

MINUTES
Planning Commission
October 4, 2005

Members Present: Whit Kennedy, Chairman
Doug Brackett, Secretary
David Burnett
John Campbell
Marion Gramling
Phillip Lawson
Donna Turner Williams

Absent: Jerry Gaines
Purnell Morris

Staff Present: Emory Price
Mike McGrath
Sherry Dull
Allison Ezell
Winston Anderson
Savannah Sabo
Lee Lawson
Edwin Haskell
Freelance Reporting Services, Transcriptionist

1. Call to Order

Whit Kennedy called the meeting to order.

David Burnett made a motion to modify the October 4th agenda. Item 5 Public Hearings will change positions with Item 4 Discussion Items. Marion Gramling seconded the motion. The vote carried unanimously.

2. Approval of Minutes of September 13, 2005

David Burnett made a motion to approve the September 13, 2005 minutes. Doug Brackett seconded the motion. The vote carried unanimously.

3. Old Business

None

4. Public Hearings

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

1. BMW Test Facility (Setbacks from property lines)

Laurie Horton, Land Use Inspector, presented the finding of facts to the Commissioners. She stated that all of the adjoining property owners had been notified by certified mail and a variance sign had been posted on the property. She also stated that she had a letter from the adjoining church stating that they were in favor of the variance. Ms. Horton briefed the Commissioners on the site plan. She stated that the driver training facility on the site was used for a driving school. The representative from BMW informed Ms. Horton that the existing facility was not a test track.

Whit Kennedy opened the public hearing.

Gary Van Patton, of 710 Victor Hill Road, was sworn in. He stated that he had been a property owner in this area for approximately 30 years. He was within 600 feet of the new proposed track. Mr. Van Patton voiced his concern with how the quality of life and noise control would affect this area. In addition, he voiced concern with the fact that BMW may be testing these vehicles in the evening hours. Mr. Van Patton did state that BMW had been a good neighbor.

Jock Heckman, with the 851 Group, was sworn in. The 851 Group owns industrial property across the street from the BMW Performance Center. Mr. Heckman voiced his concern with any variances that would affect Victor Hill Road. Mr. Kennedy stated that he was not aware of any variances that would affect Victor Hill Road. Mr. Heckman also stated concern with the noise that was coming from the existing test track.

Steve Heckman, of the 851 Group, was sworn in. He was not aware of the future plans of the area and would like to review a site plan of the new proposed testing facility. Emory Price explained to Mr. Heckman that the Unified Land Management Ordinance stated that a commercial business only had to contact adjoining residential property owners, not commercial property owners. Mr. Heckman voiced his concern with the fact that Victor Hill Road may be widened in the future and this would affect the road right-

of-way. Mr. Kennedy explained to Mr. Heckman that no one had asked for any building line set backs or construction set backs off any kind of right-of-way. This would be a separate issue from the variance request. Victor Hill Road is a county maintained road with a ditch-to-ditch right-of-way. The new proposed test track will be 200 feet off Victor Hill Road.

Jock Heckman and Steve Heckman, of the 851 Group, asked what the time-line was from when BMW applied for the project and when the actual vote on the variance took place. Mr. Kennedy explained that once BMW applied for the variance, an advertisement was placed in the Sunday paper three weeks before the meeting, letting the public know of the variance request. Mr. Price stated that a public notice was run in the paper, the property had been posted and the adjoining property owners were notified. Mr. Price stated for the record that BMW's master plan was approved in 1992 and they were still building on this master plan. Mr. Price stated that this is the first time that something has come along for BMW that is different from the master plan.

Barry Lang, State Construction Manager for BMW, was sworn in. He stated that all the access roads to the site would be off Highway 101, not off Victor Hill Road. There would be a gated driveway off Victor Hill Road for maintenance only. In addition, the use of the new track would be for the testing of wind noise at highway speeds. This new proposed testing track would be used to test cars for German Highways. They are looking for 170 kilometers an hour for 5 seconds, which is approximately 105 miles per hour. The test facility has to certify that these cars are quiet enough to sell in Europe. The cars manufactured in Spartanburg have to be shipped to Europe and they have to make sure they have met the sound criteria in Europe. Mr. Lang did state that the existing facility did have skid pads and he would be speaking with BMW North America about the noise coming from the testing track. They would be relocating the existing off road course to the back of the property. This will be a different type of use. They measured sound levels on the BMW S-5 and the C-4, which came in quieter than the truck traffic on Highway 101. This track would be used strictly by the factory and not for public use. They also would have the sign wave, which would actually be a way they could torque the suspension to listen to squeaks and rattles. They would like the cars to settle into a speed so they could take measurements and have time to stop. The hours of operation for the new proposed testing facility may include evenings as well as daytime hours. There would be lighting to the back of the property for nighttime testing. BMW plans to keep the existing retention pond in the same area and traffic would go around the pond.

With there being no one else to speak, Mr. Whit Kennedy closed the public hearing.

Doug Brackett stated that it appeared that the adjoining properties most affected were not against the variance.

Emory Price stated the future land use plan of this area indicated that this area was a combination of industrial and high intensity as well as airport or public land uses. Mr. Price stated that staff felt that BMW had been a good corporate neighbor and the variances were in order and recommended approval by staff.

Marion asked how the noise ordinance would be addressed and what would be the steps to address this matter. Mr. Price stated that the noise ordinance would be enforced by the Sheriff's Department. This should not be a condition for the Planning Commission's approval.

The Planning Commission agreed that they would be voting on two separate variances. 1) the 1000-foot distance from an individual structure to be reduced to 510 feet; a 490-foot variance and 2) the 2000-foot distance from a church to be reduced to 350 feet; a 1650-foot variance.

John Campbell made a motion to grant the variance to reduce the setback from a residential property from 1000 feet to 510 feet. Phillip Lawson seconded the motion.

Marion Gramling called for the question of the vote.

There was some discussion among the Commissioners after the motion.

Marion Gramling asked what would happen if the noise level exceeded what the noise ordinance required. Mr. Price stated that a formal complaint would be registered to the Sheriff's Department and an investigation would be made. Mr. Price stated that the neighboring airport aircraft and the truck traffic off highway 101 would generate higher noise levels than the new testing facility.

Ms. Horton came to the front to go over measurements with the Planning Commission and Mr. Lang. The Board questioned page 18 of the packet, which indicated the measurements from BMW to the nearest five residential properties.

Mr. Kennedy stated that the Unified Land Management Ordinance stated that the variance should be from the property lines and not from the residence. The variance requested should be a 700-foot variance to the property line instead of a 510-foot variance to the structure. He informed the Commission that the motion submitted would need to be withdrawn and resubmitted as a new motion of a 700-foot variance to the property line.

John Campbell made a motion to withdrawal his original motion and made a motion to approve the variance request for a 700-foot variance to the property line from the test track. Phillip Lawson seconded the motion.

Edwin Haskell stated that there were four requirements to be met in order for the variance to meet approval. Mr. Haskell stated that based on information given and the finding of facts, the four criteria had been met. In addition, there has been plenty of factual discussion on the necessity for the testing site to be constructed in a free trade zone. The whole purpose of building the testing track is for the European government, who require it to be in a free trade zone. Mr. Haskell restated that this is in the free trade zone and that not all property in Spartanburg County is in the free trade zone, which would make this property unique. In addition, the cause of this condition and the application of the Ordinance to this piece of property would prohibit the utilization of this property. In conclusion, if the variance is not granted the track would not be built and used for its purpose in the free trade zone. The authorization of the variance would not be a detriment to the adjoining property owners. There would also be employment opportunities created from the addition of the new testing facility. Mr. Haskell restated that there was factual support for the decision to grant the variance.

John Campbell made a motion to modify his motion to approve the variance request to reduce the set back from the track to the residential property line from 1000 feet to 300 feet based on the four criteria summarized by Mr. Haskell. Phillip Lawson seconded the motion. The vote carried unanimously.

Whit Kennedy stated that the Commission now had to vote on the second variance request to reduce the setback from the test track to the church property line from 2000 feet to 350 feet. This would be the same Findings of Fact as the first variance request. He stated that there was a letter of support from the church and a letter of agreement from the church in favor of the variance.

Doug Brackett made a motion to grant the variance to reduce the setback from the track to the residential property line from 2000 to 350 feet. Marion Gramling seconded the motion. The vote carried unanimously.

5. Discussion Items

A. Fazzone Property

Fazzone Property was withdrawn from the agenda as a discussion item.

B. Frontier Park

Winston Anderson briefed the Planning Commission on Frontier Park. He stated the developers from Frontier Real Estate, Todd Ballard and Isidore Gould, were present at the meeting to answer any questions.

Marion Gramling recused himself from the Board. Mr. Gramling introduced to the Board a site plan that demonstrated future plans to develop the property. There will be 700 lots placed on 320 acres. This is not counting commercial sites. There will also be plenty of flood plain areas and open space on this property. There is currently a railroad track with a high bank at 18 to 25 feet. Mr. Gramling would like to get the Planning Commission's input on building a bridge over the railroad track. The developer may reduce the number of lots down to 650.

Mr. Kennedy asked Mike McGrath with the Engineering Department to do some research on the project and let staff know the results. It was stated that there are three entrances, which is good for a subdivision of this size.

Emory Price stated that there would be plenty of open space provided and any type of mixed residential use would work.

Mr. McGrath recommended that a condition be placed on the Commission's approval based on CSX's approval of construction of the road built over the railroad. The maintenance on the bridge would be the main issue and who would pay for the cost of construction of this bridge.

Edwin Haskell advised the Board that before a bridge could be built over the railroad tracks, they would have to get permission from CSX.

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. Belmont Subdivision (Revised)

Allison Ezell gave a summary of the project and recommended preliminary approval. All reviews have been completed.

John Campbell made a motion to grant preliminary approval on Belmont Subdivision. Donna Williams Turner seconded the motion. The vote carried unanimously.

2. Major (Final Plats)

- a. Oaks @ Rock Springs, Phase 2
- b. Heatherbrook
- c. Candlewood, Phase 1, Section 3A

Sherry Dull recommended that Oaks @ Rock Springs, Phase 2, Heatherbrook and Candlewood, Phase 1, Section 3A be read into the record as approved.

Doug Brackett made a motion to read Oaks @ Rock Springs, Phase 2, Heatherbrook and Candlewood, Phase 1, Section 3A into the record as approved. Donna Williams Turner seconded the motion.

The vote carried unanimously.

3. Minor (Summary Plats)

a. Shady Grove Hills, Section 1

Sherry Dull recommended that Shady Grove Hills, Section 1 be read into the record as approved.

Phillip Lawson made a motion to read Shady Grove Hills, Section 1 into the record as approved. Marion Gramling seconded the motion. The vote carried unanimously.

4. Minor (Private Road Developments)

a. Dove Tree Estates

Sherry Dull recommended that Dove Tree Estates be read into the record as approved.

John Campbell made a motion to read Dove Tree Estates into the record as approved. Doug Brackett seconded the motion. The vote carried unanimously.

5. Minor (Family Property)

None

6. Preliminary Extension Request

a. Seay Ridge Farms

Allison Ezell recommended that Seay Ridge Farms be granted a 24-month preliminary extension until October 04, 2007. Mike McGrath will also extend the storm water approval until October 04, 2007.

Phillip Lawson made a motion to grant a 24-month preliminary extension and storm water extension until October 4, 2007. John Campbell seconded the motion. The vote carried unanimously.

B. Land Development

1. Major (Preliminary Plats)

None

2. Major (Site Plans)

a. BMW Test Facility

Sherry Dull recommended that BMW Test Facility be approved as a site plan based on the two variances granted.

Marion Gramling made a motion for the BMW Test Facility to be approved as a site plan based on the two variances granted. Donna Williams Turner seconded the motion. The vote carried unanimously.

3. Major (Final Plats)

None

4. Minor (Summary)

None

5. Preliminary Extension Request

a. Hawk Creek North

Winston Anderson recommended that a preliminary extension request be granted to Hawk Creek North. The new expiration date would be September 30, 2006.

John Campbell made a motion to grant a preliminary extension request to Hawk Creek North until September 30, 2006. Donna Williams Turner seconded the motion. The vote carried unanimously.

8. Other Business

A. Monthly Report for Subdivision Activity for September.

The subdivision activity report for September was handed out to the Commissioners.

B. Training Session

Emory Price reminded the Commissioners of the Training Session coming up on October 18, 2005.

9. Adjournment

Marion Gramling made a motion to adjourn. Doug Brackett seconded the motion, and the vote carried unanimously. The meeting was adjourned at 6:12 p.m.

By: _____

Doug Brackett, Planning Commission Secretary

Prepared by:
Planning Department Staff