

**EUHARLEE PLANNING & ZONING MEETING MINUTES**  
**7:00pm | May 10, 2022 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs - Chair, Steve Gray, James Evans, Kathy Foulk, Lovako Patterson, James Stephens – City Manager, April Lucas – Economic Development Director, Don Matthews – Code Enforcement Officer

Chair Judd Mobbs called the meeting to order at 7:00pm. Mr. James Stephens called roll and noted that Mr. Frank Graziano and Mr. James Evans were not present.

Mr. Mobbs requested a motion to approve the agenda. Ms. Foulk made a motion to approve, with a second from Mr. Gray. The agenda was approved unanimously.

Mr. Mobbs requested a motion to approve the minutes from the April 12, 2022 Planning & Zoning meeting. After brief review, a motion was made by Ms. Patterson and a second by Mr. Gray. The minutes were approved unanimously.

Mr. Mobbs announced they would begin considering two rezoning applications for 933 and 937 Euharlee Rd. Mr. Mobbs referred the Commission to the two handouts provided by the owners of 933 and 937 Euharlee Rd. These handouts were general layouts of their plans for their respective properties.

Mr. Evans arrived and joined the Commission.

Mr. Mobbs called Mr. Raymond Freeman to speak first. Mr. Freeman lives in an adjacent property at 134 Milam Bridge Rd. Mr. Freeman stated he had a rough time arguing for or against the rezoning because he hadn't seen the drawings given to the Planning Commission. His first concern is the possible disruption of his utilities that run through the current properties up for rezoning. His second concern is the proposed 25 ft buffer is less than the ordinance required 50 ft buffer. He's concerned that there is livestock that may be affected due to the proposed 25 ft buffer. His next concern was the height of the proposed apartment buildings at the 937 Euharlee Rd. property. The proposal gives a 3-story apartment complex design. He stated that the purchase of his property was made based on the current ordinance being in his favor. He is concerned about the possible length of the project and the cash flow of the owner of 937 Euharlee Rd. He expressed concern about possible sink holes on the property. He stated that City Manager James Stephens said a Phase 1 Environmental Study would take care of it. Mr. Freeman stated a Phase 1 is something you fill out with the current conditions of the property and he doesn't believe the property would pass a Phase 1 study. His next concern was that someone came to another citizen's home to inspect it unannounced. He also stated that he believed the owner of 937 Euharlee Rd. was not legally in compliance as a business in the State of Georgia.

Ms. Foulk asked for a copy of that statement and asked Mr. Jonathan Jones, representative and engineer for 937 Euharlee Rd., to approach. Ms. Foulk asked if Mr. Jones knew about the non-compliance. Mr. Jones stated that he did not. He stated he is a representative for a rezoning

application only, and did not believe it was his nor the Commission's responsibility to see if someone was a true business or not. Mr. Jones stated that he does tell the truth and did not appreciate the insinuation from Mr. Freeman that he has not been telling the truth. Mr. Jones reminded the Commission that the submitted information was a conceptual site plan, that isn't required by ordinance to be submitted, but because he was asked by the Commission to do so, he complied. He stated that he has continuously tried to appease any and all concerns from the Commission. He stated that in this market, he cannot say if the project will be \$20 million or end up being \$250 million. If it will take 2 years or 7 years. The property owner plans to build for the demand, and then as the demand grows, then continue the development. He reminded the Commission that the property owner also has property rights as well. He reminded the Commission that this was not a meeting for site approval, but for rezoning.

Ms. Lovako Patterson asked Mr. Freeman a question regarding his statement of an unknown person entering a citizen's home without his permission. Ms. Patterson asked Mr. Freeman if that incident was because of the rezoning applications. Mr. Freeman stated that the citizen did not inform him of the reason the unknown person came. When Mr. Freeman heard that someone came by unannounced and entered the citizen's home without his permission, he stopped the conversation. He informed the Commission that the unknown person entered the citizen's home without his permission and the citizen was under duress. Ms. Patterson stated that there was no information that would lead someone to believe it had anything to do with the rezoning applications. Mr. Freeman agreed but said that he couldn't not assume it didn't have to do with the rezoning applications. Mr. Mobbs confirmed that the City did not send someone to inspect the citizen's home. Mr. Don Matthews confirmed that it was not anyone from the City. Mr. Mobbs informed Mr. Freeman that the situation was out of the scope of the Commission but encouraged Mr. Stephens to follow up with the Police Chief on the matter. Mr. Stephens agreed that was the right thing to do. Mr. Freeman stated that the unknown person said they wanted to inspect the home because they thought it was a duplex. Ms. Patterson stated that it could have been an insurance company sending someone out.

Mr. Gray asked the definition of a "refuse collection station." Mr. Mobbs answered that it would be a dumpster. Mr. Gray stated that in the Zoning Ordinance it says a refuse collection station would be provided for each 30 units. Mr. Gray stated he only saw two stations with 162 units on the drawing submitted. He wanted to make sure Mr. Jones was aware of that section of the ordinance. Mr. Jones stated he was aware of the requirements and explained that the two refuse collection stations on the submitted drawings were trash compactors instead of dumpsters. He informed the Commission that trash compactors are able to hold the amount of trash that roughly 10 dumpsters would be able to hold at a minimum. He informed the Commission that during the site plan approval process he would be happy to add more compactors if it was desired by the Commission.

As a side note, Mr. Jones addressed the previous complaint of Mr. Freeman that Mr. Ahmaed was out of compliance with the State of Georgia as a business. He stated that Mr. Ahmaed had until July 1<sup>st</sup> to pay a \$100 fee and then he would be in compliance with the State.

Mr. Gray asked if people were no longer using regular dumpsters. Mr. Jones explained that automatic trash compactors are used in apartment complexes now because they do not overflow

like dumpsters. He stated that he left plenty of space to add more compactors if they City preferred it. Mr. Gray asked if the compactor could compact anything or if it just worked with paper. Mr. Jones stated that it can compact almost anything. He also said that the compactor had built in safety measures, an alarm that alerted the company if anything was wrong, or if it was full. He stated that the compactors are more efficient and need less maintenance than dumpsters, and do not cause problems like smell and rodents. Mr. Gray asked how many dumpsters was equivalent to one compactor. Mr. Jones said that he didn't know exactly but would think 10 dumpsters minimum and would be happy to bring back data to answer that question. He said trash compactors are what all big apartment complexes use. Mr. Gray said that he would love to see that information and thinks that the Commission to revisit the ordinance to include trash compactors.

Mr. Gray asked another question regarding page 56 of the Zoning Ordinance, which stated that "only uses permitted in the R-1 districts shall be permitted as new uses on properties zoned R-6." Mr. Stephens responded that the Commission had received an email pertinent to that sentence and the context of that sentences means in the absence of a rezoning application, if someone owns a trailer park and stops using it as a trailer park but does not seek rezoning, the only permitted uses for the property would be under R-1. He informed that this sentence does not prohibit the application of rezoning or the approval of rezoning to something other than R-1. Mr. Gray asked if the City Attorney said the same thing about the aforementioned sentence. Mr. Stephens informed Mr. Gray that he did not ask the City Attorney. Mr. Mobbs stated that he did not see anything that would prohibit them from rezoning it to R-1 and then rezoning it to something different. Mr. Gray thought that it was a wise choice to rezone to R-1, then to something else. Mr. Mobbs thought that would just add an extra hoop to jump through. Mr. Gray was concerned that a lawyer had not said the explanation Mr. Stephens gave, and until he heard a lawyer say it, his opinion was to rezone to R-1 first. Mr. Stephens informed Mr. Gray that this situation was also why Section 15 is in the Zoning Ordinance. Section 15 is in regards to rezoning applications and the process. Mr. Stephens stated that if Mr. Gray's interpretation was correct, then there would be no reason to have Section 15, which permits applications or amendments. Mr. Gray asked where that information was in Section 15 and Mr. Stephens stated it was the entire section. Mr. Gray asked Mr. Stephens to point out which part of Section 15 explains the application and amendment processes for rezoning. Mr. Stephens replied that Sections 14 and 15 deal in total with amendments, appeals, or variance and amendments to the ordinance and to the maps. He stated that if Mr. Gray's interpretation was correct, there would be no purpose to have Sections 14 and 15. Mr. Mobbs stated he wanted to make sure that they weren't leaving a door open for potential issues. Mr. Stephens stated that it wouldn't be a bad idea to make a motion contingent on the City Attorney's opinion. Mr. Mobbs asked to make a note to fix this particular sentence in the Zoning Ordinance. He believes that for the current meeting's purposes they need to vote to make a recommendation contingent upon the opinion of the City Attorney. Mr. Gray stated that it made sense, but he's just having an issue with it.

Ms. Foulk addressed a previous concern regarding sink holes. Mr. Mobbs informed her that would be addressed at a later stage of the process.

In reference to Ms. Foulk's concern, Mr. Stephens asked that his next statement be put in the minutes verbatim: "when the City Manager referenced the Phase 1 Environmental Study at one

of the previous meetings, what he was saying is if the owner has to obtain financing, the financing company will make sure that the Phase 1 Environmental is either safe or unsafe before they loan the money. That's exactly what the City Manager said, and that's all he said. But if Phase 1 is done and they are comfortable enough loaning the money, then there's a reason they are comfortable enough to loan the money."

Mr. Evans asked what they were rezoning the property under. Mr. Mobbs asked what the advertisement said. Mr. Stephens answered C-1 on the road frontage and R-3 on the back, contingent upon the Attorney's interpretation and approval that the Zoning Ordinance legally permits it. Mr. Stephens reminded the Commission that they had the previously requested sketch for both applications that indicate the approximate size of the commercial verses the R-3. Mr. Evans stated that answered his question but he wanted the zoning to be a little more specific. Mr. Mobbs reminded him that they would fix that when they address the review of the Zoning Ordinance, but it was too late to address it for this project. He reminded the Commission that they must operate under the ordinance as it is currently. Mr. Evans expressed concerns about the amount of commercial space verses residential. Ms. Patterson reconfirmed that the Commission would still have say in the development and design, to which Mr. Mobbs replied that they would. Mr. Evans other concern was that the apartments were planned to be three-stories. Again, Mr. Mobbs stated there was nothing in the Ordinance that prohibited three-stories, and they could only recommend for or against based on what is in the Ordinance. Mr. Evans understood, but thinks the project is not within the context of what they're trying to do in the City of Euharlee. He believes an urban development does not have a place in a rural city like Euharlee. Mr. Mobbs again stated that there is nothing in the ordinances prohibiting the development. Ms. Patterson asked for clarification of the stories of the apartments verses the townhomes.

There being no other questions, Mr. Mobbs asked if the Commission was ready to vote on the rezoning of properties 933 and 937 Euharlee Rd. Ms. Foulk made a statement regarding the number of entrances and exits off of Euharlee Rd. for the two developments. Mr. Mobbs reminded her that the submitted plans were just conceptual and they would have to abide by County and State regulations after a traffic study is complete.

Mr. Mobbs asked again if the Commission was ready to vote, reminding the Commission that they are an advisory board to the City Council. Mr. Gray stated he did not see an access road on the plans. Mr. Jones stated there was one drawn on the plans for 937 Euharlee Rd. Mr. Mobbs reminded Mr. Gray that those detailed plans would be addressed later in the process. Mr. Gray expressed an issue with the location of the access road. He believed it should be in front of the commercial area instead of behind. Mr. Jones stated that from previous meetings he heard that the Commission desired an access road for connectivity between the two properties and the adjoining Dollar General. He stated that the access road is always behind the commercial in every development he's worked on. Mr. Evans said he sees a safety issue with Mr. Jones responding that this was not a site plan hearing, it was just a rezoning hearing. Ms. Foulk stated that she was the one that suggested the access road to Mr. Jones. Mr. Mobbs reminded the Commission that tonight's hearing was strictly about the rezoning applications. He encouraged the Commission to complete the first step to recommend or to not recommend.

Ms. Foulk made a motion to recommend the rezoning of 937 Euharlee Rd. from R-6 to C-1 and R-3, contingent on the interpretation of the City Attorney on the previously mentioned section of the Zoning Ordinance. Ms. Patterson made a second to the motion. Ms. Patterson and Ms. Foulk voted to recommend; Mr. Gray voted to not recommend the rezoning. Mr. Evans abstained.

Ms. Foulk made a motion to recommend the rezoning of 933 Euharlee Rd. from R-6 to C-1 and R-3, contingent on the interpretation of the City Attorney on the previously mentioned section of the Zoning Ordinance. Ms. Patterson made a second to the motion. Ms. Patterson and Ms. Foulk voted to recommend; Mr. Gray voted to not recommend the rezoning. Mr. Evans abstained.

Mr. Stephens announced that according to the City Charter, and abstention equals a “yes” vote. Based on this fact, Mr. Evans commented that he would like to change his abstention to a “no” vote. Ms. Foulk made a motion to reconsider her previous two motions, with Ms. Patterson as a second. The motion to reconsider the previous motion was passed.

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There being no other business, Mr. Mobbs asked for a motion to adjourn. Mr. Gray made a motion to adjourn, Ms. Patterson made a second. The meeting adjourned at 7:54pm.