STATE OF GEORGIA
COUNTY OF HENRY

The Henry County Board of Commissioners held a Regular Public Meeting ***in-person*** on Tuesday, October 19, 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, County Manager; Priya Patel, Associate Attorney; Stephanie Braun, County Clerk; Nathifa Cunningham, Deputy County Clerk

Absent: Patrick Jaugstetter, County Attorney

INVOCATION

The Invocation was given.

PLEDGE OF ALLEGIANCE

The Pledge was recited.

Greg Cannon, District III Commissioner entered into the Meeting

CALL TO ORDER

Carlotta Harrell, Chair, called the Regular Meeting of the Henry County Board of Commissioners for Tuesday, October 19, 2021 to order.

ANNOUNCEMENT (made by the County Manager prior to reading the Consent Agenda): The following Planning & Zoning item was advertised for this meeting, but has been postponed by the Applicant: (Public Hearing) RZ-21-22 Builders Professional Group, LLC of Fayetteville, GA requests a rezoning from R-2 (Single-Family Residence) to R-3 (Single-Family Residence) for property located at 3539 Jonesboro Road in Land Lot 105 of the 6th District. The property consists of 30.118+/- acres, and the request is for a single-family residential subdivision. District 2

PROCLAMATION

DEE CLEMMONS, DISTRICT II COMMISSIONER, ARRIVED DURING THIS TIME

Stephanie Braun, Clerk, Henry County came forward to read the following Proclamation into the record:

Proclamation
Recognizing the Month of October as
Breast Cancer Awareness Month

WHEREAS, every year, so many Americans are touched by the pain and hardship caused by breast cancer and it is estimated that 281,550 women and more than 2,650 men are expected to be diagnosed with breast cancer by the end of 2021; and

WHEREAS, breast cancer is the second most common form of cancer found in the women in the United States and the second leading cause of death overall among American women, with a staggering 43,000 lives lost each year; and

WHEREAS, many people have endured the heartbreak of losing someone to breast cancer, and it is the memories of those loved ones that drive us to find a cure; however, thanks to early detection and improved treatment options, deaths from breast cancer have decreased significantly in the last decade; and

WHEREAS, all women are encouraged to talk to their healthcare providers about mammograms and other methods of early detection, as well as their risk of developing breast cancer and what can be done to reduce that risk; and by raising awareness of breast cancer and supporting research, prevention and early detection, so that we will move closer to eradicating this disease.

NOW THEREFORE, BE IT PROCLAIMED by the Henry County Board of Commissioners that October is designated as National Breast Cancer Awareness Month and we urge all Henry County residents to spread awareness of this disease, provide support for those affected by this illness and educate others on its prevention and early detection.
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This 19th day of October, 2021

CONSENT AGENDA

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

Community Development Block Grant

A. Resolution to extend previous agreement and to accept additional CARES funding from the Georgia Department of Community Affairs' (DCA) Emergency Solutions Grants (ESG) Program in the amount of $130,000 (Presenter: Shannan Sagnot, Director)(Exhibit 1) *(Resolution 21-318)*

EMA/911 Services

A. Resolution of the Board of Commissioners approving the replacement purchase of E-911 Dispatch console furniture for the Emergency Communications Center from Xybix Systems, Inc. in the amount of $316,465 to replace 10-year-old console furniture because they are outdated, broken and beyond repair using E-911 Fees Collected funds (Presenter: Amanda Maddox, E911 Assistant Director)(Exhibit 2) *(Resolution 21-319)*

Facilities Maintenance

A. Resolution awarding Bid #22-08 to Crown Service Contractors, Flowery Branch, GA in the amount of $184,298 for demolition/remodeling services at 112 Zack Hinton Pkwy, McDonough for the purpose of relocating the Henry County Fire Department Administration Group. (Presenter: Hutch Purvis, Cluster Lead; and Susan Harris, Purchasing Manager)(Exhibit 3) *(Resolution 21-320)*

Financial Services

A. Resolution approving a first amendment to the Georgia Micro Enterprise Network (GMEN) Services agreement between GMEN, and Henry County, GA for additional services to add ERAP2 funding and increase compensation for administrative services in the amount of $837,994 (Presenter: David Smith, Financial Services Director)(Exhibit 4) *(Resolution 21-321)*

B. Resolution approving a first amendment to the Benevate, Inc., SAAS Services Agreement between Benevate, Inc., and Henry County, GA for additional services to add ERAP2 funding and increase compensation for hosted software licensing in the amount of $33,520 (Presenter: David Smith, Financial Services Director)(Exhibit 5) *(Resolution 21-322)*

Fleet Services

A. Resolution approving the purchase of fifty (50) Ford Pursuit (Explorers) from Wade Ford of Smyrna, Georgia in the amount of $2,448,936 for the Police Department through State Contract #99999-SPD-ES40199409-0003 using SPLOST V Funds (SP5011) (Presenter: Jody Swords, Director of Fleet Services)(Exhibit 6) *(Resolution 21-323)*

B. Resolution approving the purchase of five (5) Ford T250 Cargo Vans with HVAC/Electric package in the amount of $195,213 through State Contract (99999-SPD-ES40199373-0009) Wade Ford, for Facilities Maintenance Department, using Capital Improvement Plan (COPS) funds, as approved by the Board in the CIP. (Presenter: Jody Swords, Director of Fleet Services)(Exhibit 7) *(Resolution 21-324)*

Human Resources

A. Resolution to approve Cigna Medicare Advantage Program as a part of the Henry County Retiree Medical Insurance Plan for 2022 (Presenter: Harold Cooper, HR Director; Mike Gasses; The Michael Gasses Agency; and James Ford, Epic)(Exhibit 8) *(Resolution 21-325)*

B. Resolution to Adopt Amendment #4 to the Addendum and Adoption Agreement for ACCG Defined Benefit Plan for Henry County Employees in order to provide that E-911 operators, EMA Administration personnel and crime scene investigators be added to the Public Safety retirement and vesting plan (Presenter: Harold Cooper, HR Director and David Smith, Financial Services Director)(Exhibit 9) *(Resolution 21-326)*

Sheriff's Department

A. Resolution approving the purchase of equipment to upgrade the current Simulator in the Henry County Sheriff's Department in the amount of $91,953 from VirTra using approved Grant funds from the Criminal Justice Coordinating Council (CJCC)(Presenter: Captain Marc Johnson, HCSO)(Exhibit 10) *(Resolution 21-327)*

SPLOST

A. Resolution awarding Bid #22-17 to Lindavid d/b/a C&C Fence Co. in the amount of $66,918 for Fencing Around the New FBO at the Atlanta Speedway Airport using SPLOST IV Funds (SP4002). (Presenter: Lynn Planchon, Capital Projects Director; and Susan Harris, Purchasing Manager)(Exhibit 11) *(Resolution 21-328)*

B. Resolution of the Henry County Board of Commissioners approving the Henry County Water Authority utility relocation estimated cost for South Ola Road Extension in the amount of $97,646 (Presenter: Roque Romero, SPLOST Transportation Director)(Exhibit 12) *(Resolution 21-329)*

****This ends the Consent Agenda****

Johnny Wilson, District I Commissioner made a motion to approve the Consent Agenda; **Greg Cannon, District III Commissioner** seconded the motion.

Vivian Thomas, District IV Commissioner stated that under Financial, an explanation is needed for where these monies are coming from on each of these items and why the County is being asked to supplement the federal grant.

David Smith, Director of Financial Services approached and responded that the funds are Treasury Funds; $5.5 million was allocated for ERAP and 15% is allowed for administrative services for the third-party provider for ERAP 2. Benevate, Inc. is the software and it had to be upgraded to accommodate the ERAP 2 funding and they are being paid through the ERAP 2 funding. **Commissioner Thomas** remarked that they were considering whether or not this company would be given the opportunity to disburse these funds and that has not been determined as of yet. The Commissioner wanted to know why they are doing this if they were not determined as the provider; **Mr. Smith** explained that the Resolution grants and extends the contract for both of these companies and to pay them the funds as needed; it also allows funding of the outstanding ERAP 1 funds that were left over. Mr. Smith explained that $6.3 million was spent in assisting over 2,000 people in approximately a year and a half.

Commissioner Thomas then had a question regarding Fleet Services being under SPLOST-V for the purchase of the vehicles and asked why this is under SPLOST-V and not under the Capital Improvements Plan. She understood that SPLOST-V would be allocated by District. **Ms. Hobson-Matthews** deferred to Mr. Smith. **Mr. Smith** explained there were several funding mechanisms for the CIP and included SPLOST-V and a Fleet Replacement Program which was set aside. SPLOST is part of all of the Capital and Improvement Plan includes SPLOST-V and Certificates of Participation and amounts transferred from General Fund to pay off any balances due. Commissioner Thomas stated that there needs to be more businesses within Henry County that need to be included in this process. **Chair Harrell** asked if there are any small businesses in all of Henry County that can provide these particular police pursuit vehicles; Mr. Smith stated that there are none listed under the state contract and that have been approved by the State Purchasing Department. When the Chair asked why there is a state contract, Mr. Smith explained that they are for the purpose of the state bidding out for police pursuit vehicles, they were evaluated and then arrived at a decision and chose Wade Ford as the winning bidder. The state contract is utilized by these purchases for expediency and quickness and eliminates the bidding process. Commissioner Thomas stated there has to be way to utilize small businesses in the County for these purchases and while it is more expedient to use the state process, the taxes for these businesses are still rising and they are expected to pay them. Ms. Hobson-Matthews explained that the funds for vehicle purchases are either coming from SPLOST or COPS loan, not additional taxes passed to the public. The County has to move as quickly as possible because finding these vehicles is a challenge and if they can be found in a local Henry County business, the county will move quickly to buy from that business. Local businesses can be registered to the County, not go through the state contract, go 2-3 months through approval by the Board and possibly pay a higher cost. But officers need vehicles and it is getting to a point that 2 officers will have to be in 1 vehicle, because the need for vehicles is that dire. Mr. Smith stated that the waiting time is now 6-9 months after approval, when it used to be a 3-month approval.

Bruce Holmes, District V Commissioner asked why the Chargers are being set aside for Ford Explorers. **Jody Swords, Fleet Services Director,** approached, but the District V Commissioner requested that the Chief of Police answer his question. **Ms. Hobson-Matthews** stated that Mr. Swords will give an update since Fleet is involved in this. Commissioner Holmes pressed that the Police Department needs to justify why they want the Ford Explorers. Ms. Hobson-Matthews explained that there is damage to the vehicle and wear and tear of the vehicles considered in the purchase.

Mr. Swords explained that the Charger engine has trouble every 40,000 miles and the warranty considerations have been poor. The Chargers at 100,000 miles have already had to be serviced on the top of the engines on average of 3 times each vehicle and these become costly. After the Chargers are 5 years old, there is another 156,000 miles added to the run time. The Chargers have been very costly to the County; whereas, the Ford Explorer has been on average lower cost, more room in the back for gear, parts are easier to obtain and maintenance is easier.

Commissioner Clemmons remarked that there has been no fair bidding process, it has not been competitive and a vendor was simply selected from a state contract. If there have been attempts at the local level to try and purchase the specific vehicles needed from local businesses and there were no other options other than going through state contract, she would feel better about how the process goes. She asked if this is going to stay on Consent Agenda. **Chair Harrell** stated that a motion was made on the Consent Agenda, second was made and there is discussion.

Commissioner Thomas requested that this item be removed from Consent Agenda, moved to Regular Agenda for a vote, to further vet this request and she asked what happened to lease purchase rather than purchasing; **Ms. Hobson-Matthews** reminded the Board that they are referring to leasing police vehicles, which would not be in the County's best interest. **Mr. Smith** responded to the District II Commissioner's allegation of the bid process. He explained that the purchasing process has been fair, open and transparent, doing its best to involve local and minority vendors. The state does have a similar bidding process. For efficiency and effectiveness, the county uses the state bidding process. Sometimes the bidding is done through local but not always. One example is the fuel contract that was bid out, or vehicles that are under Allan Vigil Ford or Emanuel Jones, both of which are local. Commissioner Clemmons stated that the $2.4 million did not come from the state; they came from SPLOST. She wants to see a fair bidding process beyond a cooperative agreement from the state. The state can still bid in this process but the bidding should be allowed to the local businesses as well to see if they can provide the exact needs of the purchase request and if not, then there is the state contract. She stated that the process needs to be more open. Mr. Smith stated that the process is fair, open and transport. The $2.4 million is there because the county has done a poor job in replacing the vehicles. The Capital Improvements Plan was just approved last year and numerous vehicles have to be replaced, as they are in very poor shape. The County is catching up and needs to catch up on these vehicles.

Commissioner Wilson referred to $49,000 a vehicle and needing 50 of them, which is the price paid for inflation. If the requested bidding process is followed, it could go up even more before a business is selected. Moving this as fast as possible, with needing 50 vehicles at $49,000 a vehicle, they will not be delivered until June 2022. Waiting to do that now will mean that the purchase of the cars will be even more and the delivery date even further.

Chair Harrell called for Chief Amerman to come forward.

Chief Mark Amerman, Henry County Police Department, approached and was asked by the District V Commissioner for justification the reason why 50 Ford Explorers and why the County is moving from Chargers to Explorers. Chief Amerman responded that there have been many issues with the brakes, engines and transmissions on the Chargers that are constantly being fixed and are very costly. They are very expensive in the upkeep. The Ford Explorers have better room for equipment and are much more versatile for police use. If there is a police-related question to these vehicles, he can answer that; if there is a car question, he defers to the Fleet Services Director. Once Ford stopped making the Crown Vic, the police were forced to use the Dodge Chargers because of its low price, but wound up having to pay more in maintenance and repairs than with the Explorers. **Commissioner Holmes** noted that most other cities and counties are driving the Chargers with no issues. Chief Amerman stated that those jurisdictions are going through the same transition as Henry County is going through right now.

Commissioner Wilson explained that the Ford Explorers were front wheel drive till 2019 and then went back to rear-wheel drive. **Mr. Swords** explained that the Ford Explorers are now all-wheel drive. There was a funeral wherein Chargers from all agencies were used and the noises from the vehicles were audible.

Chair Harrell asked how essential the need for the 50 vehicles is; **Chief Amerman** responded that they are at the point now where they may have to double up officers in one car and the Police Department is still hiring. These cars are being replaced and the new hires do not even have their vehicles yet. These cars are hard to find, the chips are not available. If these items are re-bid it can be another 2 years before they are ready which will put Henry County in a bad spot for the Police Department to be effectively performing their duties.

Commissioner Wilson noted that there are still some Crown Vics on the road, repainted, redone, repaired, some as old as 1999. Some of those Crown Vics are driven by reserve units and those 34 cars need to be retired; order the 50 pursuit vehicles and get them ordered and they have safety features that are upgraded for the police officers, which is critical to the Police Department needs.

Commissioner Thomas stated this was a needed discussion to inform the public on the use of the $2.4 million and not have it in a condensed form. She challenged the Purchasing Department and the County Manager to purposely look for opportunities to involve the local businesses in Henry County.

Motion, second and discussion completed motion to accept Consent Agenda carried 4-2-0.

*(**Chair Harrell, Commissioners Wilson, Cannon** and **Thomas** voted in favor; **Commissioners Clemmons** and **Holmes** voted in opposition)*

REGULAR AGENDA

PLANNING & ZONING

Public Hearing RZ-21-10

Eagles Landing IL-AL Investors, LLC of Roanoke, VA requests a rezoning from C-2 (General Commercial) to OI (Office-Institutional) for property located west of Patrick Henry Parkway and east of Interstate 75 in Land Lot 46 of the 6th District. The property consists of 7.975+/- acres, and the request is for an assisted living facility. District 4 (Presenter: Kamau As-Salaam, Planner II) (Exhibit 13)

Kamau As-Salaam, Planner II, presented the request for the Board. He indicated that the property is in compliance with the Future Land Use Map (FLUM). There would be one (1) 4-story building with 190 units and meets all the standards for the OI zoning district, for the principal use of assisted living. The property is not within the Highway Corridor Overlay District. On May 27, 2021 the Zoning Advisory Board (ZAB) approved the Variance request regarding a reduction of parking requirements and granted authority to waive up to 30 parking spaces. The ZAB recommended approval of the zoning request with staff conditions which were listed and read into the record as follows:

1. *Architecture shall be consistent with the elevations presented, meeting the approval of the Henry County Planning & Zoning.*
2. *Signage shall not exceed eight (8') feet in height and shall be monument based.*
3. *Selective cutting of trees along the right-of-way of I-75 shall be permitted according to DOT regulation and for proper sighting of the development. Denuding the right-of-way of trees shall be prohibited.*
4. *Developers will install a five (5') foot sidewalk outside of the planned right-of-way.*

Chair Harrell opened the floor for Public Hearing for anyone wishing to speak in favor of this request, including the applicant, allowing a total of ten (10) minutes to speak.

<u>In Favor</u>

Cameron Swengel, Development Manager, Smith/Packett

Mr. Swengel approached to make remarks on this request, representing the applicant. He introduced members of the project team also in support of this request for the applicant. He provided some background on Smith/Packett and Harmony Senior Services for the Board. He added that this would not have any burden on the school system or traffic impact since the residents would be of senior age, many of whom will not have school-aged children nor would be independent motorists. He further provided the breakdown of the different facets of the 190 units for the Board as well, with the assisted living units and memory care units licensed through the State of Georgia. Mr. Swengel also listed out proposed amenities within the development as well, adding that the acquisition has already been made for the right-of-way. He then turned the presentation over to Ms. Cabell.

Margaret Cabell, Chief Sales and Marketing Officer, Harmony Senior Services

Ms. Cabell explained that Harmony Senior Services is in partnership with Smith/Packett. She stated that she had presented this to the District IV Commissioner prior to today's meeting and addressed concerns such as emergency preparedness, policy and procedure for various events falling within the emergency category (including fire, power failure, missing residents, pandemic episodes, acts of terrorism, etc.) with meet the licensing requirements of their agencies and for each County within they would operate. She further provided contingency plans in the event of some of the listed emergencies that will be included within the development. Disaster preparedness overview plans were also presented to the Board, as well as how this would help small businesses within the area, such as hairdresser/barber services, landscaping, movers, and clinical businesses.

Ken Haertel, Design Engineer, The Contineo Group

Mr. Haertel explained that the Site Plan is updated from that which was presented, adding that there will be parking concentrated toward the front of the site; a ring road is also proposed around the site to ensure that fire and emergency personnel can access the site if needed. He also pointed out that Henry County DOT will widen Patrick Henry Boulevard in the future.

Chair Harrell then called for anyone wishing to speak in opposition of this request to come forward, allowing a total of ten (10) minutes to speak. There being none, she closed the Public Hearing.

Commissioner Thomas called for anyone in the Fire Department to express their concerns if any at this time.

Jonathan Burnette, Chief, Henry County Fire Department, stated that there are currently no comments, questions or concerns from the Fire Department at this time. He turned the floor over to Chief Black.

Michael Black, Deputy Chief/Fire Marshal, Henry County Fire Department, stated that the Fire Department steps in and applies current and amended Codes for the State and Fire Department once the Site Plan is officially submitted.

Commissioner Thomas remarked that she made sure that nothing was overlooked for this 190-unit development and wanted Fire Department personnel to speak upon confirming that they currently have no concerns regarding the development of this project. She asked for support of this $45 million-dollar investment that is coming to the County, with proper vetting of the involved companies on this project. She believes that proper due diligence for emergency preparedness has been done for this facility and that the project developer also maintains their facility, providing 100+ jobs in the community, providing green space by reduction of the parking spaces approved by the Henry County Planning & Zoning. The two (2) detention ponds are to be environmentally friendly and aesthetic to the area.

With these remarks, **Commissioner Thomas** made a motion to approve this request with the stated conditions; **Commissioner Cannon** seconded the motion. Motion was carried by unanimous vote (6-0-0).

(Resolution 21-330)

Public Hearing RZ-21-03

Blue River Development, LLC of Cumming, GA requests a rezoning from RA (Residential Agricultural) to R-2 (Sewer) (Single-Family Residence) for property located at the southeast corner of the intersection of Highway 20 East and Airline Road in Land Lot 75 of the 7th District. The property consists of 93.69+/- acres, and the request is for a single-family residential subdivision. District 3 (Presenter: Stacey Jordan Rudeseal, P&Z Assistant Director) (Exhibit 14)

Stacey Jordan-Rudeseal, Planning & Zoning Assistant Director, presented the request to the Board and stated that the FLUM calls for Low-Density Residential; the subject property is intended to be a conservation subdivision and will be required to have a minimum of 40% open space; however, the lots will be smaller than typical. This request was before the BOC and was tabled for further review. It is now before the BOC. The ZAB recommends approval of this request with twenty-one (21) conditions.

COMMISSIONER HOLMES LEFT THE MEETING DURING THIS PRESENTATION

Chair Harrell opened the floor for Public Hearing and allowed a total of ten (10) minutes for anyone wishing to speak in favor of this request, including the applicant.

<u>In Favor</u>

Steve Moore, Moore Bass Consulting, 1350 Keys Ferry Court, McDonough GA, approached and highlighted some of the key features of this revised request, such as the access to Airline Road and the increased green space. He also indicated where there will be restricted construction along the northern part of the property. The amenities center has also been relocated in this revision. The starting price on these houses is $400,000 and it will take about 2 years to get them on the market, at which time the starting price may be higher.

Chair Harrell requested that the conditions be displayed again; **Mr. Jordan-Rudeseal** explained that they cannot all fit on one screen. The Chair requested that they be read into the record, as follows:

1. *A Traffic Impact Study (TIS) will be required; all of the indicated improvements shall be the responsibility of the developer/owner. The owner/developer shall coordinate with HCDOT and GDOT regarding all access to the development.*
2. *Entrances shall be located such that 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 acceleration taper designed and constructed to GDOT and HCDOT standards.*
3. *Each home shall have a minimum 2-car garage. Garages shall be side-entry where feasible.*
4. *All disturbed areas shall be sodded, except where landscaping is present or installed.*
5. *All homes shall include a covered front porch or stoop.*
6. *The existing cemetery on the subject property shall be protected as per ULDC requirements, in accordance with correspondence referenced by Zoning Advisory Board member, Mr. Risher.*
7. *The minimum heated square footage of a single-story home shall be 2,500 square feet; the minimum heated square footage of a multi-story home shall be 2,800 square feet.*
8. *Homes shall consist of all sides masonry (brick, stone or stucco).*
9. *If developed as an R-2S subdivision, the total number of dwelling units shall be limited to 113.*
10. *If developed as a Conservation Subdivision, the minimum lots shall be 15,000 square feet. The average lot size shall be a minimum of 18,000 square feet. These requirements shall govern unless otherwise conditioned.*

11. *If developed as a Conservation Subdivision, the minimum lot width shall be 100 feet.*
12. *The owner/developer shall install a privacy fence at least six (6') feet in height, along the northern property line. The fence shall be maintained by the HOA.*
13. *A decorative monument entrance shall be required.*
14. *If developed as a Conservation Subdivision, any lots within 125 feet of the northern boundary of the development (along the Mountain Laurel subdivision) may have a minimum lot size of 12,500 square feet provided that there is a minimum of 100' buffer all along the northern boundary of the development. This buffer shall include evergreen trees meeting the requirements of the ULDC, Chapter 5, but shall otherwise be undisturbed.*
15. *An HOA shall be required.*
16. *Minimum ten (10') foot wide sidewalks shall be required in accordance with the Highway Corridor Overlay District and/or any other applicable ULDC code section.*
17. *Streetlights shall be required, in accordance with the Highway Corridor Overlay District and/or any other applicable ULDC code section.*
18. *All homes shall have a minimum front yard setback of forty-five (45') feet from the right-of-way line.*
19. *All homes on lots within 125 feet of the northern property line shall be limited to one-story.*
20. *All Stormwater management facilities shall be on their own lot and secured by a five (5') foot high fence.*
21. *Each permitted home in the development shall be compatible with existing homes, as determined by the Planning & Zoning Department. The Planning & Zoning Department is authorized to require the heated square footage to be increased and/or the architectural style to be modified in instances where incompatibility is determined.*

COMMISSIONER HOLMES RETURNED TO THE MEETING DURING THE READING OF THE CONDITIONS INTO THE RECORD

Chair Harrell then called the applicant back to the podium and referenced the condition for the garages. She asked how many homes are to be developed; **Mr. Moore** responded there will be one-hundred and thirteen (113) homes. When asked how many will have the side-entry garages, he added that in this case, all the homes can have side-entry garages with 100' wide lot sizes, if the grading permits; topographic issues or conditions would be the only restriction to prevent side-entry garages; he stated that the condition adding "where feasible" allows some flexibility for the developer to construct side-entry garages but will allow for front-entry garages if there is a topographic or lot condition issue. **Commissioner Cannon** requested that no more than 10% of the total homes have front-entry garages; Mr. Moore agreed to same. The Chair asked that it be made part of the conditions; **Mr. Jordan-Rudeseal** acknowledged that it will be made as part of Condition #3.

Commissioner Thomas asked the District III Commissioner if he would put a percentage on the HOA management turnover time to the community to be at 75% capacity. **Commissioner Cannon** asked the applicant at what point the HOA is turned over; **Mr. Moore** agreed it would be 75%. The District III Commissioner agreed to add that as part of the conditions.

Commissioner Thomas then asked that there be a stipulation for rentals/lease purchases allowed in the community and to have those registered with the HOA in place. **Commissioner Cannon** indicated that no more than 5% of the homes may be rented or lease purchased at one time and to be made part of the conditions (#22).

Chair Harrell then referred to Condition #8, on the building materials. **Commissioner Cannon** prefers to have it read with all sides brick, stone or stucco and that exterior products including cement fiberboard may be used for accents but will be limited to 20% of the exteriors of each side. **Mr. Jordan-Rudeseal** acknowledged that change to Condition #8.

Commissioner Cannon then referred to Condition #14 regarding the buffer along the northern boundary of the property. The residents of Mountain Laurel have requested that the evergreens planted are to be a minimum of six (6') feet when installed. **Mr. Moore** responded that the fence is to be placed along the northern property line on the road side of the buffer. The fence might be moved to the back side of the buffer to preserve vegetation and that it would be the responsibility of the HOA to maintain; the District III Commissioner acknowledged same.

Chair Harrell then opened the floor for anyone wishing to speak in opposition of the request to come forward, allowing a total of ten (10) minutes.

<u>In Opposition</u>

Sarita Dyer, 1025 Fanleaf Drive, McDonough GA

Ms. Dyer appeared on behalf of the Hickory Hills subdivision and spoke in opposition of the request, citing that there are multiple developments in the area and there is inequality in the ratio of home development and quality of life establishment. She asked that there be considerations of walking/biking trails to be put in, since that was not addressed tonight. She further asked that there be forums for discussions prior to requests submitted to the BOC for further input to the developer from the surrounding residents.

No further comments.

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

(Resolution 21-331)

Public Hearing COMP-AM-21-02

CHI/Acquisitions, LP of Atlanta, GA requests an amendment to the Comprehensive Plan for property located west of North Bridges Road and east of Interstate 75 in Land Lots 113 and 114 of the 6th District. The property consists of 53.85+/- acres, and the request is to amend the Future Land Use Map designation from Mixed Use to Industrial. District 3 (Presenter: Stacey Jordan-Rudeseal, P&Z Assistant Director) (Exhibit 15)

Mr. Jordan-Rudeseal presented this request to the Board. He explained that the subject property is located right at exit 221 on Jonesboro Road and was previously zoned as part of a 122-acre tract that went through a Development of Regional Impact (DRI) process, completed the requirements and received a Notice of Decision which are road improvements that the County would be held to if the County does not hold the applicant to those standards. This was for the Henry Promenade development from around 2016-2017. The FLUM calls for Mixed Use in this area and the C-3 designation does not fit with the FLUM; however, it is grandfathered for a destination shopping district. Since Henry Promenade was developed, many of these acres were zoned back to Residential-Agricultural (RA). Applicant wishes to build a big box warehouse and distribution center with over 400,000 square feet which requires rezoning from C-3 to M-1, which is not supported by the FLUM. Staff finds this to be out of character with the area. Staff recommends <u>*denial*</u> of this request and Zoning Advisory Board agreed to same.

Chair Harrell called for anyone wishing to speak in favor of this request to come forward, including the applicant, allowing a total of ten (10) minutes to speak.

In Favor

Andrew J. Welch, III, Manager, Smith Welch Webb & White, LLC, approached in representation of the applicant. There will be four (4) witnesses to present and asked the Board to consider the testimony of the witnesses in their deliberation. He explained that the Georgia Supreme Court asks for evidentiary show of this - 2 of the witnesses will present the land use and 2 for the zoning portion - and create the record for the Supreme Court in the zoning appeal. He then turned the floor to Mr. Dillard.

G. Douglas Dillard, Dillard Sellers, LP, representing the owners of the property, as follows:

- Z&Z Construction Company
- The Estate of Zack B. Hinton, a/k/a Zack B. Hinton, Sr.
- M. Lindsey McGarity, as Trustee under the Harold Lamar McGarity Irrevocable Trust
- Jimmy S. Raven, Jr.

Mr. Dillard stated that they join in the request to change the Comprehensive Plan. Constitutional challenges have been filed.

Mr. Welch gave a brief background on two (2) of the witnesses to be presented.

*(**Lynn Patterson, Ph.D.** and **Jane Eason** were duly sworn in by Mr. Welch prior to approaching the podium)*

Dr. Lynn Patterson, Ph.D., Three Points Planning, presented the affidavit and report for the Board, summarized due to time constraints. She presented the merits of the argument of the denial of the amendment request to the Board. The denial of the reversion request lacks merit because the county has a reversion process included in the Code; the reversion was granted to four (4) other property owners and not this property. The 2016 rezoning is no longer viable because the conditions can no longer be met and the parcels no longer share the same zoning. The Comp Plan and FLUM have changed over the years with evolution and inconsistency of market reality and incompatibility of underlying zoning. The Henry Promenade had projected over 21,000 total trips per day. This proposed development would generate nearly 97% reduction in total trips per day from that of Henry Promenade. The Mixed Use would create jobs to support the commercial development, with stats presented by the U.S. Department of Labor. The subject property's request for revision support potential uses but has not received equal treatment as previous reversion requests which were granted. The property is not economically viable as currently zoned and there is no justification for the denial of the revision. The exclusion of Light Industrial activities to support Mixed Use is discriminatory. On each of the aforementioned points, Dr. Patterson gave a brief detail. She asked for approval of the request.

Jane Eason, Real Estate Appraiser, approached and gave brief background on her experience. The subject property contains about 53 acres and fronts an unpaved county road. It has no direct frontage to Jonesboro Road or Mt. Carmel Road. At this point, **Chair Harrell** called time expired on speaking in favor of the request.

Chair Harrell called for anyone wishing to speak in opposition of to come forward, allowing a total of ten (10) minutes to speak. There were none.

Commissioner Cannon made a motion to uphold Planning & Zoning staff's recommendation to *deny* this request; **Commissioner Holmes** seconded the motion. The motion carried (6-0-0).

(Resolution 21-332)

Public Hearing RZ-21-08

CHI/Acquisitions, LP of Atlanta, GA requests a rezoning from C-3 (Highway Commercial) to M-1 (Light Manufacturing) for property located west of North Bridges Road and east of Interstate 75 in Land Lots 113 and 114 of the 6th District. The property consists of 53.85+/- acres, and the request is for a warehouse. District 3 (Presenter: Stacey Jordan-Rudeseal, P&Z Assistant Director) (Exhibit 16)

Mr. Jordan-Rudeseal explained that this is the corresponding hearing to the amendment request just denied by the BOC. This is the rezoning of the same property with the same frontage and visibility; this is the hearing that would rezone from C-3 with the current conditions to M-1 to allow for the big box warehouse distribution center. Staff has evaluated this and noted that there will be truck traffic in addition to regular traffic among other factors and recommends *denial* of this request for M-1 rezoning; however, staff noted that the current conditions for C-3 does require inclusion of the other acreage which was rezoned to Residential-Agricultural (RA) after initial approval of the Henry Promenade. Therefore, staff recommends denial of this request and to approve an alternate zoning which is supported by the Mixed Use designation on the land use map, with proposed conditions. **Chair Harrell** clarified denial of M-1 and approves rezoning to Mixed Use (MU). Mr. Jordan-Rudeseal acknowledged same.

Chair Harrell called for anyone wishing to speak in favor of this request to come forward, including the applicant, allowing a total of ten (10) minutes to speak.

In Favor

Mr. Welch (previously introduced in prior hearing) approached and called for Mr. McGarity to come forward and yielded to Ms. Eason to finish her testimony. He stated that the affidavits of the witnesses are included in the Board's packet.

Ms. Eason returned to the podium and further gave her statement, including the introduction of her analysis which concluded that the property has very limited potential for development under the current zoning, but has better economic viability is zoned M-1.

John McGarity, Real Estate Broker, stated that Harold McGarity is his uncle who purchased the property in September 1993. In 1988, his uncle had applied to rezone the property from RA to C-2, to M-1; property remained M-1 until 2015 when Henry Promenade, LLC requested rezoning to C-3 and amendment from Medium-High Residential to Commercial for the purpose of a large shopping center. Henry Promenade failed to acquire the necessary commitments and therefore, the owners of the adjoining properties requested their properties to rezone back to RA, which contradicted the Henry County Comprehensive Plan and FLUM. No offer was received for the purchase of the property under the current zoning of C-3 with conditions, as there is no economic value under that current zoning. No contracts of offers for High Density Residential uses were made, either. The owners currently have the subject property under contract to Crow Holdings Industrial, LLC. Mr. McGarity believes the best use for this property would be to zone it as M-1 for industrial uses and asks the Board of Commissioners to grant reversion of the subject property from C-3 to M-1, as denial would violate the owners' constitutional rights.

John Bateman, Managing Director, Crow Holdings Industrial, approached and gave a brief background on the company and his experience. He seeks for the Board to approve the reversion of the rezoning of the subject property to build a project referred as North Bridges Logistics Center. He presented reasons as to why this would be feasible if the rezoning was restored to M-1 from C-3. He stated that the logistics center would be compatible for the M-1 use and this would be the best use of the property from a marketing standpoint.

Mr. Welch approached and asked that the property owners of this property be treated the same as the owners of the adjoining properties that had sought reversion and were granted same. After presenting a side-by-side comparison of the current zoning map and the FLUM, he noted that there is already industrial zoning on nearby property and to deny this reversion request would be to deny the property owners' constitutional rights.

Chair Harrell called for anyone wishing to speak in opposition of this request to come forward, allowing a total of ten (10) minutes to speak. There were none.

As a matter of record, it was pointed out that neither Mr. McGarity nor Mr. Bateman, both of whom gave testimony/statements during Public Hearing, were sworn in and presented under oath. **Mr. Welch** approached, however, and rebutted that all four (4) witnesses were sworn in collectively at the beginning of the Public Hearing on the prior request (COMP-AM-21-02).

Commissioner Cannon remarked that the Board relies on zoning staff and made a motion to follow staff recommendations to _*deny*_ the M-1 request and would approve the rezoning to MU (Mixed-Use); **Commissioner Wilson** seconded the motion.

Mr. Jordan-Rudeseal clarified that the District III Commissioner, during his motion, recommended approval of the Mixed-Use and that there are associated conditions with that designation. **Chair Harrell** directed him to read the conditions into the record.

Ms. Hobson-Matthews asked for confirmation of the motion to deny the M-1 and to approve the MU rezoning; if so, the applicant should be called back and given the chance to either accept or refuse this alternate zoning recommendation.

Mr. Welch approached and voiced objection to the alternate recommendation based on no prior knowledge and no ability to review the associated conditions to go with recommendation of MU zoning on this property. **Mr. Dillard** also returned to the podium to state that they have not seen the conditions and denial of the M-1 zoning request, along with the zoning conditions on the property as of now, is unconstitutional. The applicant should be given an opportunity to review the zoning. **Chair Harrell** directed that the motion is pending and to proceed forward, with a denial only and asked that the District III Commissioner rephrase the motion.

Commissioner Cannon made a motion to follow staff recommendation and deny the rezoning to M-1; **Commissioner Wilson** seconded the motion.

Commissioner Clemmons noted that there was a lot of conversation about the property not touching Jonesboro Road. She indicated on the map and asked if the entrance/exit point is on Mill Road. **Mr. Jordan-Rudeseal** responded that the road that goes directly north-south is North Bridges Road which connects to Jonesboro Road with Mt. Carmel Road on the east side of I-75. The property has a lot of frontage and visibility but the only access is through the dirt road. The subject property never properly goes to Mt. Carmel Road, but it is very close. The District II Commissioner asked if they can take that road; Mr. Jordan-Rudeseal responded that it can be taken on that road, but it is a dirt road and that would have to be improved to county standard.

Ms. Hobson-Matthews requested a 5-minute recess to review whether or not the latter two (2) witnesses (Mr. McGarity and Mr. Bateman) were indeed sworn in and gave statement under oath, as this is a critical aspect of this matter. She states that Ms. Patel has reviewed the video and does not see where they were sworn in and thus called for a recess. **Chair Harrell** called for a two-minute recess.

RECESS IS TAKEN

MEETING WAS RECONVENED BY THE CHAIR

Commissioner Cannon removed his motion to deny, in light of issues to clear up.

Priya Patel, Associate Attorney, stated that after review of the live feed, it was determined that Mr. McGarity and Mr. Bateman were **not sworn in** and that is now made part of the record.

Commissioner Cannon made a motion to *table* this item until November 3, 2021. **Mr. Jordan-Rudeseal** agrees and that the vote is tabled to November 3, 2021 as well, to allow the applicant opportunity to review any alternate zoning of MU with conditions and to discuss further with Planning & Zoning staff. **Commissioner Thomas** seconded the motion to table. The motion carried (6-0-0).

Mr. Dillard approached to make further comment and the Chair directed him to return to his seat as his remarks at this point are out of order.

PUBLIC COMMENTS

There were none.

APPROVAL OF MINUTES

Commissioner Clemmons made a motion to approve the Minutes of the meetings from *August 3, 2021 (Regular Meeting), August 17, 2021 (Called Meeting re: Executive Session) and August 17, 2021 (Regular Meeting)*; **Commissioner Cannon** seconded the motion. The motion carried (6-0-0).

UPCOMING MEETINGS & EVENTS

A. Wednesday, November 3, 2021 at 9:00 a.m., Regular BOC Meeting (moved from Tuesday, 11/2/21 to Wednesday, 11/3/21 due to Election Day)
B. Tuesday, November 9, 2021 at 9:00 a.m., Virtual Called Workshop Meeting on Purchasing Policy, State Contract Procedure and Capital Projects Update
C. Tuesday, November 16, 2021 at 6:30 p.m., Regular BOC Meeting
D. Tuesday, November 30, 2021 at 9:00 a.m., Regular BOC Meeting (to be counted as December's first meeting due to holiday schedule)
E. Tuesday, December 14, 2021 at 6:30 p.m., Regular BOC Meeting is **CANCELLED**

ADJOURNMENT

There being no further business at this time, **Chair Harrell** adjourned the meeting. ***Meeting adjourned at 8:54 p.m.***

Carlotta Harrell, Chair

Stephanie Braun, County Clerk