

July 20, 2021

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**STATE OF GEORGIA
COUNTY OF HENRY**

The Henry County Board of Commissioners held a Regular Public Meeting ***in-person*** on Tuesday, July 20, 2021, 6:30 p.m., at the Henry County Administration Building (Community Room), 140 Henry Parkway, McDonough GA. HenryTV also streamed this live online at its website, as well as Charter/Spectrum Channel 180 and Facebook Live.

Carlotta Harrell, Chair
Johnny Wilson, District I Commissioner
Dee Clemmons, District II Commissioner
Greg Cannon, District III Commissioner
Vivian Thomas, District IV Commissioner
Bruce Holmes, District V Commissioner

Also in attendance: Cheri Hobson-Matthews, Patrick Jaugstetter, County Attorney; Stephanie Braun, County Clerk; and Nathifa Cunningham, Deputy County Clerk

CALL TO ORDER

Carlotta Harrell, Chair, called the Regular Meeting of the Henry County Board of Commissioners for Tuesday, July 20, 2021 to order.

INVOCATION

Don Ash, E-911/EMA Director led the invocation.

PLEDGE OF ALLEGIANCE

The Pledge was recited.

APPOINTMENTS

Department of Behavioral Health and Developmental Disabilities (DBHDD)

Appointment of *Sherrhea Mason-Bryant* with term to expire on July 20, 2024

Greg Cannon, District III Commissioner made a motion to approve; **Vivian Thomas, District IV Commissioner** seconded the motion. The motion carried (6-0-0).

Resolution 21-221

Recreation Board

Board of Commissioners (BOC) Chair appointment of *Bridgette L. Foresyth* with term to expire on December 31, 2024

*No vote needed; appointment made by **Carlotta Harrell, Chair** per Senate Bill 22*

CONSENT AGENDA

Cheri Hobson-Matthews, County Manager, presented the Consent Agenda as follows:

Airport

- A. Resolution awarding Bid #21-84, Schedule C, to Construct Taxiway Fillet Widening to Griffin Contracting, Inc. in the amount of \$1,501,922.00; approve Croy Task Order #13 for Construction Inspection/Administration and Construction Materials Testing in the amount of \$65,612.00; approve Trinity Electrical Services bid for Runway End Identifier Lights (REILs) in the amount of \$36,640.00; execute the associated GDOT Contract/Supplemental Agreement(s) for Reimbursement in the amount of \$1,212,290.50 and Local Match in the amount of \$391,883.50 using Capital Improvement Plan funds. (Presenter: Lynn Planchon, Airport Manager)(Exhibit 1) *Resolution 21-222*
- B. A resolution approving the application for and acceptance of a \$59,000.00 grant from the American Rescue Plan Act (ARPA) for the Atlanta Speedway Airport. (Presenter: Lynn Planchon, Airport Manager)(Exhibit 2) *Resolution 21-223*

Emergency Management Agency

- A. Resolution accepting the Emergency Management Performance Grant (EMPG) for FY 2021 in the amount of \$50,000 from the Georgia Emergency Management Agency with an in-kind labor match (Presenter: Don Ash, E911/EMA Director) (Exhibit 3) *Resolution 21-224*

Facilities Maintenance

- A. Resolution Accepting Grant from The Georgia Trauma Commission in the amount of \$14,943 to purchase Trauma Equipment and Emergency Medical Supplies for Henry County Fire Department (Presenter: Deputy Chief Jonathan Burnette)(Exhibit 4) *Resolution 21-225*

Fire Department

- A. Resolution of the Board of Commissioners Accepting a donation of One Hundred and Fifty (150) Full Size Mattresses and Frames to The Henry County Fire Department from Zinus USA, Inc of McDonough. (Presenter: Jonathan Burnette, Deputy Fire Chief) (Exhibit 5) *Resolution 21-226*

Leisure Services

- A. Resolution to amend the current fees for Parks and Recreation. (Presenter: Jonathon Penn, Cluster Lead - Leisure & Public Services) (Exhibit 6) *Resolution 21-227*
- B. Resolution of the Henry County Board of Commissioners declaring items at 4361 Jonesboro Road in Hampton, Georgia 30228 (Nash Farm Park) as surplus (Presenter: Jonathon Penn, Cluster Lead - Leisure & Public Services) (Exhibit 7) *Resolution 21-228*
- C. Resolution of the Henry County Board of Commissioners declaring workout equipment at 1041 Miller's Mill Road in Stockbridge, Georgia 30281 (JP Moseley Park) as surplus (Presenter: Jonathon Penn, Cluster Lead - Leisure & Public Services) (Exhibit 8) *Resolution 21-229*

- D. Resolution of the Board of Commissioners to approve restructuring the Council on Aging Board to be in compliance as required by the Georgia Department of Human Services Grant (CSBG).(Presenter: Jonathon Penn, Cluster Lead - Leisure & Public Service)(Exhibit 9) *Resolution 21-230*

SPLOST

- A. Resolution approving Additional Scope of Work and Change Order in the Amount of \$60,989.50 for Playground Safety Surfacing at Nash Farm Park using SPLOST V funds (Lynn Planchon, SPLOST Project Manager)(Exhibit 10) *Resolution 21-231*

******ADDED******

Resolution authorizing the acquisition of 1.15 acres, more or less, lying and being in Land Lot 144 of the 8th District of Henry County, GA (398 North Ola Road) in the amount of \$190,000 *Resolution 21-232*

Commissioner Cannon made a motion to approve; **Commissioner Thomas** seconded the motion.

Bruce Holmes, District V Commissioner noted an item where funds are being allocated from the American Rescue Plan. He stated that about \$50 million dollars is scheduled to be received, but the Board has not had any conversation regarding how the funds will be allocated. He asked the County Manager if there will be any formal presentation. **Ms. Hobson-Matthews** responded that there will be and reminded the Commissioner that about a month ago there was a “white paper” presentation to the Board in terms of the funding that the County was eligible to receive as well as the eligible activities of spending. The presentation was given by the Financial Services Director in terms of the grants received and it was recommended to form a committee for the purpose of determining how those funds would be spent. The Clerk of Superior Court and the Henry County Water Authority have already contacted staff regarding use of the funds; all information will be gathered from all departments along with their requests and to submit to the committee for review and recommendations to this BOC on how that money would be spent. **Ms. Hobson-Matthews** further stated that about \$24 million has been received and the balance will be received in May 2022. No decision will be made prior to that presentation.

Commissioner Holmes then asked in what areas are eligible for expenditure of these funds; **Ms. Hobson-Matthews** responded that they include infrastructure, water/sewer projects, hazardous H.E.R.O. pay for Public Safety, broadband use, with the majority of them being COVID-related expenses.

There being no further discussion, the motion to approve was carried (6-0-0).

This ends the Consent Agenda

REGULAR AGENDA

Tax Commissioner

Public Hearing: 2021-2022 Millage Rate (Exhibit #11)

Ms. Hobson-Matthews approached and stated that the Tax Commissioner was present for the first of the required three (3) Public Hearings regarding the setting of the 2021-2022 millage rate. She

reminded the Board that the budget was adopted in May; as a result, the budget was set based on the 12.733 millage rate. She then turned the floor over to the Tax Commissioner for his presentation.

Michael Harris, Tax Commissioner, Henry County Tax Assessor's Office, noted that this is the second of 3 Public Hearings; the first was held this morning and the third will be held next week. He then stated that the proposed millage increase is 0 and then proceeded with his presentation. He explained the process of assessing the property and when notices are sent out for anticipated property tax for the upcoming tax year, with time allotted for appeals to be made to the Tax Assessor's Office.

Mr. Harris then went through the calculations process, as presented for the Board and public viewing, with the differences between homesteaded property and non-homesteaded property. Variations on what would happen if property taxes go up were also presented through slides for the Board and public viewing. Levels of exemption and their impacts on the tax bill were also presented. He noted that the Veterans Disability exemption changes from year to year and showed the impact on the tax bill.

Since there were many questions regarding the frozen exemption received into the Tax Assessor's Office, **Mr. Harris** went in some more detail and provided some overview and clarity on this provision to help alleviate some strain on residents with fixed incomes.

Specifically, **Mr. Harris** pointed out that the majority of the tax dollars collected are distributed to funding county operations/government (37%/12.733 mills); Water Authority Bond (5%/2 mills); School Maintenance & Operations (M&O) (50%/20 mills) and the School Bond (8%/3.62 mills). He then went through the Digest process and how each listed department handles those aspects of tax collecting and added that the final adoption of the millage rate lies with the BOC and is done after the budget is determined and approved. The different facet of the Tax Digest, which must be approved by the State Department of Revenue, were listed and is time-sensitive as the tax bills have to be mailed out at least sixty (60) days in advance of the due date, which is November 16, 2021.

Mr. Harris then presented the specific millage amounts to certain services throughout the county on a chart that was actually presented last year, for a breakdown of the amount of millage specific to said services. A sample of the tax bill for the 2020 tax year was also displayed; however, it was not very legible but the Board has the sample in their packets.

In closing, **Mr. Harris** stated that the first Public Hearing for the millage was held this morning; the second is being conducted now and the third/final will be on July 27, 2021 at 10:00 a.m., with the adoption of the millage to be on that same date. At the first Public Hearing, a comment was made regarding a request to consolidate some of the age exemptions. He stated that this would be addressed by the Board of Education as it directly affects that Board. There is also a note at the bottom of each property tax bill which states that if the resident is of age sixty-two (62) years on how to apply for the homestead exemption/age exemption. A new website is in the process of being launched to provide further detail on same, along with an information booklet on how to file for the exemptions and the appeals process.

Commissioner Thomas asked to go to the slide regarding the breakdown of the taxes (pie chart). The District IV Commissioner felt this important to dispel any rumor that the BOC has a "slush fund" to use at its sole discretion. She pointed out that this chart ("Where Our Tax Dollars Go") really details how those tax dollars are spent and that 58% goes directly to the School Board and has done so for the last 2-3 years. Under the County Government, that allocation is at 38% to fix roads and infrastructure (excluding SPLOST) along with other operations. She emphasized that the BOC is not "wasting" the taxpayers' money and they are not being taken for granted. She suggested that citizens might want to sit in on the Board of Education meetings and find out how that 58% is spent. The Commissioner further noted that there is tax breaks given based upon age and reiterated that the information for filing is at the bottom of

the property tax bills. Since most taxes are paid in conjunction with a mortgage, the Commissioner further suggested that citizens take a look at their property tax bill and if they qualify for certain exemptions, to file for those exemptions to have that opportunity.

Dee Clemmons, District II Commissioner pointed out the “tiered exemptions”. She asked that if the exemption applies for age 62 from the county, if those seniors are paying into any other county bills, or if they stop paying county taxes at that age, permanently; **Mr. Harris** responded that at age 62, the exemption begins. Once a resident reaches age seventy (70) years, they no longer pay school taxes, but still paying county taxes. He further explained the impact of being on frozen exemption as well. The District II Commissioner pointed out on the “Exemptions” slide the L1 exemptions with the various ages paying taxes for School or School & Water only. Mr. Harris explained how that is reduced with each age reached. He further explained that while it looks “the same”, the actual reduction of numbers is listed in the accompanying chart. The additional age exemptions do not apply to county taxes.

Chair Harrell declared this a Public Hearing and anyone wishing to make comment can come to the podium and state their name for the record, with three (3) minutes allotted to comment only upon the proposed millage rate.

John Page, 267 Fannin Lane, McDonough GA approached and asked if upon his passing (he is 100% disabled retired military veteran) if his surviving spouse would retain the same disability compensation; **Mr. Harris** responded that there is a provision for surviving spouse for the same exemption for the duration of maintaining the subject residence as the primary residence. As long as the surviving spouse continues to live in Henry County, the exemption would apply. If the spouse were to move to another county, that exemption would have to be filed within that county of residence.

There were no further questions. The Public Hearing was concluded. ***No action was taken.***

TRANSPORTATION PLANNING

Resolution calling for a referendum on Transportation Special Purpose Local Option Sales Tax (Presenter: Sam Baker, Transportation Planning Director) (Exhibit 12)

Sam Baker, Director of Transportation Planning began presentation for the referendum on T-SPLOST on November 2, 2021. He gave the brief overview of the T-SPLOST and the assessment of such tax and how it can be done - through referendum, vote and approval. Prior to holding referendum, Henry County and the municipalities have to hold joint meeting to discuss T-SPLOST, the rate of the tax, the distribution of the proceeds, transportation projects to be funded and possible Intergovernmental Agreement(s). This was fulfilled on April 15, 2021. Following the joint meeting, if the IGA is entered into, the maximum T-SPLOST rate can be 1%, as per state law; with approximately \$245 million dollars potentially to be raised for transportation projects over five (5) years. Without the IGA, the T-SPLOST maximum rate can be 0.75%, approximately \$184 million dollars over the same 5-year period. Mr. Baker stated that Henry County along with the Cities of McDonough, Locust Grove and Hampton has signed an IGA; therefore, a 1% T-SPLOST is proposed to be placed on the November 2, 2021 ballot.

Mr. Baker stated that two (2) questions would come up: Why another tax and why now. The majority of the transportation project in Henry County and the municipalities come from the federal government, stemming from federal tax on gasoline and diesel at the pumps. The federal tax has been the same since 1993. He further explained the increase in quality of life needs over those last several years, yet the gas tax has remained at approximately 18 cents a gallon. He further went into adjustments for inflation and advancements in automotive technology. Mr. Baker also noted that owners of electric vehicles do not pay any gas tax, which is the primary source of transportation funding. Since there is no

equitable nationwide way to pay for the transportation projects and road/infrastructure improvements, the federal funds received do not meet the transportation needs which is why an additional sales tax (T-SPLOST) to raise funding for some transportation projects. The project list was developed for the voters to decide whether these projects would merit paying the additional sales tax. Mr. Baker then yielded the floor to the County Attorney.

Patrick Jaugstetter, County Attorney, formally presented the Resolution to the Board and he summarized same for the Board. Basically the Resolution calls for an election to impose the Special District Mass Transportation Sales and Use Tax (T-SPLOST). This would be a 1% sales tax collected for 5 years, expected to raise approximately \$245 million dollars. Those funds are to be distributed between Henry County and the municipalities pursuant to the aforementioned IGA which was approved by this BOC a couple of weeks ago, and subsequently approved and executed by the municipalities. He then stated the division as follows:

- Henry County: 68.88%
- City of Hampton: 3.45%
- City of Locust Grove: 3.51%
- City of McDonough: 11.41%
- City of Stockbridge: 12.75%

Mr. Jaugstetter then stated that the Resolution would authorize the issuance of up to \$120 million dollars of county debt which would be paid from the proceeds of the T-SPLOST; however, the county is not obligated to launch a debt in that amount. At the request of the City of Locust Grove, the Resolution would also include authorization for Locust Grove to borrow up to \$7.2 million dollars of their T-SPLOST, which would be a separate debt and not the responsibility of Henry County to pay back. The Resolution would incorporate the IGA and also incorporates the attached project list. If the Board approves, the Board of Education will have a special called meeting and will issue the formal notice of the election. Since this is a statewide election year, a 90-day notice is required in advance; between now and then the voters will have an opportunity to study this and to gather any information available in helping to deliberate their vote in November.

Commissioner Thomas stated that the BOC is ultimately responsible for how T-SPLOST is managed; **Mr. Jaugstetter** explained that the BOC is responsible for the initial collection of the tax. The Tax Commissioner receives it and then it goes to the Department of Revenue, which is then distributing the funds. The BOC is not responsible for managing the Cities' portions of the T-SPLOST, only the county portion. The District IV Commissioner noted that if the BOC authorizes the different Cities to make a loan in advance of receiving that money, whether or not there is any liability to Henry County if any of the Cities were to default; Mr. Jaugstetter responded there would be no liability to the county.

There being no further questions or comments, **Commissioner Clemmons** made a motion to approve; **Commissioner Barham** seconded the motion. The motion was carried by a vote of 5-1-0.

(Chair Harrell, Johnny Wilson, District I Commissioner, Commissioners Clemmons, Cannon and Thomas voted in favor; Commissioner Holmes voted in opposition)

Resolution 21-233

PLANNING & ZONING

Public Hearing COMP-AM-21-05

Southern Crescent of McDonough, GA requests an amendment to the Comprehensive Plan for property at 2125 Highway 42 North in Land Lots 31 and 34 of the 7th District. The property consists of 19.995+/- acres, and the request is to amend the Future Land Use Map designation from Industrial to Mixed Use. District 4 (Presenter: Stacey Jordan-Rudeseal, P&Z Asst. Director) (Exhibit 13)

Stacey Jordan-Rudeseal, Chief Planner, explained that this particular item is associated with the next item and presented the amendment request to the Board. This subject property has a Future Land Use Map (FLUM) designation of Industrial but was developed as Southern Crescent Brain Trauma Center for a number of years; the FLUM does not support the current development of this property nor does it support the proposed development of this property in the next hearing. With that, the applicant has proposed a change to the FLUM from Industrial to Mixed Use for support of their rezoning request, to be heard at the next Public Hearing following this. Staff has evaluated this request, considered the character of the area. Staff recommends approval of the applicant's request and on May 27, 2021 the Zoning Advisory Board (ZAB) agreed to the change from Industrial to Mixed Use.

Chair Harrell called for anyone wishing to make comments in favor of the request to come forward. Collective time allowed is ten (10) minutes.

In Favor

Steve Moore, Moore Bass Consulting, 1350 Keys Ferry Ct, McDonough GA representing the applicant approached to speak in favor of this amendment request. He gave specifics of the property location and provided visual display for the Board; he added that the next request would be to rezone for the development of independent living units to go along with the property's current use. He went over the original request from 1997 and the conditions, particularly that if the Site Plan changed from the one approved with the 1997 zoning, that it needed to go back either for ZAB, BOC or Planning & Zoning approval. This is a revised plan to go in accordance with present market conditions which have changed over the last 24 years; however, the uses are consistent with what was previously approved and allowed. He then showed where the proposed location is of the assistant living component with the independent living units - there are attached and detached units to comply with the 1997 zoning. Mr. Moore then went into some further details on the units themselves, as well as the inclusion of meeting rooms, pool and other amenities along with proposed outdoor recreation areas. Mr. Moore assured the Board that this is not "pulling a fast one" to get multi-family townhomes approved. The owner/operator of this facility is the original applicant and that facility stands today and he wishes to expand his financial investment with the addition of these units and the "3 levels of care" facility for Henry County's aging population's needs.

Mr. Moore then read from the vision statement of Southern Crescent, in part: *"...to create an environment and choices that enable older adults to experience fully actualized, creative and satisfying aging. Southern Crescent provides swimming, wellness and exercise rooms, community center for social gatherings, cafes, business centers, walking trails, woodworking shop, craft room and more along with a range of educational programs that promote proper medical care, wellness and nutrition. The residents' access to services is provided through the existing rehabilitation center. The center's staff and interdisciplinary medical staff consist of 24 nurses and nurse technicians in addition to daily physician and physical, occupational and speech therapists. Services provided by the center to the residential community include medical, rehabilitation care, pharmacy, food preparation, transportation and housekeeping. Strict covenants will be developed and enforced for the community. These covenants will be structured to maintain the age-restricted requirements as well as to outline legal processes for*

transitioning ownership in the event of the passing of one of the residents. In addition they outline the methods of maintenance of common grounds, exterior of the units, signage, fences, buffers, etc., which will all be provided for and managed by Southern Crescent. When you move to Southern Crescent you are making an investment: investing in yourself, investing in the community and ultimately investing in a worry-free future. Physicians and nurses are on standby for peace of mind and knowing that you can transition from one level of care to an all-in-one community without ever having to move means that your care and safety is always accounted for. It's more than just residents; it's a lifestyle. Twenty (20) acres of resort style environment with complete continual care all in one community."

Mr. Moore then presented a photograph which represents one of the detached units as well as one of the attached units.

Commissioner Thomas lauded Mr. Jordan-Rudeseal and Mr. Kirk for their work on this development for the aging/targeted community. She stated that there is a need for this in the community as well as the Brain Trauma Center. The assisted living facility here will house seniors in a resort-like environment of high quality with a reserved section for people leaving the Brain Trauma Center who will need to learn how to take care of themselves and transition from the center to independent living through a specially designed living facility. This can be done with intent to have future ownership within the same facility. She asks the Board to support this request.

Chair Harrell called for anyone else to speak in favor of this request to do so now. There were none.

Chair Harrell then called for anyone wishing to speak in opposition of this request to come forward, allowing a collective total time of ten (10) minutes.

In Opposition

John Page, Fannin Lane, McDonough GA, noted that the proposal shows the development having 100 homes. He asked if this also requires two (2) entrances. The Chair advised Mr. Page that no questions will be answered during the Public Hearing and to limit his comments to opposition. Mr. Page stood by his question of why there are not 2 entrances that would be required for housing units in excess of seventy-five (75) units.

There were no further comments and **Chair Harrell** closed Public Hearing and called for motion.

Commissioner Thomas made a motion to approve; **Commissioner Clemmons** seconded the motion. **Mr. Jaugstetter** asked if there are conditions accompanying this motion. The District IV Commissioner responded that this is to approve the change in the land use map, not for the rezoning.

Commissioner Clemmons asked if the Chief Planner can quantify the purpose of the vote. **Mr. Jordan-Rudeseal** explained that the land use map is unique in that it requires a request for rezoning to be supported by the FLUM. Since this request for rezoning is for Mixed Use, the FLUM would need to be for Mixed Use; however, it is currently supporting Industrial. The District II Commissioner then clarified for Mr. Page that the issue of the number of entrances will be addressed in the rezoning request and not at this amendment request.

With a motion and second made, the motion carried (6-0-0).

Resolution 21-234

Public Hearing RZ-21-18

Southern Crescent of McDonough, GA requests a rezoning from OI (Office-Institutional) to MU (Mixed Use) for property located at 2125 Highway 42 North in Land Lots 31 and 34 of the 7th District. The property consists of 19.995+/- acres, and the request is for a mixed institutional and independent living development. District 4 (Presenter: Stacey Jordan-Rudeseal, P&Z Asst. Director) (Exhibit 14)

Mr. Jordan-Rudeseal explained that this Public Hearing is regarding the rezoning associated with the last request, from Office Industrial (OI) to Mixed-Use (MU) for this property. The request is specifically for a mixed attached/detached independent living and institutional living development. The property is surrounded by the City of Stockbridge and the FLUM has now been changed to Mixed-Use. The applicant's request is supported by the land use map. There is the existing Southern Crescent Brain Trauma Center with a proposed addition of a wing onto it for assisted living as well as an additional one hundred (100) attached and detached independent living units. He pointed out that the existing driveway is on Hwy. 42 but they are proposing a second entrance to cross the creek and access property owned by the applicant, which would then go to Technology Parkway and also access Hwy. 42. Staff evaluated this request, considered the character of the area and the applicant is the original applicant. The ZAB noted staff's recommendation of approval with conditions; ZAB agreed and recommended approval with conditions. The applicant was scheduled for BOC presentation but had postponed as they recognized some things to work out prior to formal presentation. Staff has therefore revised its recommendation (in the Executive Summary) and pointed out same through track changes on the presentation, made part of the exhibits.

Mr. Jordan-Rudeseal advised that staff is proposing twenty-one (21) conditions and there may be more attached to be discussed after the Public Hearing on this matter. He stated that the applicant has some ideas for changes which can also be considered. Any changes will need to be made part of a motion to approve along with the conditions as presented.

Chair Harrell called for anyone wishing to speak in favor of this request, including the applicant, to come forward, with a collective allotted time of 10 minutes.

Steve Moore, Moore Bass Consulting, representing the applicant, came forward to comment in favor of the request and the conditions. He stated that applicant agrees to the proposed conditions with a couple of minor edits, to-wit:

9.*This access point shall be open for the use of the residents within five (5) years from the date of approval of this rezoning resolution or before the approved building permit of the 61st dwelling unit, whichever occurs first....*

Mr. Moore explained that allows applicant to build sixty (60) units prior to a second entrance. The applicant would like to change it from the building permit to the issuance of a Certificate of Occupancy (CO) for the 61st. The applicant would like to construct this in two phases - half of the units in the first phase and simultaneous with the vertical construction of the second phase to build the access. The applicant asks to build the road at the same time as building the structures for phase 2; no one could live in the units until the access is constructed, accepted and open for use.

Mr. Moore then pointed out conditions #11 and #12 related to rental restriction within the community. With condition #11 noting a cap of 15% rental for the community and #12 noting that no unit could be rented without permission from Southern Crescent, Mr. Moore advised that Southern Crescent informed him that nobody is allowed to rent any unit at all. The units will not be sold to investors or people who will use it for VRBO or like-rental income purposes. He asked if the condition could denote

that units cannot be rented out by any independent living owner and that rentals would only be allowed for units that would be owned and operated by the applicant at any point. If that is approved, then it would eliminate condition #11 in its entirety (15% rental cap).

Chair Harrell called for anyone wishing to speak in opposition of this request to come forward, with a collective allowed time of 10 minutes.

In Opposition

Teresa Smith, Noah Place, McDonough, GA voiced objection to this, citing the maximum percentage of renters. She objects to Mr. Moore's proposed change and asked to leave the cap at 15%.

There were no further comments. **Chair Harrell** closed the Public Hearing.

Commissioner Thomas asked the County Attorney to look at language and that a rental cap will be placed regardless of who has this property. The Commissioner asked if the County Attorney reviewed conditions #9, 11 and 12. **Mr. Jaugstetter** referred to #9 and explained that it is based on pulling the permit as opposed to getting the Certificate of Occupancy issued. It is entirely up to the BOC and the only difference would be that before the additional access is put in, applicant could begin construction of the additional units but no one could reside in them. He finds this to be a reasonable change to the condition. The condition also imposes a bond requirement upon the developer, to post a \$600,000 performance bond. If the access is failed to be completed as required, the county can draw from that bond and perform the work itself. Regarding the ability to rent, #11 could stand and put the cap at 15% maximum of the homes shall be rented out at any one time. On #12, there could be a provision that states no one other than Southern Crescent Rehab & Retirement Company, Inc. could rent any units, thus limiting the ability to rent with the owner and limiting the number of units that can be rented to cap at 15%.

Commissioner Thomas then asked that the language regarding the \$600,000 bond be included to make sure that nobody leaves the subdivision upon building the first half of the homes and not building the second half of the homes and not having that second access driveway. In addition, the retention pond in the area must have a 4' fence around it, for the safety of the senior citizen residents. The pond needs to be part of the landscaping and must be environmentally friendly. The retention pond cannot be part of a private property. The Commissioner also requested three (3) pavilions to be placed in the area and most of the homes do not have large backyards; the pavilions can be used for social gathering and should be no less than 1,200 square feet each. She requests that the sidewalks be at least 8' wide and if exiting the area, they should be at least 10' wide, to accommodate senior citizens who must walk with assisted devices. There will be a Homeowners' Association (HOA) required in this facility to upkeep and maintain the exterior; buildings shall be craftsman-style homes and wrapped with a 3' water table of brick or like materials on all buildings.

Mr. Jordan-Rudeseal noted whether or not the garages need to be set back a certain distance, with 12" suggested; **Commissioner Thomas** affirmed same and explained that these are front garages with crown moulding to complement the design of the building. The District IV Commissioner believes this will create a very nice community with a good transition for senior citizens with very well and protective designs and the two (2) entrances needed.

Commissioner Thomas made a motion to approve with all the amended conditions as summarized into the record; **Commissioner Holmes** seconded the motion.

Commissioner Wilson asked if the 60 units discussed above should be included in the conditions; **Mr. Jordan-Rudeseal** responded that it is not necessary to include that as it is not a pressing

issue. The District I Commissioner stated that the units could be built in the back where there will be an entrance and the other units can be built in the front for the second phase. He asked if the location of the first phase units should be identified and made part of the conditions; Mr. Jordan-Rudeseal explained that if it is to be part of this motion to approve, they can be identified; however, staff did not find this to be a pressing issue to require same. **Commissioner Thomas** added that based on the layout presented and how the applicant wishes to phase in the development, she does not see that as a pressing issue -- only that the second driveway to be done upon the 61st unit and that there be the inclusion of the performance bond to give the county the funds to build the second entrance if the applicant does not.

Commissioner Clemmons asked that staff clarify how the bond works, as per condition #9. **Mr. Jordan-Rudeseal** responded that the condition details the requirements for the second access point and says that after 60 units are built, the second driveway access has to be put in before the 61st (and beyond) unit(s) Certificate of Occupancy can be issued. If that expansion is not built, the second driveway will be put in within 5 years of the date of approval of this resolution, or a Certificate of Occupancy is issued for the 61st dwelling unit -- whichever comes first. A performance bond in the amount of \$600,000 shall be provided to Henry County at the time of the approval of the first development permit. Should the access point not be opened for the use of the residents within the 5-year period from the date of approval of this rezoning resolution, Henry County is authorized to use those bond funds to put in a second access point as determined by Henry County Department of Transportation. The District II Commissioner asked if the applicant does not build anything and 5 years pass, if the \$600,000 bond is still there, if the County is to build that access point if no further building is done. Mr. Jordan-Rudeseal explained that the bond will have to be provided and the County will take that money and put in that second access point, as determined by HCDOT. The Commissioner pressed that if, in 5 years, the cost for a second access increases to \$1 million dollars, there will only be \$600,000 available in the bond for the County. Mr. Jaugstetter advised that the Board is not required to call the bond, only that the Board has authorization to call the bond if necessary. If the amount is not enough to build that access, the Board could elect not to call the bond and there would be no more COs issued and no more residents moving in unless and until someone builds that second entrance.

Commissioner Wilson asked if it can be put in conditions that the developer has to design the road before the first house is built, so that the road can fit across the creek. **Mr. Jordan-Rudeseal** stated that it may be determined by HCDOT that there may be a better place to put that road. He gave an example of same for the Commissioner. The District I Commissioner believes there should still be a design done for that additional road before the building permit is issued. The design should be reviewed to determine if a road can be put at a specific location and should be done before the first permit is issued. Mr. Jordan-Rudeseal stated that it would need to be part of the motion for approval.

Chair Harrell called the County Manager forward. **Ms. Hobson-Matthews** explained that if the conditions are created similar to this, it sets a precedent (on the second access). She agreed with having it designed, per the District I Commissioner's suggestion, but is concerned that the county shall be authorized (but not required), that after 5 years if it is not built, Henry County would be responsible for building that second access - which is something the county does not need to commit. The condition would have to be worded that after the 60th home is constructed, work stops and the developer will have to build that second access. If it is not built, there will be no future homes and no COs issued. The County Manager is concerned that if the developer keeps building those homes, then the County will have to pay to build the second access, which is not done in private developments.

Mr. Jaugstetter agreed that this is unusual and thus asks how this will be resolved - either shut down at 60, or have the bond provide a path forward if the developer either refuses or "abandons" the project.

Commissioner Thomas asked engineers for a cost projection of this. She does not believe anyone else before her has tried something like this to put a bond in place to account for developers walking off the project with developments only half completed; the Commissioner is trying to stop this. She emphasized that something be put in place so that if this is sold/flipped, then the residents and the County is protected with this bond in place. If the wording needs to be changed, the Commissioner is open to that. The District IV Commissioner then asked the County Attorney for the proper wording to be placed to assert this protection. Mr. Jaugstetter noted that one option is to just shut it down after 60 dwelling units if the second entrance is not built. Condition #9 would read something like no development permits shall be issued for over 60 dwelling units until the proposed access point to the north, as depicted on the site plan dated April 9, 2021 is designed and constructed to HCDOT and City of Stockbridge standards, and that it connects to an already existing public right-of-way. The first sentence of condition #9 reflects same.

COMMISSIONER HOLMES LEFT THE MEETING

PAUSE IN MEETING WHILE CHANGES WERE MADE

Ms. Hobson-Matthews displayed the revised condition #9 and added: *This access point shall be open for the use of the residents within 5 years from the date of the approval of this rezoning resolution, or before the approved building permit of the 61st dwelling unit. No additional permits shall be issued until the developer has engineered and constructed the secondary access point.* Referring to the performance bond issues, the developer would have to put a bond on this development anyway, regardless of a secondary access. **Commissioner Thomas** emphasized that the second exit is to be constructed and not left out. The County Manager explained the proposed language is the “cleanest” way to proceed. **Mr. Jaugstetter** added that if the goal is to prevent people from moving in, it would change from building permit to Certificate of Occupancy, which the Board needs to determine.

Commissioner Clemmons stated that while this language ensures the second entrance to be built, the amount (\$600,000) does not ensure that will be the total cost for the County to build that in the future. **Commissioner Thomas** wished to talk to the applicant; **Mr. Moore** returned to the podium and stated that there is no problem with the engineering or design as it makes sense. He asked that “building permit” be replaced with “Certificate of Occupancy”. The intent is to build the first phase and then build the second phase vertically concurrent with the creek crossing road. **Mr. Jaugstetter** stated if the Board wants to prevent construction without the alternate driveway, then the language would be left as is. The applicant proposes to allow construction but not allow a Certificate of Occupancy until the second driveway is in. This would be up to the Board - if it is trying to prevent construction or if it is trying to prevent the addition of new residents, which will come in after the COs are issued. The District IV Commissioner opined that building them empty is losing money anyway. She sees no problem in changing the wording to “Certificate of Occupancy” if that helps get things in place to move forward.

COMMISSIONER HOLMES RETURNED TO THE MEETING

Commissioner Thomas affirmed her pending motion for approval with the displayed changes, changing language from “building permit” to “Certificate of Occupancy” in condition #9 and taking out the bonding requirement for construction.

Commissioner Wilson asked if it is possible to have a design with cost prior to approval of permits; **Mr. Moore** responded that it would go through an engineering exercise where initial design would be done, bid out and if it is too expensive, to find alternatives. This is normal practice. The District I Commissioner asked that it be added as a condition, to engineer the road with a cost and have it

submitted before permits are issued. **Ms. Hobson-Matthews** stated that is not necessary since there is no asking for a bond.

With the motion made by **Commissioner Thomas, Commissioner Clemmons** seconded the motion. There being no further discussion, the motion to approve was carried unanimously (6-0-0).

Resolution 21-235

Public Hearing RZ-21-01

Life Built Homes of Locust Grove, GA requests a rezoning from R-3 (Single-Family Residence) to RA (Residential-Agricultural) for property located east of Brannan Road and west of Palmer Road in Land Lot 61 of the 7th District. The property consists of 11.65+/- acres, and the request is for a lot division on septic. District 3 (Presenter: Kenta Lanham, Planner II)(Exhibit 15)

Kenta Lanham, Planner II, gave overview of the rezoning request from Single-Family Residence (R-3) to Residential-Agricultural (RA) for lot division. He presented the site plan for public view and that it meets the development standards with the density meeting the Low Density Residential requirements. Staff evaluated the request, the requirements and the history of the property, and hereby recommends approval; on March 25, 2021 the ZAB recommended approval of the request.

Chair Harrell opened the floor for Public Hearing and called for anyone wishing to speak in favor of the request to come forward, with a collective total of 10 minutes allotted.

In Favor

John Palmer, Falcon Design Consultants, approached in representation of the applicant and made some remarks regarding the request.

Commissioner Cannon asked about the sizes of the homes; **Mr. Palmer** responded that a typical ranch home would be between 2,200 and 2,400 square feet; a 2-story would be between 2,500 and 4,500 square feet, custom built to the residents' specs and not track homes.

Chair Harrell called for anyone to come up and speak in opposition of this request. No one came forward.

Commissioner Cannon stated that he is fine with the rezoning and the conditions. He noted the following:

- The homes will be minimum 2,500 square feet heated living space
- Side-entry, minimum 2-car garages where feasible
- Homes to be built on site (no modular/manufactured)
- All disturbed areas to be sodded, landscaped
- Homes shall consist entirely of 2 or more of materials on all sides - brick, stone, stucco, Hardiplank and no vinyl
- Each permitted home shall be compatible with existing homes as determined by Planning & Zoning
- Planning & Zoning is authorized the required heated square feet to be increased and/or architectural style to be modified in instances of compatibility (when determined)

Mr. Palmer agreed to all stated conditions.

Commissioner Cannon made a motion to approve with the above-stated conditions; **Commissioner Holmes** seconded the motion. The motion carried (6-0-0).

Resolution 21-236

Public Hearing RZ-21-02

General Holdings Unlimited, LLC, of Monroe, GA requests a rezoning from RA (ResidentialAgricultural) to R-2 (Sewer) (Single-Family Residence) for property located south of the intersection of Campground Road and Bryans Drive in Land Lots 57, 58 and 72 of the 7th District. The property consists of 183.18+/- acres, and the request is for a single-family residential subdivision. District 3 (Presenter: Kamau As-Salaam, Planner II)(Exhibit 16)

Kamau As-Salaam, Planner II, gave the details of the Resolution before the Board for the rezoning request. The purpose is for the use of a conservation subdivision. He presented the rendering of the property for the Board and public viewing. There is a flood plain cutting through the parcel. He then presented the site plan. The FLUM supports the Single-Family Residential, on Sewer (R-2S) zoning. As a conservation subdivision, the development would be allowed to place 215 (1 less than the shown 216) lots with a minimum lot size of 10,890 square feet with approved Conditional Use. The request for Conditional Use (CU-21-03) runs concurrently to this case. On March 25, 2021 the ZAB approved the Conditional Use for conservation subdivision with conditions (displayed for the Board and public viewing). On March 25, 2021 the ZAB recommended approval of the rezoning with conditions (displayed). At the Chair's request, Mr. As-Salaam displayed the conditions for the rezoning request. He also stated that staff recommended the same except for condition #9. The developer is willing to fence off to where the development cannot be seen from adjacent properties. Staff recommended on condition #6 that the ranch style homes are 2,400 square feet but a Board member from the ZAB wanted 2,000 square feet.

Chair Harrell opened the floor for Public Hearing and called for anyone wishing to speak in favor of this request to come forward, with a collective time of 10 minutes allotted.

In Favor

Michelle Battle, Battle Law, 1 West Court Square, Decatur GA 30030, gave some remarks in favor of the rezoning request. She highlighted the amenities area, walking trails and preservation of green space in the flood plain areas. Applicant wishes to add a condition related to preservation of a 50' buffer along a certain side with fencing, to ensure that there will be no types of passive or recreational activities within that buffer area and that will be entered into agreement as well. The condition would also ask that the easement agreement would be delivered to staff prior to recording of the final plat. Photos of a similar subdivision were displayed for comparison purposes as to the intent of this proposed development for rezoning. Comparisons of proposed house size and lot size to a similar conservation subdivision were also given for clarity to the Board. The development will have 3 to 6 bedrooms, 2-car garages (side entry where possible), with anticipated list pricing at \$300,000-400,000 for ranch; \$400,000+ for 2-story units. The project would be completed within 12-18 months after approval. There would also be mandatory HOA and 20% cap on rental with owners having lived in the property for at least 12 consecutive months prior to renting out and those short-term rentals would not be permitted.

Chair Harrell called for anyone wishing to speak in opposition of this request to come forward with a collective total of 10 minutes allotted. Anyone wishing to speak was asked to state their name for the record.

In Opposition

Teresa Smith, 329 Noah Place, McDonough GA, spoke in favor of growth in the neighborhood; however, she is worried about the future of Henry County and some recent happenings, and asked for assurance of protection of the residents of the community. The quality of the home is an issue; so far this year, Better Business Bureau has registered seven (7) complaints this year. She read a couple of them for the Board. Regarding the proposed size of the homes, she noted that originally 20% of the homes were to be 2,000 square feet and the rest of them to be at 2,800 square feet.

Charles Downey, 557 Heathmoor Drive, McDonough GA, spoke in opposition of the request, citing small homes on small lots. He remarked that developers allege they must build small because of building on sewer. He gave comparable sale prices of larger lot sizes to the projected price points of homes to be developed on the subject property. He asked that the minimum lot size be increased to 22,000 square feet and the ranch homes have a minimum 2,800 square feet with no more than 20% of the total number of homes built to be ranch. He also expressed concern about some of these homes being rental property.

John Page, 267 Fannin Lane, McDonough GA, spoke in opposition of this request. He stated that no one has developed any area which would control the runoff from storm water. While speaking on comparable home prices, the time had expired and the Chair closed the Public Hearing.

Chair Harrell closed the Public Hearing upon expiration of time for comments.

Commissioner Cannon asked for clarification regarding the buffer and privacy fence; **Mr. Palmer** responded that there will be a buffer around the very front perimeter of the property off of Campground Road (100' buffer) with increases on each side of 50'; and a fence along the interior. The District III Commissioner asked if the buffer would be between the fence and the existing residents; Mr. Palmer affirmed same.

Commissioner Cannon stated that as the newest Board member, he has learned a lot in the last few weeks. Speaking only for himself he feels the most important thing to do is the right thing which would have to take each entity into consideration. In this case, he believes there are three -- the citizens, the developer and himself. The Commissioner wished to make a motion to approve with conditions that he has developed specific to this case, into the record as follows:

- Entrances shall be located such that the minimum intersection sight distance and the minimum spacing requirement are met per the road's posted speed limit and shall have a deceleration lane and an acceleration taper designed and constructed to HCDOT standards; the requirements of the TIS (Traffic Impact Study) shall be constructed including a left-turn lane.
- Each home shall have a minimum 2-car garage; the garages shall be side-entry everywhere feasible.
- The homes shall consist entirely of at least 3 sides' brick, stone or stucco; vinyl-based products are only permitted in soffits, eaves and fascia.
- The developer/owner shall place a centralized mailbox unit outside of the public right-of-way for the use of those lots which will not be served by the United States Postal Service. This must be shown on the final plan for approval.

- Any disturbed areas of residential lots shall be sodded except where landscaping is present and installed.
- No more than twenty-five (25) percent of all homes shall have 2,400 square feet of heated space and no less than seventy-five (75%) percent of all homes shall have a minimum of 2,800 square feet of heated space.
- No more than ten (10%) of the development shall be used as rental properties.
- There shall be a minimum fifty (50') feet buffer between the subject property and its western, eastern and southern boundaries with a minimum one hundred (100') feet buffer between the subject property and Campground Road.
- A ten (10') feet sidewalk shall be installed along Campground Road.
- The owner/developer shall conduct a traffic study and comply with all applicable findings and shall consider doing the traffic study in September.
- A minimum of six (6') feet privacy fence shall be installed on property lines at 1474 Campground Road and 1250 Campground Road .
- An HOA shall be required.
- If the build-out of this development is not complete within five (5) years, the developers must return to the Board of Commissioners to re-evaluate the zoning status of the vacant areas of the property.

Commissioner Wilson referred to condition #6 and suggested that it should say “minimum 2,400 square feet”. *Added*

Commissioner Thomas referred to the last condition #13 and stated that it concerns her. If the build-out of the development is not completed, to return to the BOC and re-evaluate the status of the vacant areas of the property -- she believes this wording to be too vague. She further voiced concern over different priced homes being built near, or across from, existing priced homes which could result in loss of equity in those existing homes due to inequality of home pricing in the same subdivision. She also voiced concern over the rendering of the cluster of homes in the back and how there is a lot to go through to make it to an exit. She further asked how the flood plain would be managed with that cluster of homes placed. **Mr. Palmer** responded that Henry County did a flood study for the whole county with a future build conditions flood plain. He explained that it is a large area and is actually about 300' wide, which is well outside of the flood limits established by Henry County and by Federal Emergency Management Agency (FEMA) Flood Plain Management. Stricter standards are proposed for this development such as 75' buffers instead of the state-mandated 25' buffers. These meet and exceed what the county standards are as well as what the standards are on a state level as far as flood plains. The District IV Commissioner voiced her support for conservation subdivisions and wanted to know where the amenities will be for the community. **Ms. Battles** responded that there is a large community area just within the entrance of the property that allows access to everyone. There is also a trail system that goes through the center of the site. The Commissioner does not believe that one area up front will not be enough to accommodate any children coming into the community. Ms. Battles referenced condition #13 and stated that when the market changes, there are undeveloped lots in subdivisions which is what happened in 2006-2007; however, the number of lots oversaturated the market. This is not the market at present and Ms. Battles alleged that the problem now is not enough lots. Condition #13 allows for 5 years finishing the development but applicant wants clarity regarding same since they still have to go through the land development process which can take a while.

Chair Harrell asked where the amenities will be located and what they include; **Ms. Battles** showed the Chair where the amenities would be located on the drawing, which include commercial playground area, fire pits, grills, pavilion and then connect to the walking trails.

Commissioner Clemmons thanked the District III Commissioner for his vision on what the County needs. She noted that 10' sidewalks were added and asked if the developer could add street lights in front of Campground Road. **Commissioner Cannon** stated that he thinks that there is a roundabout in process near Campground Road and Bryans. **Mr. As-Salaam** responded that this is with the Highway Corridor Overlay District and if lighting is requested, it would need to be added as a condition.

Commissioner Cannon clarified that he hopes to continue the 10' sidewalk from Hwy. 155 all the way to Elliott Road to give the opportunity for community involvement on Campground Road, which is difficult to walk right now. **Commissioner Clemmons** asked to add lighting to the condition with the 10' sidewalk. **Mr. As-Salaam** asked that it be made part of that condition as well as condition #13 to read "5 years from the issuance of the LDP" to be inserted. It is proposed that if after 5 years, the development is incomplete the developers would have to come back to the BOC to address the vacant areas. *So added*

Mr. Jaugstetter advised that condition #13 would read that if the build-out of the development is not complete within 5 years from the date of issuance of the initial Land Disturbance Permit (LDP), the developer must return to the BOC to re-evaluate the zoning status of the vacant areas of the property.

Commissioner Cannon referred to one of the displays and asked if it is an area that a smaller type of amenity could be placed; **Mr. Palmer** responded that if a small playground needs to be put there, or something similar, applicant would agree to do that as it is not flood plain. The District III Commissioner requested that the area have some amenities there. The District III Commissioner then referred to the top left corner of the subject property as displayed and Mr. Palmer stated that portion was a little more difficult to access because it is on the other side of a stream. It is also expensive and it is a natural area with streams, requiring nationwide permits from the Army Corps of Engineers. Typically the A.C.E. will not grant permits and do not want streams impacted. **Ms. Battles** assured that the fencing will be on the interior and will have that language stated as well. **Mr. As-Salaam** advised that the motion would need to reflect where the amenities would be required throughout the development in at least 3 locations.

Commissioner Cannon made a motion to approve with the amended conditions as read; **Commissioner Clemmons** seconded the motion. The motion carried (6-0-0).

Resolution 21-237

PUBLIC COMMENTS

There were none.

APPROVAL OF MINUTES

Commissioner Holmes made a motion to approve the Minutes from *April 20, 2021* and *May 4, 2021*; **Commissioner Thomas** seconded the motion. The motion carried (6-0-0).

UPCOMING MEETINGS & EVENTS

- A. (July 27, 2021 at 10:00 a.m. is a Called Meeting for a Public Hearing and Adoption of the Millage
- B. August 3, 2021 at 9:00 a.m. is a regularly scheduled BOC Meeting

ADJOURNMENT

There being no further business at this time, **Chair Harrell** adjourned the meeting. ***Meeting adjourned at 9:23 p.m.***

Carlotta Harrell, Chair

Stephanie Braun, County Clerk