

**MINUTES**  
**Planning Commission**  
**June 7, 2005**

**Members**

**Present:** Doug Brackett, Secretary  
David Burnett  
John Campbell  
Marion Gramling  
Phillip Lawson  
Donna Turner Williams

**Absent:** Purnell Morris  
Whit Kennedy  
Jerry Gaines

**Staff**

**Present:** Joan Holliday  
Sherry Dull  
Allison Ezell  
Edwin Haskell  
Winston Anderson  
Savannah Sabo  
Freelance Reporting Services, Transcriptionist

**1. Call to Order**

David Burnett called the meeting to order.

Doug Brackett made a motion to amend the June 7<sup>th</sup> agenda. Item 7A, 1., f. will be added onto the agenda for Poplar Creek Farms, Phase XI. Phillip Lawson seconded the motion. The vote carried unanimously.

**2. Approval of Minutes of May 3, 2005**

Marion Gramling made a motion to approve the May 3, 2005 minutes as submitted. Doug Brackett seconded the motion. The vote carried unanimously.

### **3. Old Business**

None

### **4. Discussion Items**

None

### **5. Public Hearings**

#### **A. Variance Requests – Unified Land Management Ordinance #0-99-015**

##### **1. Evanwood, Section IIIB**

Allison Ezell Briefed the Planning Commission on Evanwood, Section IIIB. She stated that the developer was requesting a 10' variance on the front setback for eight lots (41-44 and 111-114) instead of the required 20'. Evanwood, Section IIIB has been before the Planning Commission in a previous meeting to request a blanket variance on several lots in which they were denied the variance. A representative from the Interlink Development was present at the meeting to answer questions.

David Burnett opened the public hearing.

Jeff Burnette with Interlink Development was sworn in. Interlink Development was the formal owner of Evanwood, Section IIIB. They have since sold the subdivision and were present at the meeting to represent the new owner on the variance request. Mr. Burnette stated that they were requesting a 10' variance on the front setback for 8 lots to obtain more buildable lots for these homes. He stated that by granting the variance it would help make this a uniform development for the size of the homes built.

Gary Coats of 305 Buckle Court was sworn in and stated that he disagreed with Jeff Burnette's statement that this would make a uniform development for the size of the homes built as well as a comparative price range for these eight lots. Mr. Coats also was in disagreement with the parking situation for these 8 lots. There would be cars parked along the streets of these eight lots, causing one lane traffic through the development.

David Burnett closed the public hearing and called for the motion.

The Planning Commissioners were in discussion about several comments made in the May Planning Commission meeting about Evanwood, Section IIIB. They

concluded that in the May meeting it was determined that the grading of the property was man-made and not natural contours and that this was not enough to grant a variance.

Doug Brackett stated that in the May meeting the Commission was made aware that the grading was a man-made situation. He asked Mr. Burnette if the grading on these eight lots were still man-made. Mr. Burnette stated that they were.

Mr. Burnette stated that without this variance the lots would be suitable only for smaller homes, which would make these homes less comparable in price than the other homes in the subdivision. If smaller homes were built, the square footage of these eight homes would be 700 to 800 square feet smaller than the other homes. In this section of the subdivision, the average home built would be around 2000 square feet and the minimum would be around 1600 square feet. The only way to build a 1600 square foot home on this lot would be to build a two-story home.

Phillip Lawson made a motion to deny the 10' variance on the front setback for eight lots. Doug Brackett seconded the motion. The vote carried unanimously, with Marion Gramling abstaining from the vote.

## **B. Proposed Vested Rights**

Joan Holliday briefed the Planning Commission on the proposed vested rights ordinance. Last year the General Assembly included legislation in the Local Government Planning Enabling Act that local governments must establish a procedure providing the point at which vested rights attach to a site-specific development plan. The Act calls for all local governments with land use regulations to implement the provisions of the legislation on or before June 30, 2005. A site-specific development plan shall be granted a vested right of two years with five one-year extensions to be considered by the Spartanburg County Planning and Development Commission upon proper application by the landowner.

Ms. Holliday explained that the vested right is in the site-specific development plan—the type of development, the density, etc. The statute states that you must own or have interest in the property in order to have a vested right. She stated that the County must define its point of vestment, and it must be before the building permit and not later than the granting of the right to proceed with the development. She stated that County Council will have their third reading in June and they would be having a public hearing in June.

David Burnett opened the public hearing.

There was no one present to speak for or against the proposed vested rights ordinance.

Mr. Burnett closed the public hearing and opened the meeting up for discussion among the Commissioners.

David Burnett stated that the Commissioners had some changes they wanted to make to the draft vested rights ordinance before the public hearing with County Council.

Edwin Haskell, the County Attorney, recommended submitting the draft with a cover letter to County Council stating that there would be other changes that might be considered. The Ordinance may continue to be amended up to the third reading.

Marion Gramling asked why the time for review and comments was so brief. Chris Story, Assistant County Administrator, said that the statute only passed last year and the Association of Counties and other agencies that review and make recommendations to local governments on these types of issues had only given comments a few months ago. Mr. Haskell stated further that we have a standard ordinance that the Association of Counties drafted with few changes. He explained that there is not a lot of latitude offered since the vested rights legislation is specific as to what the ordinance must contain. Some of these changes may be inconsistent with the Unified Land Management Ordinance, so a clause to override the ULMO in these instances has been included.

Mr. Burnett stated that the intent of the legislation is that a development would be vested at the time of submission, assuming that the requirements of the Ordinance were met. Also, the date of vestment should be the date of submission if a variance is necessary and granted.

Mr. Haskell looked over the definition of "approval". Mr. Haskell stated that one must have obtained the right to undertake or complete the development as would be approved in the local land development ordinance. In other words, one must have been given the approval to go forward with their development. It is not based on the submission of the site-specific development plan. Spartanburg County gives their approval to go forward with major subdivisions and major land developments at the preliminary approval stage with all conditions met. There are some differences in terms between the ULMO and the state statute.

David Burnett stated that the draft said that the vested right comes upon final approval. This is certainly not acceptable. Ms. Holliday agreed and recommended

to the Chairman to change the language to reflect that vestment comes upon preliminary approval with all conditions met, not upon final approval. Ms. Holliday also pointed out that the vestment should be at final approval for minor subdivisions and small-scale developments.

Mr. Haskell stated that once a development plan is approved, the County cannot withdraw the right to go forward.

David Burnett asked for the motion to send the proposed vested rights ordinance on to County Council after review and rewording by the County Attorney to reflect appropriate language regarding the approval of a development.

Marion Gramling made a motion to send the new vested rights forward to County Council with the language to read that the vested right comes upon preliminary approval, not final approval, of a major land development or a major subdivision. Donna Williams seconded the motion. The vote carried unanimously.

The County Attorney recommended going back and amending the Unified Land Management Ordinance to conform to the language of the vested rights ordinance.

**C. Proposed Digital Plat Amendment to the Unified Land Management Ordinance # 0-99-015**

Rod Brown briefed the Planning Commission on the digital plat amendment to the ULMO. He stated that it was originally brought forth as an amendment to the Unified Land Management Ordinance concerning the submission of plats and tying into State Plane coordinates. Mr. Brown stated that the surveyors had a problem with tying into State Plane because there are not enough monuments in the County. Their primary concern is the cost and the impact on incoming business.

Mr. Brown stated that the document presented to the Planning Commission was drafted in large by the surveyors. This document has taken into account the surveyors' concerns and will ultimately help the county have a better product in our tax maps. This document has to do with how parcels fit together making it easier for the surveyors to do their job in an accurate manner. The surveyors are aware that, at some point in time, they will have to tie into the State Plane.

Mr. Burnett opened the public hearing.

Joe Mitchell, representing the surveyors, was sworn in and stated that they were in favor of the digital plat submission. The surveyors depend tremendously on the County to furnish this information. He said that is was still up in the air as to whether the surveyors wanted this to be a stand-alone ordinance and not an amendment to the Unified Land Management Ordinance. He said that he,

personally, had reservations about it being an amendment to the ULMO. He said that he realized the importance of the County's data being up to date and the surveyors want to help with that however they can.

No one else appeared to speak for or against the digital plat amendment.

Mr. Burnett closed the public hearing.

Edwin Haskell stated that the County probably could adopt a stand-alone ordinance, but that it would be up to County Council to do so. If the County chooses to go this route, there would have to be a public hearing with a 15-day notification.

John Campbell made a motion to submit the proposed digital plat amendment to County Council as is. Doug Brackett seconded the motion. The vote carried unanimously with Marion Gramling abstaining from the vote.

**6. Subdivision Regulations Ordinance #429**

**A. Final Plats**

None

**B. Preliminary Extension Requests**

None

**7. Unified Land Management Ordinance #0-99-015**

**A. Subdivisions**

**1. Major (Preliminary Plats)**

**a. Candlewood, Phase 1, Sect. 3 A**

Sherry Dull gave a summary of the project, stated that all approvals for this section of the development have been completed and recommended preliminary approval. Mrs. Dull stated that Candlewood, Phase 1, Section 3A was coming back before the Planning Commission for Section 3A only; everything else had been completed. Mrs. Dull also stated that the slope and engineering process were almost completed, per Mike McGrath.

Phillip Lawson made a motion to grant preliminary approval for Candlewood, Phase 1, Section 3 A. Marion Gramling seconded the motion. The vote carried unanimously.

**b. Suncrest Ridge (Revised)**

Allison Ezell gave a summary of the project and recommended conditional preliminary approval subject to review and approval from Greer CPW.

Doug Brackett made a motion to grant conditional preliminary approval subject to review and approval from Greer CPW. Phillip Lawson seconded the motion. The vote carried unanimously.

**c. Woodland Forest, Phase II**

Winston Anderson gave a summary of the project and recommended conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division.

Phillip Lawson made a motion to grant conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division. Marion Gramling seconded the motion. The vote carried unanimously.

**d. Paisley Pointe**

Winston Anderson gave a summary of the project and recommended conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division.

There was some discussion from the public on this subdivision. Kenneth Carter spoke against the new patio homes going in which takes access off Marlowe Road. The road is not wide enough to handle the increased flow of traffic that will be added because of the patio homes. He also stated that this particular area was considered wetlands. Mr. Carter presented to the Commission a petition of names that were against placing these patio homes off Marlowe Road.

Russ Easler, representing Paisley Pointe, spoke to the Commission Members next. He stated that they would not be taking adjacent property to widen Marlowe Road in order to develop the patio homes. They will also not be disturbing the wetlands and that this will be left as a natural area, as designated on the plan.

Jay Wilkins, a property owner on Marlowe Road, spoke and stated that he would not like to see Marlowe Road widened.

David Burnett stated that he did not foresee the county widening the road in the future.

Edith Daniels, a property owner on Marlowe Road, spoke and stated that this was considered a little piece of country left in Boiling Springs. She would like to keep the peace and quiet with no more additional traffic on Marlowe Road.

Marion Gramling made a motion to grant conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division. Donna Williams seconded the motion. The vote carried unanimously.

**e. Crossings**

Winston Anderson gave a summary of the project and recommended conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division and the South Carolina Department of Transportation.

Marion Gramling made a motion to grant conditional preliminary approval subject to review and approval from the Spartanburg County Public Works Engineering Division and the South Carolina Department of Transportation. Doug Brackett seconded the motion. The vote carried unanimously.

**f. Poplar Creek Farms, Phase XI**

Alison Ezell gave a summary of the project and recommended conditional preliminary approval subject to review and approval from Spartanburg Water System, Spartanburg Sanitary Sewer District and Addressing/911.

Marion Gramling made a motion to grant conditional preliminary approval subject to review and approval from Spartanburg Water System, Spartanburg Sanitary Sewer District and Addressing/911. John Campbell seconded the motion. The vote carried unanimously.

**2. Major (Final Plats)**

- a. Arbor Creek, Section 3 (aka Sect. 2B)
- b. Sweetwater Hills, Phase III-C

Sherry Dull recommended that Arbor Creek, Section 3 (aka Sect. 2B) and Sweetwater Hills, Phase III-C be read into the record as approved.

Doug Brackett made a motion to read Arbor Creek, Section 3 (aka Sect. 2B) and Sweetwater Hills, Phase III-C into the record as approved. Phillip Lawson seconded the motion. The vote carried unanimously.

**3. Minor (Summary Plats)**

- a. Dancing Water Cove (Resubdivision of Lots 2 & 3)
- b. Farms Bridge
- c. Brown Arrow, Sect. II (Resubdivision of Lot 5)
- d. Townsel Place
- e. Paul's Crossing

Sherry Dull recommended that Dancing Water Cove (Resubdivision of Lots 2 & 3), Farms Bridge, Brown Arrow, Sect. II (Resubdivision of Lot 5), Townsel Place and Paul's Crossing be read into the record as approved.

Phillip Lawson made a motion to read Dancing Water Cove (Resubdivision of Lots 2 & 3), Farms Bridge, Brown Arrow, Sect. II (Resubdivision of Lot 5), Townsel Place and Paul's Crossing into the record as approved. Doug Brackett seconded the motion. The vote carried unanimously.

**4. Minor (Private Road Developments)**

None

**5. Minor (Family Property)**

None

**6. Preliminary Extension Request**

- a. Browns Creek Estates

Sherry Dull gave a briefing of the project's past preliminary activity and stated

that the preliminary approval extension and the storm water expiration both expired on May 30<sup>th</sup>. She stated that Mike McGrath, who was unable to attend the meeting due to illness, said that the developer might need to resubmit the plans, but if Planning Commission granted permission to extend the date then he would as well. If Commission granted an 18-month extension, it would have a new expiration date of 11/30/2006.

Mr. Dale Morgan, one of the developers of the property, spoke to the Commissioners and explained that they have had bulldozer activity on the site and that they were opening bids for the construction of the roads and curbs.

Marion Gramling made a motion to grant Browns Creek Estates an 18-month preliminary approval extension and storm water extension until 11/30/2006. Phillip Lawson seconded the motion. The vote Carried unanimously.

## **B. Land Development**

### **1. Major (Preliminary Site Plans)**

None

### **2. Major (Final Plats)**

None

### **3. Minor Summary**

#### **a. The Shoppes @ Lancaster 's Post**

Sherry Dull recommended that The Shoppes @ Lancaster's Post be read into the record as approved.

Doug Brackett made a motion to read The Shoppes @ Lancaster's Post into the record as approved. Phillip Lawson seconded the motion. The vote carried unanimously, with Marion Gramling abstaining from the vote.

### **4. Preliminary Extension Requests**

None

## **9. Other Business**

**A. Monthly Report for Subdivision Activity for May.**

The subdivision activity report for May was sent to the Commissioners along with their PC Packets. No discussion occurred.

**B. Amendment Update.**

Joan Holliday briefed the Planning Commission on the amendment update. She stated that the Land Use Committee asked the Planning Commission to form a committee to review and recommend amendment updates. Ms. Holliday recapped that the Commissioners had stated that they would all be willing to be on the committee. She stated that there were several items that needed to be discussed. Ms. Holliday asked the Commissioners for a date to meet. The Planning Commissioners said to prepare the amendments and bring them to the next Planning Commission meeting and they would set a date for the committee meeting at that time.

**10. Adjournment**

Marion Gramling made a motion to adjourn. Doug Brackett seconded the motion, and the vote carried unanimously. The Meeting was adjourned at 6:09 p.m.

By: \_\_\_\_\_  
Doug Brackett, Planning Commission Secretary

Prepared by:  
Planning Department Staff