



# PUTNAM COUNTY PLANNING & DEVELOPMENT

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## Minutes

Thursday, May 05, 2022, ♦ 6:30 pm

### Opening

1. Call to Order

Chairman Alan Foster called the meeting to order at 6:30 pm.

2. Attendance

Present: Chairman Alan Foster, Vice Chairman Maurice Hill, Member Martha Farley, Member Harold Jones, Member John Mitchell, Courtney Andrews, Angela Waldroup, Attorney Adam Nelson

Ms. Courtney Andrews called the Attendance.

3. Rules of Procedures

Ms. Courtney Andrews read the Rules of Procedures.

### Minutes

4. Approval of Minutes- February 03, 2022 & April 07, 2022

Motion: **Vice Chairman Hill** made the motion to approve the February 03, 2022 & April 07, 2022 minutes

Second: **Member Mitchell**.

Voting Yea: **Vice Chairman Hill, Member Farley, Member Jones, Member Mitchell, Chairman Foster**

### Requests

5. Request by **Rick McAllister, agent for Jacqueline Trinkle** to rezone 19.45 acres at 842 Harmony Road from AG to C-2. [Map 097, Part of Parcel 060, District 1]. \***Mr. Brittain Hunt** represented this request.

**Mr. Hunt** stated that the development would be primarily used for mini warehouses, outdoor parking, and potential commercial retail space. The traffic study suggested a deceleration lane and left turn lane at all entrances. The development is compatible with existing and future uses for surrounding developments on Harmony Road. There were a number of staff recommendations that were conducive to their client.

**Chairman Foster** stated that on the left-hand side of Harmony Road, there had been a precedence set on the ten properties leading to the subject property. It was intended to restrict how deep commercial properties were allowed to go back off the road. He referenced the map, stating that there were 10 properties limited to the 400-foot depth. They were all required to have a vegetated barrier behind them in order to protect the agricultural and residential properties behind them. While there are C-1 and C-2 on that side of Harmony Road, most of the C-2 with depth are on the right side of the road. Farriers Lane leads to multiple residential properties. He further stated that personally, he would not like to set the precedence off Harmony Road leading to the lakefront homes. If they were to set the precedence, it would allow commercial property all along the road. The initial agreement was made to limit the road frontage. People were insured that they would not have incremental encroachment by commercial properties. He added that he did not have questions, but he had an issue with the size of the property being requested to become C-2.

**Member Mitchell** stated that he thought it was important to hear from other people who may have had an issue with the request. When the request came before the board initially, residents had concerns about the lighting. He wanted to give them the opportunity to speak.

**Chairman Foster** stated that he probably overstepped by making his comment right away, but he was pretty emotional about the subject and wanted to get his feelings about it, up front.

**Erin Olson** spoke in opposition to the request

**Staff recommendation was for approval to rezone 19.45 acres at 842 Harmony Road from AG to C-2 [Map 097, Part of Parcel 060, District 1] with the following conditions:**

- 1. The developer shall construct a deceleration lane and turn lane in accordance with the Georgia Department of Transportation Regulations for Driveway & Encroachment Control to service the two entrances on Harmony Road. Additional right-of-way to accommodate the deceleration lane and a ten-foot shoulder shall be dedicated by the developer to the county. It shall be completed by the developer prior to the completion of phase one.**
- 2. A 50-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 061.**
- 3. A 20-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 033.**
- 4. A 50-foot undisturbed vegetated buffer along the property lines that abut the proposed 20.80-acre RM-3 parcel.**
- 5. This rezoning approval shall be conditioned upon the resurveying and recordation in the Superior Court of Putnam County of an accurate plat within 60 days of approval by the board of commissioners. A copy of the recorded plat shall be filed with the planning and development department director. Failure to file a plat pursuant to this subsection shall have the effect of invalidating the rezoning action as stated in Section 66-165(e)(3) of the Putnam County Code of Ordinances.**

**Member Mitchell** asked if there were any other speakers on the request.

**There was no one else signed in to speak on this request.**

In response to the opposition and concerns, **Mr. Hunt** stated that the vegetated barrier would be put in place, and they would comply to respect the surrounding properties.

Motion: **Vice Chairman Hill** made the motion to approve the request by Rick McAllister, agent for Jacqueline Trinkle to rezone 19.45 acres at 842 Harmony Road from AG to C-2. **[Map 097, Part of Parcel 060, District 1] with the following conditions:**

- 1. The developer shall construct a deceleration lane and turn lane in accordance with the Georgia Department of Transportation Regulations for Driveway & Encroachment Control to service the two entrances on Harmony Road. Additional right-of-way to accommodate the deceleration lane and a ten-foot shoulder shall be dedicated by the developer to the county. It shall be completed by the developer prior to the completion of phase one.**
- 2. A 50-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 061.**
- 3. A 20-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 033.**

4. **A 50-foot undisturbed vegetated buffer along the property lines that abut the proposed 20.80-acre RM-3 parcel.**
5. **This rezoning approval shall be conditioned upon the resurveying and recordation in the Superior Court of Putnam County of an accurate plat within 60 days of approval by the board of commissioners. A copy of the recorded plat shall be filed with the planning and development department director. Failure to file a plat pursuant to this subsection shall have the effect of invalidating the rezoning action as stated in Section 66-165(e)(3) of the Putnam County Code of Ordinances.**

Second: **Member Farley**

**Chairman Foster opened the floor for discussion from the board.**

**Vice Chairman Hill** stated that growth and safety of the community is important. As a board they should not vote based on preferences but based on the ordinances and recommendations.

**Member Jones** stated that he was concerned about the other C-2 property owners that were restricted to the 400-foot depth. How could they have an answer for them if nothing has been changed but allow an increase of 1000 feet.

**Chairman Foster** stated that he agreed with Member Jones and believes that precedence is an important part of approving or denying rezoning request, to protect the aesthetics and value of properties. The staff recommendations mentioned buffers and traffic but had no discussion about it being a new type of commercial development encroaching on the lake area and entry roads into the residential lake areas. He did not think this was acceptable. Looking at the map it showed 10 lots of 13 business that were restricted to the 400-foot depths. Then all of a sudden, they would allow a property several times that depth. He was at a loss as to why staff would make a recommendation to approve the request.

Voting Yea: **Vice Chairman Hill, Member Farley**

Voting Nay: **Member Jones, Member Mitchell, Chairman Foster**

**The request was denied by a vote of 3 to 2.**

6. Request by **Rick McAllister, agent for Jacqueline Trinkle** to rezone 20.80 acres at 842 Harmony Road from AG to RM-3. [Map 097, Part of Parcel 060, District 1]. \* **Mr. Brittain Hunt** represented this request.

Mr. Hunt stated that the parcel was intended to be subdivided into lots of .16 acres to .22 acres. There are currently townhomes adjacent to the property, close to the water. At the suggestion of staff, they attended on complying with the deceleration lanes, left-hand turn lane, buffers, resurveying, and recordation.

No one spoke in opposition

**Staff recommendation was for approval to rezone 20.80 acres at 842 Harmony Road from AG to RM-3 [Map 097, Part of Parcel 060, District 1] with the following conditions:**

1. **The developer shall construct a deceleration lane and turn lane in accordance with the Georgia Department of Transportation Regulations for Driveway &**

**Encroachment Control to service the two entrances on Harmony Road. Additional right-of-way to accommodate the deceleration lane and a ten-foot shoulder shall be dedicated by the developer to the county. It shall be completed by the developer prior to the completion of phase one.**

- 2. A 20-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 033 and Map 097, Parcel 033001.**
- 3. A 50-foot undisturbed vegetated buffer along the property lines that abut the R-1R Single Family lots identified as Map 097 Parcels 056006, 056007, 056008, and 056009.**
- 4. This rezoning approval shall be conditioned upon the resurveying and recordation in the Superior Court of Putnam County of an accurate plat within 60 days of approval by the board of commissioners. A copy of the recorded plat shall be filed with the planning and development department director. Failure to file a plat pursuant to this subsection shall have the effect of invalidating the rezoning action as stated in Section 66-165(e)(3) of the Putnam County Code of Ordinances.**

**Member Mitchell** stated that he was puzzled by the comment regarding encroachment control, as it relates to the entrance on Harmony Road. He asked if the property bordered Harmony Road. He stated that the plat provided did not have direct to Harmony Road.

**Ms. Andrews** displayed the concept plan and confirmed that there would only be access on Harmony Road.

**Chairman Foster** stated that he has no reason to object residential property, but he had concerns of the allowances in the RM-3 zoning district. It is the least restricted of the residential zoning. He thought that there had been some questions of discontinuing the zoning. He asked Mr. Hunt to explain the choice of RM-3.

**Mr. Hunt** stated that Mr. McAllister applied for the request and would be happy to provide that information.

**Chairman Foster** asked if there were any other questions or observations from the commission.

**Member Mitchell** stated that he had serious reservations about approving the RM-3 rezoning request because it allows commercial development.

**Attorney Nelson** clarified the allowed commercial use in the RM-3 zoning as written in Section 66-96(b) of the Putnam County Code of Ordinances.

**Vice Chairman Hill** stated that he was making a recommendation for approval based on the current regulations. If the community sees the need for some restructuring, maybe that is something they can talk about. He made his recommendation based on the current rules and structures of today.

Motion: **Vice Chairman Hill** made a motion to approve the request by **Rick McAllister, agent for Jacqueline Trinkle** to rezone 20.80 acres at 842 Harmony Road from AG to RM-3. **[Map 097, Part of Parcel 060, District 1] with the following conditions:**

- 1. The developer shall construct a deceleration lane and turn lane in accordance with the Georgia Department of Transportation Regulations for Driveway & Encroachment Control to service the two entrances on Harmony Road. Additional**

**right-of-way to accommodate the deceleration lane and a ten-foot shoulder shall be dedicated by the developer to the county. It shall be completed by the developer prior to the completion of phase one.**

- 2. A 20-foot undisturbed vegetated buffer along the property lines that abut Map 097, Parcel 033 and Map 097, Parcel 033001.**
- 3. A 50-foot undisturbed vegetated buffer along the property lines that abut the R-1R Single Family lots identified as Map 097 Parcels 056006, 056007, 056008, and 056009.**
- 4. This rezoning approval shall be conditioned upon the resurveying and recordation in the Superior Court of Putnam County of an accurate plat within 60 days of approval by the board of commissioners. A copy of the recorded plat shall be filed with the planning and development department director. Failure to file a plat pursuant to this subsection shall have the effect of invalidating the rezoning action as stated in Section 66-165(e)(3) of the Putnam County Code of Ordinances.**

Second: **Member Farley**

**No further discussion**

Voting Yea: **Vice Chairman Hill, Member Farley, Chairman Foster**

Voting Nay: **Member Jones, Member Mitchell**

**The request was approved by a vote of 3 to 2.**

**Items 7- 9 were heard as one.**

7. Request by **Adam Schulze** to rezone 11.604 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 001, District 3**]. \* **Attorney Matt Roessing** represented this request.

**Attorney Roessing** stated that he had issues with the staff recommendations, and he submitted a letter in response to his concerns. The issue began with a pond. Mr. Schulze built the pond on 3 acres that he owned. He did research and determined that if it was an agricultural pond, it was regulated federal law and US Army Corps of Engineers. Therefore, he did not have to get a permit or permission from the county, and he built the pond. He wanted to use the pond to irrigate an existing hay field. He has horses and wants to add goats and chickens to establish a family farm. The neighbors reported this to Director Jackson. She asked what was going on and Mr. Schulze explained the situation to her. She ordered him to stop all work so that they could look into the manner. He called the US Army Corp of Engineers, Georgia Environmental Protection Division, and included Ms. Jackson. After several conversations, they told Ms. Jackson that Mr. Schulze was allowed to build an agricultural pond and it was acceptable without permitting from the county if it was an agricultural pond. At the time, both Mr. Schulze and Ms. Jackson believed the land was agricultural and found out later that it was not. He added that the property looked agricultural and was formerly zoned agricultural. Being residential, it needed to be rezoned so that Mr. Schulze could use the land how he would like and keep the pond. The pond has been there for several months without causing problems to the anyone. The county inspected the pond and the dam and stated that it is stable and clean. Mr. Schulze had been dealing with this issue for about seven months. The citations were dismissed, and the solution was to request a rezoning. The US Army Corps of Engineers has stated that if the land is zoned agricultural, it is allowed. The board would decide whether it would be appropriate for the

property to be agriculturally zoned. He added that it should be rezoned agricultural because it was previously zoned agricultural. The current use and future land use is agricultural use. He was not sure of what the solution would be. If they had to fill or drain the pond, it would be catastrophic plants and animals that live in it. The pond covers 3 parcels. There are some residential properties to the north of the properties and agricultural properties to the south on Scuffleboro Road. Neighbors wrote letters in support of the request, and they were not included in the report. The staff recommendations stated that people complained but there were no written complaints. He stated that those who would speak in opposition, would say that the agricultural use would affect their property. It could not be true because at the time the parcels were subdivided, they were all agricultural. Many of them moved there, knowing they lived next to an agricultural use. It has since changed, and they would like to change it back. Attorney Roessing made several references to his slide included in the packet. In the comprehensive plan, there are many residential uses that abut agricultural uses. The 2017 comprehensive plan decided that the subject parcels were appropriate for agricultural and forestry use.

**Vice Chairman Hill** asked when did the property get rezoned to residential.

**Attorney Roessing** responded 2006.

**Vice Chairman Hill** asked what the reason was for changing it from agriculture to residential.

**Attorney Roessing** speculated that he believed the intent was to turn it into residential and subdivide it to create a residential gated community that was never developed. Mr. Schulze and his family purchased multiple lots in the area. They did not want a residential subdivision. They would love this to be a small family farm.

**Member Mitchell** asked was the request made to the Army Corps of Engineers, prior to the development.

**Attorney Roessing** stated that permission was not needed as long as you meet the requirements. If they were to find out that it did not qualify later, you would be in trouble. You do not have to have prior approval from them. Mr. Schulze started to build the pond to their regulations but did not reach out to them initially. Once Director Jackson raised the issue, he brought the experts out. The Army Corps of Engineers stated in writing that it was approved. The Army Corps of Engineers and Georgia EPD will consistently monitor the pond. If it is found that there is a problem with the pond, soil sediment coming out of the pond, or it injures surrounding landowners, Mr. Schulze would have to pay for it.

**Member Mitchell** stated that he received the Attorney's letter and read that the protocol calls for notification to The Army Corps of Engineers prior to any development. As a result, he feels inadequate in trying to decide without further time to learn more about the current procedures.

**Attorney Nelson** stated that it is important to focus the boards questions to what is before them today. In the fall of 2021, the county received notice that there was a pond being built on the three parcels. Without knowing the nature of the pond, staff issued a stop work order as protocol. It was determined that it was an agricultural pond on October 25, 2021, by The Army Corps of Engineers. He suggested that there were different jurisdictions involved. He did not believe the entities were required to take the findings of one another with respect to

zoning. Both The Army Corps of Engineers and EPD were satisfied with the pond. A lot of the issues by Attorney Roessing were due to enforcement actions of the county when they were not aware the pond was AG. The case went to state court and was outside of staff and the board's control. It was eventually dismissed. Local governments, under Georgia law, are limited to their ability to regulate farm ponds. Just as a recreational pond is built, the standards used to regulate it are inapplicable to farm ponds. It was after the owner established that the pond was agricultural, that the new zoning enforcement mechanism began. The use of the property is in violation of the zoning ordinances. The applicant responded by requesting to rezone the property to a zoning designation that would allow the use and remove the problem. The question before this body is whether or not the rezoning application should be followed. There is no requirement in the ordinance that a property be in compliance at the time an application is received. It is important to know that this is not the first time the county has received comments from the public about this property. For 4 or 5 months, landowners adjacent to the area have addressed their issues with the development at public hearings. He advised the board to evaluate the rezoning factors that are in the code regarding whether or not this property should be zoned residential or agricultural.

**The following people spoke in favor of the request and were given 3 minutes each:**

**William Atkinson  
Adam Schulze  
Johnny Pressley  
Connie Barnes  
George Barnes**

**The following people spoke in opposition of the request and were given 3 minutes each:**

**Marianne Bruhn Popik  
Sue Gentes  
Duane Gentes  
Pam Tibbits**

**Attorney Roessing used the remainder of his time**

He stated that the board should decide if the land was appropriate to be rezoned to AG and did the request meet the rezoning criteria. The pond had been approved by the Army Corps of Engineers and Georgia EPD and they will monitor and regulate it. Mr. Schulze wants to be a good neighbor and work out any issues.

**Vice Chairman Hill** stated that the pond was created while the property was zoned R-1, and it was clear when the property was changed for AG to R-1.

**Attorney Roessing** stated that he did not think it was clear because Mr. Schulze was not aware. It was changed in 2006, before Mr. Schulze purchased the property. It appeared to be agricultural because it had trees and no houses. He assumed it was AG.

**Staff recommendation was for denial to rezone 11.604 acres from R-1 to AG on Emory Drive [Map 111, Parcel 001045 001, District 3]. \***

**Chairman Foster** asked if there were any other questions from the commission.

**Member Jones** stated that if the pond was built in R-1 status, it was illegal from the beginning. What would be the remediation? Would they have to fill in the pond? He asked the county attorney for clarification on how they are to respond.

**Attorney Nelson** clarified that the code does not require a property to be in conformity with the zoning at the time the rezoning application is filed. If the board of commissioners were to grant the rezoning, the pond would be in compliance with the zoning designation. If it was not, it would be no different than someone starting a restaurant at their home. They would be referred to state court where code violations are handled. However, this case is different. He was not sure of what the remediation would be. It would be handled through the landowner and judicial system. Though there are issues with the current use of the property, it should not serve as a deterrent alone. If the board of commissioners do not approve the rezoning, it would be out of the P&Z boards hands. It would move to a code enforcement issue.

**Chairman Foster** stated that it seemed to be a group of unfortunate circumstances that happened initially in regard to the pond. If in fact the pond has been brought into compliance, then the issue for the neighbors would be to try to get the issues they have mitigated. It appeared that Mr. Schulze has managed the pond. If the county, Army Corps of Engineers, and Georgia EPD have signed off on it then it is not an issue of the board. It is unfortunate and he feels for the neighbors, but he had not heard how the rezoning could have an adverse effect. The recommendations indicated that there could be but, he did not see anything that would indicate to him that there would have an adverse effect. He feels that if someone wants to do something with their property, it should be their prerogative as long as it could be shown that it would not have a negative effect on the neighbors or public safety.

**Chairman Foster** asked for a motion for items 7,8, and 9.

Motion: **Member Jones** made a motion to approve the request by **Adam Schulze** to rezone 11.604 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 001, District 4**].

Second: **Member Mitchell**

Voting Yea: **Member Farley, Member Jones, Member Mitchell, Chairman Foster**

Abstain: **Vice Chairman Hill**

**The request was approved by a vote of 4 and 1 Abstain.**

8. Request by **Adam Schulze** to rezone 11.030 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 002, District 4**]. \* **Attorney Matt Roessing** represented this request.

**Staff recommendation was for denial to rezone 11.030 acres from R-1 to AG on Emory Drive [Map 111, Parcel 001045 002, District 4]. \***

Motion: **Member Jones** made a motion to approve the request by **Adam Schulze** to rezone 11.030 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 002, District 4**].

Second: **Member Mitchell**

Voting Yea: **Member Farley, Member Jones, Member Mitchell, Chairman Foster**

Abstain: **Vice Chairman Hill**



**The request was approved by a vote of 4 and 1 Abstain.**

9. Request by **Adam Schulze** to rezone 15.696 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 003, District 4**]. \* **Attorney Matt Roessing** represented this request.

**Staff recommendation was for denial to rezone 15.696 acres from R-1 to AG on Emory Drive [Map 111, Parcel 001045 003, District 4]. \***

Motion: **Member Jones** made a motion to approve the request by **Adam Schulze** to rezone 15.696 acres on Emory Drive SE from R-1 to AG. [**Map 111, Parcel 001045 003, District 4**].

Second: **Member Mitchell**

Voting Yea: **Member Farley, Member Jones, Member Mitchell, Chairman Foster**

Abstain: **Vice Chairman Hill**

**The request was approved by a vote of 4 and 1 Abstain.**

New Business

None

Adjournment

Motion: **Member Mitchell** made a motion to adjourn the meeting.

Second: **Member Farley**

Voting Yea: **Vice Chairman Hill, Member Farley, Member Jones, Member Mitchell, Chairman Foster**

Meeting adjourned at approximately 8:13 pm

Attest:

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Courtney Andrews  
Assistant Director

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Alan Foster  
Chairman