner Jennings mentioned that in the last SPLOST they had explored the possibility of putting money in for an industrial tract, but at that time a piece of property had not been located. They had asked the Development Authority to move aggressively on that in order to have a 500-acre tract of land. To his knowledge nothing has happened in that regard. He asked the position of the Development Authority in terms of identifying, getting an option and getting them ready for a site that is appropriate for Heavy Industry. Mr. Wilson stated that they have some sites identified, which will require piecing together parcels to create the 500 or so acres. (*Comments by Sam Freeman and other members of the audience were not audible.*)

Commissioner Jennings asked where the \$1.9 million to purchase the property would come from. Mr. Wilson stated that everything had not been finalized, but it would come from cash from the Development Authority, they would also come to the Commissioners as well as to look for financing from the local financial institutions.

Commissioner Jennings stated that one of the issues from the citizens is trust that if zoned Heavy Industrial they would not bring in a noxious industry. Mr. Wilson stated

that he would refer to their track record. The members of the Development Authority are residents, they are citizens, they have children and they have a dream for the future of Floyd County as well. He asked that they zone it Heavy Industrial and ultimately he thought they would see a business on there that would make Floyd County proud. It was mentioned that there had been a precedent set that they don't actively pursue specific industries because of the negative impact on the community.

Chairman Hufstetler thanked everyone for their comments and called for a Motion to close the Public Hearing. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Jennings. VOTING:

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

Motion Carried

Commissioner Fricks suggested that they defer the vote, that they go ahead and hold the second Public Hearing on the other issue and then vote after that.

FILE #24-2004Z, REQUESTS REZONING FROM S-R SUBURBAN RESIDENTIAL TO H-I HEAVY INDUSTRIAL FOR MARKETING AND DEVELOPMENT PURPOSES FOR PROPERTY LOCATED AT TURKEY MOUNTAIN ROAD/HIGHWAY SR 140. ZONING MAP M09 – 026. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE – 6 – 3])

Commissioner Fricks made a MOTION to open the Public Hearing on File #24-2004Z. SECOND by Commissioner Mayes. VOTING:

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

Motion Carried

Chairman Hufstetler stated that the Public Hearing was open and he asked Sue Hiller to give a presentation on this tract of land.

Sue Hiller, Rome/Floyd Planning Commission, stated that she had nothing to add that was not discussed on the last item. She noted the property on the map. The Staff and Planning Commission felt that the Zoning Code supported this rezoning request. Pictures were shown of the property and surrounding area. Commissioner Fricks requested that Ms. Hiller review the zoning standards.

Ms. Hiller stated, “Those criteria are whether it’s consistent with the stated purpose of the zoning district. Again the purpose of this rezoning is to market this property. The Heavy Industrial designation does allow the most diversity of types of industrial uses. Some of those may be considered heavier. They may involve chemical or electrical processes. Again though, the ones that use the most noxious types of processes, the ones that may have significant impacts on the neighborhood, typically require a special use permit. They are not permitted by right. They are also regulated by the EPD and EPA. The surrounding zoning and development: This is mainly a rural, residential area; however to the south along the New Calhoun Highway, Highway 53, there is currently industrial development. There is an industrial corridor. Although it is designated as Light Industrial, at least one of those industries, Florida Tile, is a Heavy Industrial use. The Future Land Use Plan of the 1993 Comprehensive Plan lists this area as being appropriate for industrial development. It talks about whether the property can be used as it is currently zoned and I was sitting there listening to the discussion about buffer zones and it reminded me that, with the current zoning of S-R and with water and sewer available in this area and the current minimum lot size of 7200 square feet for Suburban Residential development, there could be a fair number of residences that would go onto this property. In a case like that, it could be developed by right with no public hearing and there would not be any requirement for a buffer. There would be some setbacks from property lines but they are significantly less than what you’re looking at for a Heavy Industrial use. The Code talks about whether services are in place and whether this would put a burden on those services. As we’ve talked about, those services are in place. They are not right to this property but they are available to be extended to this property. Transportation: Of course you are on two highways. This property is right at the corner of those two highways. One of them, again, is one of our connectors to the interstate system. Our Comprehensive Plan does support this. Our plan is old. It was produced in 1993 but, in spite of the fact that we criticize it a lot, sometimes I think it does get it right and, because of the transportation that’s available at this intersection, the existing industrial, in this case I think it is still applicable to this property. And again we look at a reasonable balance between the good of the public and the right of the individual to use their property as they see fit and I think that’s where, in this case, development standards probably come into play. There are setback requirements from these property lines and those aren’t just setbacks, those are buffers. They are meant to be vegetation, they are meant to be fenced, they are meant to be earthen-berm, whatever it takes and that has to be worked out with the Building Inspection Department to adequately buffer the use there.” Chairman Hufstetler asked if there were any questions.

Chairman Hufstetler stated that at this time they would hear from the people in Support of this item. Mr. Wilson stated that in the interest of time, if they would just cut and paste their remarks from the previous item.

Chairman Hufstetler asked if there were those in opposition, giving preference to adjoining property owners, that wished to speak. He stated that there were four people wishing to speak and they will have 2½ minutes each.

OPPOSITION

Michael Sammons, 285 Tipperary Road, Adairsville, one of the owners of Church Chair Industries, stated that they live about 3½ miles from the property. He did not know about the meeting until this week and therefore did not have time to do any research. There had been articles in papers about other wood products companies in north Georgia being fined by the EPA and EPD for polluting the atmosphere, waterways and rivers. Mr. Sammons expressed his concern about companies of this type where the air is not fit to breathe. Once a plant of this type goes in, it is impossible to change it. He asked that they think about other companies of this type and the damage that they have done and the permanence of it.

Commissioner Jennings asked Mr. Sammons if he was familiar with a similar type industry as he described that is a recent construction or development. Mr. Sammons was not familiar with an industry, but was familiar with systems he has in his home and stated that because of the extreme expense, no business would be able to put in that type of system.

Carol Taylor, 320 Kellett Road, which is off of Highway 140 stated that her parents, Tom and Ann Vasil, live across from the Whatley's and get their water from a spring. Her husband works for Florida Tile and she stated that the only emission from the plant is steam. She understands the importance of industry, they need more jobs but she does not think it should be Heavy Industry.

Charles Earle, 3041 Turkey Mountain Road, stated that he lives approximately 1 mile from this property. In 1998 the Board of Commissioners sold Floyd County on the idea of the Unified Land Development Plan with the idea of preventing what is being requested now. It was to prevent islands of heavy industry of mixed use development of their lands. Heavy industry would probably adversely affect people within a five mile radius. He was concerned that a buffer would not be enough.

Leah Gentry, 4404 Adairsville Road, Adairsville, stated that she currently resides in Gordon County but in the process of building a home on Highway 140. There had been discussion of good neighbors in industry and she had looked up on the EPA website and there are industries in Floyd County that have been addressed by the state for formal enforcement action in the last quarter of 2003, and had also been on the list previously. The industry is Inland Container and this is a type of industry they would not want in the area. She grew up on Plainville Road and it is a beautiful area. They are

moving back to the area because it is home. She does not want to see it disturbed or destroyed by any type of heavy industry. She expressed concern for hazardous waste.

REBUTTAL

Eddie Wilson, 10 Horseshoe Bend Road, stated that he had no comments at this time. Commissioner Jennings asked Mr. Wilson if they currently have, in their inventory of industrial properties, properties that are currently zoned Heavy Industrial and if so what is the acreage of them. *(The response was not audible.)*

There being no other comments, Chairman Hufstetler called for a Motion to close the Public Hearing. Commissioner Jennings made a MOTION to close the Public Hearing on File #24-2004Z. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated that the Public Hearing was now closed and asked if there were any discussions.

Commissioner Bennett stated that as a presenter of petitions in the past, he could understand and sympathize and was impressed with the turnout. He is working hard to assure his grandchildren have the choice of living in Floyd County. He noted the things, which co-exist with heavy industry in Floyd County. Commissioner Bennett stated that he had personally seen, and it could not be guaranteed, the care that the Industrial Developers have exercised in the past of trying to bring things to the community. He also pointed out that even the way that this property is currently zoned, it allows things like pesticides, but responsible use of those pesticides does not destroy that land. Also mentioned were other permitted uses of the property. He personally feels that they need to honor the request of the Industrial Development recruiters with them knowing that they have some last say-so in what type industry is welcomed into the community.

Commissioner Mayes stated that because he lives so close to this development, he is going to abstain from voting. He also owns property across the highway from his house and he thinks that he has some type of a conflict. Commissioner Mayes stated to his fellow Commissioners that so far they have been diligent in bringing good clean industry here and he expects they will continue to do the same thing. If it gets to a point that it is rezoned H-I, he will be on the other side screaming louder than anybody if they try to bring in an industry that has the characteristics that everyone is concerned about.

Commissioner Jennings stated that he is persuaded by the track record of the Development Authority. They have had a good track record of bringing in high tech, well paying jobs. He is persuaded by the argument of the power of the purse strings because the fact of the matter is that these industries will seek incentives and abatements and they have the ability to say yes or no. He is persuaded by Special Use Permits, especially by the obnoxious activities. He is persuaded by moving forward with economic development and certainly the site, because of its transportation access, makes for a good site for industrial development. He is not persuaded by the unknowns and he thought a lot of the discussion tonight had to do with heavy industrial with a big question mark as far as what might come in there. He is persuaded by the residents who said that they are not opposed to industrial development and feel that light industrial is appropriate for this area. He is persuaded by the rural residential nature of this particular area. He mentioned current sites available, including Berry Technology Center where there is quite a bit of land available. Commissioner Jennings was encouraged to hear that the Development Authority is aggressively seeking a major tract in our community. On a personal note, he had been personally affected by a heavy industrial use that moved in his back yard and forced him to move from a piece of property that he thought he was not going to walk off of. In that regard it is not an easy decision and they are entrusted by the citizens of the community to make a good decision in this regard. His thinking is that they should deny this Heavy Industrial designation and should seek a Light Industrial designation for the property and invite the Development Authority to come back to them should a suitable heavy industry seek to locate there.

Chairman Hufstetler called for a Motion. Commissioner Bennett stated that he had indicated that he favors this and feels it is in the best interest of the community and hopefully they can do it responsibly. He feels empathy with the people that have petitioned and he knows that it is heartfelt and he still has his trust in the Development Authority. Commissioner Bennett made a MOTION to **approve** rezoning File #23-2004Z from Suburban Residential to Heavy Industrial, Zoning Map M09, 27, 28. SECOND by Commissioner Fricks.

Chairman Hufstetler stated that he did want to make comments before the vote. He thought that everyone that had spoken had said this is industrial land, and the question is Light Industrial versus Heavy Industrial. He referred to the Development Authority's and the Chamber's job over the past six years and the industries that have come to town that are good neighbors. The question is are they giving things away that they can't take back? He feels that there are going to be protections in place. He pledged to them that they will make sure that they get the right industries here. For that reason he plans on supporting the Motion that was made.

Commissioner Fricks stated that he thought they all mirrored the feeling and he can guarantee that he fully does not have intentions of putting any kind of industry that will have any adverse effect to the neighbors any more magnified than what Light Industrial would be. He does like the opportunity to give them the expansion of Heavy Industrial opportunities for sales because there are some that are not going to have a negative effect on existing neighborhoods. Commissioner Fricks stated that he does

think they will have opportunities, whether it be through infrastructure developments or Special Use Permits to make that decision. He does trust the Development Authority; he served on it for a number of years and saw how they operated. They are fortunate that they don't have to have every industry that knocks on the door. They want the best, best paying, cleanest and that will provide the best future for our children. On that basis, he does support this.

Commissioner Bennett stated that the Chamber of Commerce, who is the sales agent for the community regarding industry and the Development Authority members and others who support that, recognize a common thread. This property would not be rezoned H-I tonight except for the responsibility that they have exhibited in the past.

VOTING:

YES	NO
Commissioner Fricks	Commissioner Jennings
" Bennett	
Chairman Hufstetler	

Motion Carried

Commissioner Mayes abstained for the reason he had previously stated.

Chairman Hufstetler called for a Motion on File #24-2004Z. Commissioner Bennett made a MOTION to **approve** rezoning File #24-2004Z from Suburban Residential to H-I Heavy Industrial, Zoning Map M09 – 26. SECOND by Commissioner Fricks. Chairman Hufstetler stated there was a Motion and Second and asked if there was any discussion. There being no discussion, he asked that the roll be called. VOTING:

YES	NO
Commissioner Fricks	Commissioner Jennings
" Bennett	
Chairman Hufstetler	

Motion Carried

Commissioner Mayes abstained for the reason he had previously stated.

ULDC REVISIONS

REVISE ARTICLE 2.10 CONCERNING THE PROCESS FOR TEXT AMENDMENT.

(PLANNING COMMISSION RECOMMENDATION:

APPROVED [VOTE – 9 – 0]

Chairman Hufstetler stated that they would move to Item Number 7 (Revise Article 2.10 concerning the process for text amendment). Commissioner Fricks made a MOTION to open the Public Hearing for Article 2.10 concerning the process for text amendment on the Planning Commission Recommendation to approve [vote 9 - 0]. SECOND by Commissioner Bennett. VOTING:

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

Motion Carried

There being no one present wishing to speak in support or opposition, Commissioner Bennett made a MOTION to close the Public Hearing to revise Article 2.10 of the ULDC. SECOND by Commissioner Mayes. VOTING:

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

Motion Carried

Chairman Hufstetler called for a Motion. Commissioner Bennett made a MOTION to **revise Article 2.10** concerning the process of text amendment of the ULDC including as an Exhibit, the actual proposed amendment to Article 2.10 and 2.10.1 as part of the record which was prepared by the County Attorney. SECOND by Commissioner Fricks. VOTING:

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

Motion Carried

**REVISE ARTICLE 3 CONCERNING DUPLEXES
ON INDIVIDUAL LOTS.
(PLANNING COMMISSION RECOMMENDATION:
APPROVED [VOTE – 9 – 0])**

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

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated that the Public Hearing was open and asked who would like to speak in Support or Opposition.

SUPPORT

Rob Smith, 137 Acadia Drive, stated that they are hoping for a text amendment to allow them to sell one side of a duplex. This would be very similar to what is already in the Code for townhouses. He thought that the way this was written was 40 feet which is half of D-R zoning. There is really no change in density or anything of that nature. This will add a lot of pride of ownership. There are a lot of duplexes in this town that are destined to be rental property. There is also the concern of how do you get a mortgage on it when a family wants to go in together and live next door to each other. They are just looking to make a few extra dollars, to be able to break them up and hit a market that is not there currently. He also mentioned that they are exceeding the code on the firewall as well as there will be restrictions to help the neighbors get along, as any single residence would have.

Commissioner Mayes asked about townhouses and a contract concerning who takes care of what. He owns a townhouse and at this time they just take care of it and he can imagine that at some point everybody is not going to do that.

Mr. Smith replied that he had seen that go both ways. You can have a bad neighbor next door no matter where you live. In some cases the owners have their own Homeowners Association and others nothing can be done because a neighbor won't agree. Mr. Smith stated that they will try to address that as best they can.

Commissioner Bennett stated that he is for a man's private property rights, but he does have some concern with maintenance. He sees it in the community as some possible problems. Mr. Smith mentioned that townhouses were already allowed. The question arose of whether the code requires a Homeowners Association with townhouses. There was also discussion of the possibility of building two structures instead of one if there was no minimum lot size.

There being no further discussion, Chairman Hufstetler called for a Motion to close the Public Hearing. Commissioner Bennett made a MOTION to close the Public Hearing. SECOND by Commissioner Jennings. VOTING:

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

Motion Carried

Chairman Hufstetler stated that the Public Hearing was closed and it was decided that this item will be tabled.

The Commissioners took a break at this time.

Chairman Hufstetler stated that they would move back to Item 6, which is to revise Article 3 concerning minimum lot size.

**REVISE ARTICLE 3 CONCERNING MINIMUM
LOT SIZE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – 5 – 4])**

Chairman Hufstetler called for a Motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing to Revise Article 3 of the ULDC concerning minimum lot size. SECOND by Commissioner Mayes. VOTING:

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

Motion Carried

There being no one present wishing to speak in support or opposition of this item, Commissioner Bennett made a MOTION to close the Public Hearing concerning Revision of Article 3 of the ULDC. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Commissioner Bennett made a MOTION to **Amend** Section 3.5.1 to read as follows:

“MINIMUM LOT SIZE

Every property upon which a principal use may be located shall meet or exceed the following requirements for its respective zoning district except that the Minimum Lot Size (square feet) requirements in column three of Table 3-3 shall have application only in the city:” everything else in Section 3.5.1 shall remain the same.

SECOND by Commissioner Fricks.

Commissioner Jennings made an amendment to the MOTION, that they read into the subdivision regulations that, in a subdivision that is developed without minimum lot size, it be required be required to have 25% of the land available for greenspace. This would not be for a single dwelling, but any kind of subdivision that went in that didn't have minimum lot sizes, that 25% of the land be available for greenspace.

Commissioner Mayes asked Commissioner Bennett if he had originally stated that he did not have a problem with this for non-residential. Commissioner Bennett replied that as explained and trying to apply the formula and the restrictions in other places of setbacks and other requirements and criteria, the greenspace that Commissioner Jennings speaks to, except in other zoning districts, he does not think it would apply in suburban residential, unless they were building a tiny house, you still have the front, rear and side setbacks.

The amendment to the Motion died for lack of a Second, therefore the vote is for the original Motion.

YES

NO

Commissioner Fricks
" Mayes

Commissioner Jennings

" Bennett
Chairman Hufstetler

Motion Carried

**REVISE ARTICLE 3 TABLE 3.2 CONCERNING
USES PERMITTED BY RIGHT IN THE C-C
ZONING DISTRICT (MINI-WAREHOUSES).
(PLANNING COMMISSION RECOMMENDATION:
APPROVED [VOTE – 9 – 0])**

Chairman Hufstetler stated that they had been told that uses permitted by right also actually includes Special Permit in the C-C Zoning District and called for a Motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

There being no one present wishing to speak in support or opposition, Chairman Hufstetler called for a Motion to close the Public Hearing. Commissioner Bennett made a MOTION to close the Public Hearing to Revise Article 3 Table 3.2. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Commissioner Bennett made a MOTION to **Revise** Article 3 Table 3.2 of the ULDC concerning uses permitted by a Special Use Permit in the C-C Zone to allow Mini-Warehouses by Special Use Permit in the unincorporated area only. With the codifier having discretion as to how to show such designation in the ULDC. **SECOND** by Commissioner Fricks.

Commissioner Jennings noted that what was in the Agenda was incorrect. Commissioner Bennett stated that it should say “Special Use Permit.” Chairman Hufstetler stated that Ms. Hiller had stated that is the way they write it, but they are voting on Special Use Permit. Commissioner Bennett mentioned that it was advertised “by right,” but they had said that they did not want it by right, they actually wanted it by Special Use Permit. *(Ms. Hiller’s comment was not audible.)*

VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

VOTE ONLY

FILE #18-2004Z, REQUESTS REZONING FROM HR-T HIGH DENSITY TRADITIONAL RESIDENTIAL & S-R SUBURBAN RESIDENTIAL TO C-C COMMUNITY COMMERCIAL FOR MARKETING AND DEVELOPMENT PURPOSES FOR PROPERTY LOCATED AT TUCKAWANA DRIVE AND U.S. HIGHWAY 411 EAST/ CARTERSVILLE HIGHWAY. ZONING MAP K15X – 295, 273. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE – UNANIMOUS]) (DEFERRED ACTION ON REMAINING PORTION OF PARCEL 28D FROM MAY 11, 2004 MEETING.)

No action taken.

CHAIRMAN’S REPORT

APPOINTMENTS.

Chairman Hufstetler stated that there was one appointment to make and that was to the **Forum Parking Committee**, which is actually to look at all parking in downtown Rome as well. The two appointments to that Committee will be **Tom Bennett** and **Garry Fricks**.

COMMISSIONER'S REPORT

ADMINISTRATIVE/FINANCE COMMITTEE.

**DISCUSS PURCHASE OF VEHICLES FOR
FLOYD COUNTY SHERIFF'S DEPARTMENT.
(DEFERRED FROM MAY 11, 2004 MEETING.)**

This item was deferred

SPECIAL COMMITTEE REPORTS

NEW HEALTH DEPARTMENT FACILITY.

AWARD BID FOR MATERIALS TESTING.

County Manager Kevin Poe stated that the recommendation was to award the bid to GeoHydro to do the Materials Testing on the Health Department Project. They were the low bidder from responses to the Request for Proposal. Commissioner Jennings made a MOTION to award the contract to GeoHydro for Materials Testing on the New Health Department site. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

CLERK'S REPORT

CONSENT AGENDA.

Chairman Hufstetler called for a Motion to approve the Consent Agenda. Commissioner Bennett made a MOTION to approve the Clerk's Consent Agenda. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Fricks

" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

1. Tax Refunds:
 - a. Wolf Ridge, Inc./Waylon Shadburn, 2255 Pendley Road, Cumming, \$31.84
 - b. Hoyt & Vickie Lawler, 384 Lovell Road, \$596.10
 - c. Kubilowski Enterprises, LLC, %Tommy White, Sr., 1400 Garden Lakes Blvd., \$485.91

MANAGER'S REPORT

DISCUSS REQUEST FROM DEPARTMENT OF TRANSPORTATION FOR COUNTY TO DONATE TWO PARCELS OF PROPERTY TO THE STATE FOR RIVERSIDE PARKWAY WIDENING PROJECT. (DEFERRED FROM APRIL 13 AND MAY 11, 2004 MEETINGS.)

This item was deferred.

AUTHORIZE EXECUTION OF DOCUMENTS FROM THE DEPARTMENT OF TRANSPORTATION REGARDING 2004 LARP. (LAR04-S006-00(169))

County Manager Kevin Poe recommended authorizing the Chairman to execute the documents from the DOT for the 2004 LARP Paving Program. Commissioner Bennett made a MOTION to authorize the Chairman to execute the documents for the 2004 LARP Paving Program. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**DISCUSS NORTHWEST GEORGIA
REGIONAL HOSPITAL AGREEMENT
WITH COUNTY TO FURNISH PRISON
WORK DETAIL.**

County Manager Kevin Poe recommended renewing the contact with Northwest Georgia Regional Hospital to furnish them a Prison Work Detail. The only change would be the reimbursement that we receive for supplying the Officer for the Work Detail. Commissioner Bennett made a MOTION to approve the Manager's recommendation. SECOND by Commissioner Jennings. VOTING:

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

Motion Carried

**BID AWARD FOR TRUCKS FOR
WATER DEPARTMENT.
(4/5 VOTE REQUIRED)**

County Manager Kevin Poe recommended adding the item to award the bid for the purchase of pick-up trucks for the Water Department to the Agenda. Commissioner Bennett made a MOTION to add this item to the Agenda. SECOND by Commissioner Fricks. VOTING:

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

Motion Carried

County Manager Poe stated that they had received two sealed bids for the purchase of pick-up trucks, with the low bid being from Allen-Vigil Ford for 2004 Ford F-150 in the amount of \$11,789. He recommended approving the purchase of three (3) pick-ups. That would be the two that were approved for this year and one (1) additional that was totaled in a recent wreck. Chairman Hufstetler called for a Motion to accept the Manager's recommendation. Commissioner Jennings made the MOTION. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

ADJOURNMENT:

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

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

CHUCK HUFSTETLER, CHAIRMAN