

June 4, 2013
Statesboro, GA

Regular Meeting

The Board of Commissioners met at 5:30 p.m. in the Community Room of the North Main Annex. Chairman Nevil welcomed guests and called the meeting to order. Commissioner Mosley gave the invocation and the pledge of allegiance.

Ms. Christy Strickland, Clerk of the Board, performed the roll call of the commissioners and staff. The following commissioners were present: Chairman Nevil, Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, Commissioner Thompson and Vice Chairman Gibson. The following staff were present: County Manager Thomas Couch, County Attorney Jeff Akins, Developmental Services Director Andy Welch, Chief Financial Officer Harry Starling, Public Safety Director Ted Wynn, Chief Deputy Jared Akins, Purchasing Director Kenny Trapnell, BCCI Deputy Warden Bubba Smith, Transportation Director Dink Butler, Statesboro-Bulloch County Parks and Recreation Director Mike Rollins, and Zoning Administrator Randy Newman.

After Roll Call, Chairman Nevil opened the meeting for Public Hearings regarding Zoning and Land Use matters. Chairman Nevil called on Zoning Administrator Randy Newman to present the first item of business. Zoning Administrator Randy Newman presented Item #1 which was an application submitted by Kimberly Williams for a Conditional Use to operate a personal care home in an Agricultural 5 acre (AG-5) zoning district. He stated the property consists of 7.52 acres and is located on Ponderosa Road Map Par # 039 000008 000. The Planning and Zoning Commission recommended approval of the request with conditions. Attorney Michael Classens with Edenfield, Bruce, Cox and Classens PC was present to speak on behalf of the request. He stated he was going to let Ms. Kimberly Williams speak first and he would make the closing remarks. Ms. Williams stated that the personal care home would have to meet all the local and state requirements and also it would be governed by the Department of Community Affairs. She stated by state law they can only have up to six (6) patients in the home and that none of the patients would have any type of dementia or Alzheimer disease. She stated there should not be any safety issues, and they will have supervision twenty-four (24) hours per day and seven (7) days per week. Attorney Steve

Rushing with Franklin, Taulbee, Rushing, Snipes and Marsh LLC stated he was representing eleven (11) land owners in the area and asked them to stand when he called their names: Tyler Finch, Jimmy Mallard, Robbie Howell, Ellen Bunch, Claire Wright, Peggy Gilmore, Roy Finch, Greg & Julie Anderson, Ruth Thigpen, Randy Saunders and George W. Daniels. Mr. Rushing went over the seven standards for consideration of a conditional use from the Bulloch County Zoning Ordinance. Mr. Rushing stated the first standard reads as follows: Is the type of street providing access to the use adequate to serve the proposed conditional use? Mr. Rushing stated there are excellent four (4) lane roads until you get to Ponderosa Road, but to reach Mrs. Williams' home it is necessary to travel approximately one and a half (1.5) miles down unpaved Ponderosa Road, which Mr. Rushing described as a washboard dirt road, especially during inclement weather. He stated with the area being zoned AG-5 there are also hazards with farm equipment on the road. Mr. Rushing stated the second standard reads as follows: Is access into and out of the property adequate to provide for traffic and pedestrian safety, the anticipated volume of traffic flow, and access by emergency vehicles? He stated the driveway is narrow and not easy to find. Mr. Rushing further stated that the distance of Ms. Williams' house from East Georgia Regional Hospital is approximately 18.6 miles via Veterans Memorial Parkway, and it is about the same distance from the Jenkins County Hospital in Millen, Georgia. He stated that this is a concern because of the type of patients in the home. Mr. Rushing stated the third standard reads as follows: Are public facilities such as schools, EMS, sheriff and fire protection adequate to serve the conditional use? He stated that as good as EMS and the Sheriff's Department are, the site is close to the County line, and one of the reasons a personal care home is a conditional use is for the Board to examine the safety issues. Mr. Rushing stated there are three (3) personal care homes operated by Pineland Community Services and those are all close to town. He stated the Department of Community Affairs reports they have ten (10) personal care homes operating in Bulloch County. Mr. Rushing stated that seven (7) of these personal care homes are located inside the city limits of Statesboro, and three (3) are located in the unincorporated area of the Bulloch County. Mr. Rushing further stated that of the three (3) located in the unincorporated area, two (2) are no more than five (5) miles from the hospital and the third is located on Pulaski Road approximately eleven

(11) miles from the hospital. Mr. Rushing stated there is a reason for all of these homes being near the hospital and it gives good reason to deny the application. Mr. Rushing stated the fourth standard reads as follows: Are refuse, service, parking and loading areas on the property located or screened to protect other properties in the area from such adverse effects as noise, light, glare or odor? Mr. Rushing stated that he and his clients are probably not the best ones to answer this question. Mr. Rushing stated the fifth standard reads as follows: Will the hours and manner of operation of the conditional use have no adverse effects on other properties in the area? Mr. Rushing stated this is where the neighbors' rights come in because it has been stated the home will be a 24-hour-7-day-a-week operation, and even though it has been said there would be 24/7 supervision the neighbors have true concerns about the liability issues. He stated there is a pond less than one hundred and fifty feet (150) feet away from the home which was a concern when the application was turned down last year. Mr. Rushing stated Tyler Finch who owns the pond is extremely concerned about the liability he would have if a patient were to fall in the pond and get injured or drown. He stated the property values of nearby homes would decrease if the personal care home was approved. Mr. Rushing stated the sixth standard reads as follows: Will the height, size or location of the buildings or other structures on the property be compatible with the height, size or location of buildings or other structures on neighboring properties? He stated that the property consists of seven (7) acres, but the home is located right next to the pond on Mr. Finch's property. Mr. Rushing stated it is not compatible because the homes in the area are Single Family Residences. He stated the property across the street from the proposed home is used for cultivating farm land, and he does not feel the chemicals would be safe for the patients in the home. Mr. Rushing stated the seventh standard reads as follows: Is the proposed conditional use consistent with the purpose and intent of the zoning ordinance? He stated the area is an AG-5 zoning district and it has been mentioned about the farming and chemicals, and also the area has a low density of single family residences. Mr. Rushing stated the future land use plan also calls for the same uses as it is presently. He stated you only need one reason to deny the application and there are several issues to deny this application. Mr. Rushing stated on behalf of the eleven (11) homeowners that they respectfully ask for the conditional use request for the personal care home to be denied.

Attorney Michael Classens spoke on behalf of the applicant, Ms. Williams. Mr. Classens stated on two (2) different occasions the Board of Commissioners have been provided with the Departmental Reviews provided by the Staff stating that all standards were reviewed and found adequate and recommending approval of the request. Mr. Classens further stated that the Planning and Zoning Commission heard the request on May 9, 2013 and recommended approval of the conditional use request. He stated that the farm implements would be there whether or not the conditional use request is approved and have no bearing on the request. Mr. Classens stated the Planning and Zoning Commission said there would be no adverse impact on the property values in this area. He said that the original concern was that property values would increase and therefore cause a tax increase given the basis on which land is taxed. Mr. Classens stated that the Planning and Zoning Commission found that there would be no impact, either positive or negative, on the property values in the area. He stated the home is adequate for six (6) patients and every patient will be screened before they are accepted and no one will be accepted that has any conditions such as dementia or Alzheimers that would be a threat for elopement. He stated the personal care home would only be for people who need assistance with everyday living. Mr. Classens stated if their medical provider says they have one of these diseases they will be moved to a facility that can care for them. He stated as far as adequate facilities the site is accessible to two (2) hospitals and both are within a matter of minutes. Mr. Classens stated just because the road is a dirt road does not mean everyone who lives on it is in some kind of danger, and if they are then it should be paved. He stated nobody is saying that the road should be paved, but if it is suitable now for the homeowners in the area then it should be suitable for the patients in the personal care home. Mr. Classens stated as far as liability they will be supervised 24 hours 7 days a week and there will not be any patients there that would be prone to wander off the property. He stated Ms. Williams is offering a service to these patients that is needed in the area. Mr. Classens asked the Board of Commissioners to uphold the recommendation of the Planning and Zoning Commission and approve the request. Commissioner Thompson stated he had just about changed his mind until a statement Mr. Classens made about the roads and asked him to explain how he thinks a road gets paved in Bulloch County. Mr. Classens stated he was not sure but assumes the Board of

Commissioners would have to approve for it to be paved, but that he does know it costs a lot of money to have a road paved. He stated he was not suggesting the road be paved but was just pointing out that the condition of the road will be the same whether the conditional use is approved or not. Commissioner Thompson stated that the Board of Commissioners does have a lot of confidence in the Planning and Zoning Commission, but the Commissioners do their own homework and sometimes they have to overturn the Planning and Zoning Commission's recommendation. Commissioner Thompson stated that paving a road in Bulloch County is not a simple process. Mr. Classens stated he was not suggesting that the roads be paved, and that it was just an illustration and not relevant to the conditional use. Commissioner Thompson stated that he just wanted to clarify that it is not an easy process due to right-of-way acquisition and that it is a very costly process. Commissioner Simmons stated he does agree that the road needs to be paved, but as Commissioner Thompson stated it is not an easy process. He stated he has elderly parents and he would love to have them living in a personal care home like Ms. Williams is proposing, and he offered a motion to approve the conditional use for a personal care home with conditions as recommended by the Planning and Zoning Commission. Commissioner Mosley seconded the motion. The motion failed to pass with Commissioner Rushing, Commissioner Thompson and Commissioner Gibson voting in opposition to the motion, and Commissioner Simmons and Commissioner Mosley voting in favor of the motion. Chairman Nevil asked the Board if they had any further questions and if not he would need another motion. Commissioner Thompson offered a motion to deny the conditional use request for a personal care home. Commissioner Gibson seconded the motion and it carried with Commissioner Gibson, Commissioner Rushing and Commissioner Thompson voting in favor of the motion, and Commissioner Simmons and Commissioner Mosley voting in opposition to the motion.

Zoning Administrator Randy Newman presented zoning agenda item #2 which was an application submitted by the Daniel Lee Estate/Iretha Perkins for a conditional use to operate a group girls' group home under the definition of a Boarding House in an Agricultural 5 Acre (AG-5) zoning district. He stated the property consists of 18.68 acres and is located on Shuman Road Map/Par 102B 000001 000. The Planning and Zoning Commission recommended approval of the request with conditions. Mrs. Marcella

Dickerson-Jones was acting as agent and went over the services that will be offered to the girls at the home. She stated that the girls will be from the ages of thirteen (13) to sixteen (16) and they will be able to screen who comes into the home. She stated they will have not have signs on the property advertising that it is a girls' group home. Mrs. Jones stated at the zoning meeting there were concerns about safety issues concerning the girls. She stated that at no time will any of the girls be outside unsupervised. Mr. Tony Hodge was present to speak on behalf of the request and stated he was going to be the director of the girls' home and that the girls will be in school during school hours and when they are at the home they will have twenty-four (24) hour supervision. He stated he has found in his twenty (20) years of being involved with girls' homes that they respond better to rural areas and asked the Board to approve the request. Ms. Gwendolyn Jackson was present opposing the request and stated the area is for single family residences and not for commercial uses. She stated she is concerned with too many people being in the home and the emergency services being so far away. Mr. Eric Bishop was present to speak in opposition to the request and stated he has an aggressive dog in a fence at his residence and is concerned about one of the girls coming over and trying to pet it or play with it and it biting them. Mr. Bobby Jones was present and stated he is the husband of Mrs. Marcella Jones and they have met all the state requirements and that there will be a fence erected around the home. He also stated that the property consists of 18.68 acres but they will only be using approximately 2 of those acres. After additional discussion on the group home, Commissioner Mosley offered a motion to approve the conditional use request for a girls' group home under the definition of a Boarding House with conditions. (See Exhibit #2013-058) Commissioner Simmons seconded the motion and it carried unanimously with Commissioner Mosley, Commissioner Simmons, Commissioner Rushing, Commissioner Thompson and Commissioner Gibson voting in favor of the motion.

Sign-in sheets for Zoning Matters are shown in Exhibit #2013-059.

Chairman Nevil closed the Public Hearing regarding Zoning and Land Use matters, and asked for amendments or modifications to the General Agenda. Hearing none, Commissioner Gibson offered a motion to approve the General Agenda as presented. Commissioner Simmons seconded the motion, and it carried unanimously with

Commissioner Gibson, Commissioner Thompson, Commissioner Rushing, Commissioner Mosley and Commissioner Simmons voting in favor of the motion.

Next, Chairman Nevil asked for public comments from the audience at large or in writing. County Manager Tom Couch and Clerk of the Board Christy Strickland both stated that there were no formal requests or petitions received in writing. Hearing none, Chairman Nevil moved on to the next item.

Chairman Nevil stated the next item was to approve the Consent Agenda as follows: (1) To approve the minutes of the Regular Meeting and Executive Session held on May 21, 2013; (2) To approve a contract with Riggs Pharmacy for Inmate Drugs at the Bulloch County Correctional Institute (See Exhibit # 2013-060); (3) To approve a lease bid with Golf Ventures Inc for Reel Mowers (See Exhibit # 2013-061); (4) To authorize the County Manager to execute an agreement with the Georgia Department of Corrections for FY 2014 Intergovernmental Agreement (See Exhibit #2013-062); (5) To authorize the County Manager to award a Purchase Order and Contract with Concrete Pipe (See Exhibit #2013-63). Commissioner Rushing offered a motion to approve the Consent Agenda as presented. Commissioner Gibson seconded the motion, and it carried unanimously with Commissioner Gibson, Commissioner Thompson, Commissioner Rushing, Commissioner Mosley and Commissioner Simmons voting in favor of the motion.

With no new or old business, Chairman Nevil asked each Commissioner to take thirty seconds for any general comments or statements. Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, Commissioner Thompson and Commissioner Gibson thanked the staff for all their hard work and dedication.

Next, Chairman Nevil asked for comments from the Staff. Mr. Couch stated he would most likely have a called meeting in the next week to discuss the 2014 FY Budget.

Chairman Nevil asked if there were any further comments from the Commission or Staff. Hearing no further comments from the Board or Staff, Chairman Nevil stated that there was no further business expected for the open session of the regular agenda, and the Board must close the meeting and enter into Executive Session to discuss Potential Litigation. Chairman Nevil stated that at the conclusion of the Executive Session, which was expected to last about fifteen minutes, the Board would reconvene

and in all likelihood move for adjournment. Chairman Nevil called for a motion to adjourn into Executive Session in accordance with the provisions of O.C.G.A. 50-14-2 (1) and other applicable laws, pursuant to the advice of the County Attorney, Jeff Akins, for the purpose of discussing Potential Litigation. Without further discussion, Commissioner Mosley offered a motion to enter into Executive Session to discuss Potential Litigation (See Exhibit #2013-064). Commissioner Simmons seconded the motion, and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, Commissioner Thompson, and Commissioner Gibson voting in favor of the motion.

Chairman Nevil asked if there were any further comments from the Commissioners or Staff. Hearing none from the Board or Staff, Chairman Nevil asked for a motion to adjourn. Commissioner Gibson offered a motion to adjourn the meeting. Commissioner Rushing seconded the motion, and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, Commissioner Thompson, and Commissioner Gibson voting in favor of the motion.

J. Garrett Nevil, Chairman

Attest: Christy Strickland, Clerk of the Board