

*Jasper County Planning Commission
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**Minutes of the February 8, 2022
Regular Scheduled Meeting**

Members Present: Chairman Alex Pinckney; Dr. Earl Bostick; Mr. Randy Waite; Mr. Thomas Jenkins; Dr. Debora Butler and Mr. Art Rothenberg.

Staff Present: Ms. Lisa Wagner

In accordance with the Freedom of Information Act the electronic and print media were notified. During periods of discussion and/or presentations minutes are typically condensed and paraphrased. The recorded version is available in the Office of the Planning Department Office.

Call to Order: Chairman Pinckney brought the meeting to order at approximately 6:00 p.m.

Invocation & Pledge of Allegiance: Invocation and the Pledge of Allegiance was given by Dr. Bostick.

Approval of Agenda: Mr. Waite motioned to approve the Agenda as published, seconded by Dr. Bostick. The Commission Members present voted unanimously in favor of the motion.

Approval of Minutes: Mr. Jenkins motioned to approve the Minutes of the **January 11, 2022**, meeting, seconded by Mr. Waite. The Commission Members present voted unanimously in favor of the motion.

Appeal of Staff's Determination for an Exempt Subdivision – Grays Point: Ms. Wagner said the applicant would like to create a 21-lot subdivision as an Exempt Subdivision in accordance with Article 2.1.1.b of the Jasper County Land Development Regulations (LDR) and the SC Comprehensive Planning Enabling Act of 1994. The subject property consists of 111.99 acres and lies between Grady Mixon Road and Tina Manker Road, which are county-maintained roads. Each lot would be 5 acres or more, and each lot would have access to an existing private dirt road, with the exception of 3 lots that have direct access to a County maintained dirt road. The private road that runs through the middle of the property can be accessed by both Grady Mixon Road and Tina Manker Road. The private road has existed for more than 50 years. The Fire Marshal inspected the road and issued a letter stating the road meets the IFC. Staff made a determination that the proposed subdivision does not qualify as an exempt subdivision because majority of the lots are not being accessed by a public maintained road (county or state road). The private road shall be meet the Roadway Classification and Design Standards as outlined in Article 7.1 of the Jasper County Land Development Ordinance

(LDR). The LDR, requires Private Roads to be 24' wide, and consist of 6" stone subbase with 2" top unless the subdivision generates less than 50 vehicle trips per day in accordance with the International Traffic Engineers (ITE) Manual, the minimum pavement section allowed is 8" stone. Ms. Wagner said Section 2.1.1.b. of the Jasper County Land Development Regulations defines an exempt subdivision as, the division of land into parcels of 5 acres or more where each parcel abuts an existing road right-of-way or access easement recorded prior to January 1, 2018. She said Article 7, Section 6-29-1110, #4(b) of the SC Comprehensive Planning Enabling Act of 1994 defines an exempt subdivision as, the division of land into parcels of 5 acres or more where no new street is involved.

Ms. Wagner said staff is concerned about the proposed subdivision because under the exempt subdivision regulations the property can be further subdivided as a minor subdivision, potentially allowing up to 80 lots, or more in the future. She said even without further subdivision, based on the size of each of the 21 lots, two homes can potentially be placed on each lot, allowing 42 homes. She said while the dirt road currently meets the IFC, the Fire Marshal also has concerns about what happens after a number of years when the vehicle traffic drives on the road every day; will dirt be sufficient, will emergency services be able to access the road, will the residences come to the County to complain. However, the applicant has agreed to enter into a road agreement and establish a homeowner's association.

Ms. Wagner said the applicant is appealing the DSR's determination in accordance with Article 1.13 of the Jasper County Land Development Regulations, which states "any authorized action or decision made by the DSR may be appealed to the Jasper County Planning Commission within 45 days. Any appeals will be scheduled for the next available Planning Commission meeting for consideration." She said included with the staff report is a letter from the property owner, ariel maps from 1970, 1980, 2009, 2019 showing the existing road an aerial map showing the private road named Grady Mixon Road at some point, a proposed road maintenance agreement, and a plat of the proposed subdivision.

Mr. Tom Johnson addressed the Commission. He said at one point the private road was a named County maintained road that connected two other roads and the former owner of the property blocked off the road. He said there is a procedure in the law for closing a road and it was not followed, so it is highly debatable whether it was effectively closed and abandoned or if it is still a public road. He said road closures involve a judge who decides whether it is in the best interest of all concerned to close the road after it has been advertised, posted and things like that. He said that was never done so there is doubt that this is a private road. The road existed for over fifty years, and it is adequate for its purposes. The Nimmers have made arrangements for maintenance of the road. He said the proposed subdivision is a neat orderly division and there are alternatives that would make it exempt but it would not be neat and orderly, although legal. He said they are asking for the better arrangement, which is better for all concerned, and would have a lot less driveways on the public roads. The publicly maintained roads are not in any better condition than the one in question.

Mr. Johnson said it is his understanding that the subdivision can not be subdivided again for 5 years and asked if that is correct. Ms. Wagner said under an exempt subdivision, the property can be subdivided into a minor subdivision and then there would be a 7-year restriction before any of the property can be subdivided again. There was some discussion about if a minor subdivision would

have the same issue with the private road or spacing of driveways. Ms. Wagner said a minor subdivision would not be able to subdivide more than 4 parcels including the parent parcel and the Fire Marshal would be involved with making sure each lot has adequate access. She said it could be better controlled by the Developer if there are covenants that state the property cannot be further subdivided. Mr. Johnson said one of the people in the room asked if they had covenants that stated no more than two lots can be subdivided, if that would help any. Chairman Pinckney asked if they are contesting that this road is still a County Road or are they going with the application, which states this is a private road. He said there is a difference between a private road and a public road. The County cannot use taxpayer's money to do any repairs to a private road. If it is a County Road the County will be responsible for repairs and the County has special guidelines for roads in their system. He said the application states the road is private, so any decision tonight will be on a private road. Mr. Johnson said in his opinion it is still a County Road, which would make it even clearer that it fits the exempt subdivision, but they are willing to privately maintain it.

Mr. Waite said he understands there is going to be an HOA fee of \$200.00 per lot. He said \$200.00 a lot comes to \$4,200 per year, which is not a lot of money to maintain a road, especially a road that is 2,500 feet long. He said he is kind of on the fence with this application because recently staff approved a 10-lot subdivision on a logging road, and we have to be fair across the board. He understands there is a difference between 10 lots and 21 lots. He said he needs to be swayed one way or the other. Mr. Johnson said this road does not need to be constructed, only maintained, which \$4,200 a year would be used for. He said the county only scrapes their roads about 3 times a year so their concept is to scrape the road at least as often as the County would.

Mr. Tony Nimmer addressed the Commission. He said they want to provide a project that can support itself. He said if the \$200 per lot does not seem to be adequate, they would consider raising the fee, but they considered what it would take for maintenance, and the road is very good, maybe even better than two County roads they are connected to. He said if the fee needs to be increased to \$250 or \$300 that would be okay, but he cannot imagine it being any more than that for 3 scrapings a year with rock added in places where it may need to be. He said \$4,000 is a lot of money a year for the length of that road. He asked Ms. Wagner if she and the Commissioners saw their optional design. Ms. Wagner said no she has not seen it. Mr. Nimmer said Mr. Stanley did a design that would take each lot to the existing County Roads, which includes proper spacing and driveways. He said that would reduce their lots from 21 to 15 or 16, but it would add 6 or 7 driveways to the County Road. He said the original design they provided has a nice road that is well maintained. He said the proposed design would be more efficient, wiser, and safer to do. Mr. Waite agreed that doing this design as opposed to another design with all of the lots going out to the other roads is a better design and the subdivision would have 2 entrances and 2 exits with a main road connecting all together.

Mr. Waite asked if there will be any deed restrictions addressing how many homes can be placed on each lot. Mr. Nimmer said without any further subdivision, they understand 2 homes can be placed on each lot and asked if that is correct. Ms. Wagner said a second unit is a conditional use, so there are conditions that have to be met, but potentially two homes can be placed on each lot. Mr. Nimmer said they are open to a deed restriction or covenant that would limit the number of subdivision for

each lot. Mr. Waite asked if it would be a deed restriction to limit future subdivision. Mr. Nimmer said they are open to that.

Dr. Bostick asked what it would take to bring the road up to standards of a public road. Mr. Nimmer said it is already there already. Dr. Bostick said the property should be limited to the amount it can be further subdivided. He said as far as the legality of whether the road is public or private that might be something they want to consider with the County in the future.

Mr. Rothenberg said Mr. Johnson said this road may be a public road. He asked if it is a public road can anyone mandate the people living there to pay for the upkeep of this road since they will be paying taxes and tax dollars are used to pay for public roads. He said his other concern is this is a new subdivision, it could start off with twenty homes, but if it is successful, it could grow very quickly and at that point is the road really going to be sufficient for the homeowners as well as the County for emergency vehicle, because it is still a dirt road. Mr. Johnson said it would be legal for the homeowners to pay \$200 a year with an HOA or Restrictive Covenant. He said the Developers would be willing to put covenants on the property to limit it to two houses per lot, whether it was subdivided or whether it was one piece of property but to allow up to two houses per lot if that would make the concept more palatable.

Dr. Butler said she looked at the property to see where the road goes through is and it looked like there is a road under construction on this property. She asked if that is the road that is being referred to. Mr. Nimmer said yes. He said they have been doing maintenance to the road. He said they re-scraped it, re-ditched it on both sides where it will be crowned and added rock in some places. Dr. Butler said Ms. Wagner stated earlier that there is a possibility that 80 residences could be using this road, and she asked if that is off the table now. Mr. Nimmer said yes. Dr. Butler asked Mr. Nimmer if he is here tonight because of the additional cost of making a road that the County is asking for. Mr. Nimmer said if they went with option B and just connected the lots to the existing county roads, there would be very little cost involved to them although they would lose some lots, but they would still be able to sell 110 acres. He said the design they submitted seems to be a much more efficient, safer design, better for emergency vehicles than having all of those other driveways on the County roads. Dr. Butler asked if school busses will travel on this road to pick up children. Mr. Nimmer said he thinks it is very possible. Dr. Butler said from her own personal experience with an HOA, as time passes and land changes ownership, it is very difficult to get cooperation from some members of an HOA even in spite of it being for the greater good of the community so rules like this are important to protect people and give them a decent way to get to and from their home. Mr. Nimmer said this road is approximately 2,400-2,500 feet in length with both ends of it attaching to existing County Roads, so it may be that the busing system would pick up on one end of the road and not on the other end and no one would have to walk very far to their home.

Mr. Jenkins asked if the applicant said work is currently being done to this road. Mr. Nimmer said they have just been doing maintenance to the road. He said they took the motor grader and leveled it up and widened it a couple of feet. He said they used the roadbed that was there and added some rock in places that needed it. He said it is better crowned and shaped, and in better shape than either of the two county roads connected to it. Mr. Jenkins said so the County has nothing to do with this

road. Mr. Nimmer said no. Mr. Jenkins said it seems that this is going to be a separate maintained private road. He asked Ms. Wagner is it true that the County is not accepting any more roads for maintenance. Ms. Wagner said the Road Ordinance that was amended in 2018, includes procedures for asking the County to accept a private road into the county maintenance system, but there have not been any new roads added to the system in a very long time. She said many of the private roads that exist probably would not meet the standards for Council to accept a new road. Mr. Jenkins asked what took place that the applicants are appealing the DSR's determination. Ms. Wagner said they were seeking approval of a plat creating 21 lots as an exempt subdivision and staff was concerned that the intent meets the requirements for a major subdivision rather than an exempt subdivision.

Chairman Pinckney asked about the applicants putting gravel on the road. Mr. Nimmer said there was existing gravel in the bed of the road, and they added gravel at both entrances, approximately 40 or 50 feet where the road attaches to the County Roads. He said they plan to add more gravel all the way through, if need be, but they graded it down to the existing surface that was there, and it is solid. He said it really doesn't need more gravel. He said it may need more gravel one day and that's why they want to make sure there is a fund available and a system in place where it can be done adequately. Chairman Pinckney said if some more gravel could be added to the road, the cost of it could be added to the lots, the lot owners would be happier and it would be less headache for the applicants, the property owners, and the County. Mr. Nimmer said that is a good idea. He said they want to do the right thing.

Dr. Bostick asked Ms. Wagner if the proposed subdivision is not classified as an exempt subdivision would it be classified as a major subdivision. Ms. Wagner said yes. Dr. Bostick asked what the road requirements are for a major subdivision. Ms. Wagner said the road has to be 24' wide and consist of 6" of stone subbase and 2" pavement unless the subdivision generates less fifty vehicle trips per day in accordance with the International Traffic Engineers Manual, then 8" stone is allowed. She said the road meets the width requirement. Dr. Bostick said so the road may have approximately forty homes, which is approximately fifty trips a day or more. Ms. Wagner said yes. Dr. Bostick said the traffic is going to be the same whether it is classified as a major or an exempt subdivision, so unless they can maintain the road to certain standards there is going to be a problem further down the road. He said we need to take into consideration of the road, the homeowners association, and how the road is going to be maintained.

Mr. Waite said he wants to be clear on how many houses per lot is being considered, 1 or 2. Mr. Nimmer said they were comfortable agreeing on the covenants not allowing any further subdivision, but they would like to be able to have 2 homes on each lot.

Mr. Jenkins asked Ms. Wagner if anyone is living on the road now. Ms. Wagner said no. Mr. Johnson said the property is just a farm. Mr. Johnson asked Ms. Wagner if the road would be an issue if it was a major subdivision or is there a lot of other things that are required. Ms. Wagner said more is required with a major subdivision. She said with a major subdivision we are looking for an engineer to address stormwater, as well as community open space. She said staff does not disagree that the road is a good road. She said the Fire Marshal said it is very solid and well compressed, so she believes that will help later down the line with maintenance. She said staff was just worried about what

happens 10 years from now with 42 homes or potentially 88 lots and if each home makes 5 or 6 trips a day. Mr. Nimmer said based on the firmness and quality of the road now, as the developer they would not have a problem putting a couple of inches of rock on the entire road.

Mr. Waite asked if conditions can be placed on the subdivision if it were approved. Ms. Wagner said yes it can be approved with conditions. She said in the case of an appeal, the Commission is acting as an appeal board so you can place conditions on the approval that you think might be necessary to protect the community or the County as a whole.

Dr. Bostick made a motion to approve the subdivision as an exempt subdivision with the conditions that the lots not be further subdivided, that no more than two houses may be located on each lot, and that a minimum of 2" of rock be added to the road. Mr. Waite seconded the motion. Ms. Wagner asked Dr. Bostick if he would add to his motion that the conditions be in the form of Covenants and Restrictions to be placed on the property so it can be recorded. **Dr. Bostick agreed to amend his motion to include the requirements for Covenants and Restrictions to limit the property from being further subdivided and limiting the structures to 2 houses per lot. Mr. Waite seconded the amended motion. The Commission Members present, voted unanimously in favor of the motion.**

Open Discussion: Mr. Jenkins said he lives on a dirt road, and there are folks parking on the road instead of parking in their yard. He said there are two elderly people and a lady who has seizures that live on the road also, and EMS can't get to them if they needed to. He asked if there is anything on the books to prohibit people from parking on the road. He said he called the County and talked to someone to see if they could place a no parking sign on the road, but the person said they did not think there was anything on the books to prevent people from parking on the road. Ms. Wagner said she would look at the Road Ordinance and follow up with him.

Dr. Butler asked if anything regarding the HOA in the Nimmer Subdivision will be looked at by staff or will it just be up to the Developer. Ms. Wagner said staff will ask for the Covenants and the Road Maintenance they offered to provide prior to stamping the plat. Dr. Butler asked if Ms. Nettles was going to be able to speak to the Planning Commission. Ms. Wagner said she sent her a request and copied her supervisor on the request, but she has not heard back from them yet.

Chairman Pinckney asked Ms. Wagner to walk him through what happens when a new business is opened, the zoning is approved, and they have a permit to operate. Ms. Wagner said when a new business comes into Jasper County, if they are operating in an existing building, they won't need a site plan approval, they would just get a Zoning Certificate, which is needed in order to apply for a Business License. As part of that process the Fire Marshall and the Building Official will inspect the building prior to the applicant receiving a Certificate of Occupancy. She said if it is a brand-new building, the applicant will have to apply for a site plan approval, which includes all the required infrastructure, once the land development permit is issued then they will go through the building process, and they still need the zoning certificate in order to apply for the business license. Chairman Pinckney asked if they need to have running water and a lavatory in the facility prior to the Certificate of Occupancy. Ms. Wagner said yes. Chairman Pinckney asked how do businesses get away with

having signs on their door that says have no bathroom. Ms. Wagner said she would have to look at the code to see. She said she does not believe that every type of business has to have a bathroom for the public, but certain types of business are required to provide bathrooms like retail, or a restaurant, but bathrooms must be provided for employees. Chairman Pinckney asked Ms. Wagner to get with the County Attorney to see if an ordinance can be written for Jasper County and see what the State says. He said he would like to see a law requiring businesses in Jasper County to provide a bathroom for their customers.

Dr. Butler said a tree fell on a home on Church Road and destroyed it. She said a couple of tarps have been put on the house and was told someone is living in the home. She said she can't imagine they would have heat in the house and asked if that is allowed. Ms. Wagner said she will ask one of the inspectors to do an inspection. She asked where the house is located. Dr. Butler said it is a green house on the corner of School Cut Road and Church Road.

Mr. Waite asked if the impact fee study was completed. Ms. Wagner said she believes it has been completed. Mr. Waite asked Ms. Wagner to check with Mr. Fulghum and get an update. Ms. Wagner said she would do that. Mr. Waite asked about the I-95 Logistics project and if it has gone to Council yet. Ms. Wagner said it was presented for first reading last night. She said there was also a transportation workshop prior to the Meeting. She said the traffic study has been revised and DOT has approved the traffic study. She said a public hearing is scheduled for February 22, 2022. Mr. Waite asked if there are going to be any other traffic workshops. Ms. Wagner said right now no other workshops are scheduled. Mr. Waite asked if it would be open to the public. Ms. Wagner said last night's meeting was open to the public, but the capacity was limited to the number of people who were allowed to attend the meeting. She said some people had to stand in the hallway because the limit was exceeded.

Mr. Jenkins asked if the impact study showed which way the traffic would be directed. Ms. Wagner said no, it only identified the mitigation that needs to happen. She said the County staff has recommended that all of the trucks be directed to Exit 8. Mr. Jenkins asked if that can be put in their conditions. Ms. Wagner said that is going to be hard because DOT says that Highway 17 is a federal truck highway. She said staff is hoping the developer will mandate right turns out of their facilities, directing the trucks to Exit 8. Mr. Jenkins said he hopes the County will do all they can to make sure that happens.

Adjourn: Mr. Jenkins made a motion to adjourn, seconded by Dr. Bostick. The Commission Members present voted unanimously in favor of the motion. The meeting adjourned at approximately 7:24 p.m.

Respectfully Submitted,

Lisa Wagner