July 2, 2013

THE HONORABLE BOARD OF COUNTY COMMISSIONERS, MADISON, GEORGIA, MET THIS DAY IN REGULAR SESSION.

PRESENT: Chair Ellen Warren, Vice-Chairman Donald B. Harris, Commissioners Andrew A. Ainslie, Jr., Ronald Milton, and Philip Clack

STAFF: County Manager Michael Lamar, County Attorney Christian Henry, and Staff Members Cecelia Saffold and Leslie Smith

Chair Warren called the meeting to order at 10:00 a.m. Invocation was given by Comm. Clack.

MINUTES APPROVED

May 7, 2013 - Budget Work Shop
May 28, 2013 - Budget Work Shop
May 28, 2013 - Budget Hearing
June 4, 2013 - Regular Meeting
June 18, 2013 - Work Session
June 18, 2013 - Special Called


CONSENT AGENDA

1. Motion to approve the June 2013 financials and the June 2013 payables to include General Fund in the amount of $717,280.35 represented by check #99037 thru check #99483 & SPLOST in the amount of $1,661,080.90 represented by check #1578 thru check #1602.
2. Motion to accept the May 2013 Staff Reports as presented at the June 18, 2013 Work Session.

MOTION by Comm. Harris, seconded by Comm. Milton to approve the consent agenda. Unanimously Approved.

MORGAN COUNTY SAFE ROOM PROPOSAL - TABLED FROM JUNE 18, 2013 SPECIAL CALLED

MOTION by Comm. Ainslie, seconded by Comm. Harris to approve revised bid in the amount of $192,664.00 from Survive-a-Storm, a Division of Harbor Enterprises, LLC, Thomasville, GA to build a storm shelter. Unanimously Approved.

MADISON LAKES DEVELOPMENT AGREEMENT AND ZONING CLASSIFICATION (PUD)
MOTION by Comm. Clack, seconded by Comm. Harris for Commissioners to do their part to support and extend the Madison Lakes Development Agreement and Zoning Classification (PUD) for another 5 years. Unanimously Approved.

ADD TO THE AGENDA - EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT - CFDA 16.803


CHANGE TO LIABILITY COVERAGE LIMIT AND INCREASE IN DEDUCTIBLE WITH ACCG-IRMA

MOTION by Comm. Milton, seconded by Comm. Harris to approve decreasing liability limits on general liability, public officials liability and law enforcement liability from $5,000,000 to $2,000,000 and, in addition, increase our deductible from $2,500.00 to $5,000.00 effective July 1, 2013. Unanimously Approved.

N.E.G.A REGIONAL 10 EMERGENCY MEDICAL SERVICE ADVISORY BOARD

MOTION by Comm. Harris, seconded by Comm. Milton to approve reappointing Huey Atkins to the N.E.G.A Regional Board to serve from July 1, 2013 to June 30 2016 and appointing Shana Stubbs to fulfill the term of Colleen Jones beginning July 1, 2013 to June 30, 2014. Unanimously Approved.

MORGAN COUNTY PROBATE COURT - ACCEPTANCE OF AGREED UPON PROCEDURES

MOTION by Comm. Milton, seconded by Comm. Harris to approve and accept the Morgan County Probate Court's audit and agreed upon procedures by auditor Bates Carter. Unanimously Approved.

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT - CFDA 16.803

MOTION, by Comm. Clack, seconded by Comm. Harris to approve the Edward Byrne Memorial Justice Assistance Grant - CFDA 16.803 which is awarded for the purpose of replacing the sub grantee's Intoxilyzer 5000 with the Intoxilyzer 9000. Unanimously Approved.

DISCUSSION OF COMMISSIONER RETREAT - TOPIC SELECTION FOR JULY WORK SESSION

Commissioners discussed. The meeting date of the retreat will be August 23, 2013 and visioning and goal setting for the retreat will be discussed at the July 16, 2013 work session.

MOTION by Comm. Ainslie, seconded by Comm. Harris to exit regular meeting. Unanimously Approved.

EXECUTIVE SESSION - PENDING LITIGATION/TAX MATTERS/REAL ESTATE OR PERSONNEL

MOTION by Comm. Ainslie, seconded by Comm. Harris to enter Executive Session to discuss pending or threatened litigation, real estate and personnel. Unanimously Approved. (Original signed Affidavit in Executive Session Legal Requirement Book).
MOTION by Comm. Ainslie, seconded by Comm. Harris to exit Executive Session. Unanimously Approved.

MOTION by Comm. Ainslie, seconded by Comm. Harris to enter Regular Session. Unanimously Approved.

PLANNING COMMISSION

New Business:

1. Petition from Milford Construction on behalf of Lake Oconee Baptist Church for a conditional use permit to construct an addition at 2411 Reids Ferry Road, Buckhead, GA (Tax Parcel 065-010).

Tara Cooner, Senior Planner, stated John Milford, on behalf of Lake Oconee Baptist Church, is requesting a conditional use permit to construct an addition to the church fellowship hall located at 2411 Reids Ferry Road. The proposed addition will be a 25’ extension of the 40’ wide building and the exterior materials will match the existing. The proposed use for the addition is storage for the church’s food bank, although it may be used as additional classroom space at some point in the future. As the proposed use does not change the occupancy of the building, no additional restrooms or parking are necessary. The addition will not encroach into any required setbacks. John Milford, Pastor Gerald Bishop and church member Ronald Smith spoke in favor of the application and answered questions. No one spoke in opposition. The Planning office received no comments regarding the application. The Planning Commission voted unanimously to recommend approval of the conditional use request.

Chair Warren allowed proponents and opponents to speak. There were no proponents or opponents.

MOTION by Comm. Milton, seconded by Comm. Clack to approve the petition by Lake Oconee Baptist Church for a conditional use permit to construct an addition at 2411 Reids Ferry Road, Buckhead, GA (Tax Parcel 065-010). Unanimously Approved.

2. Petition from Candace Carlson on behalf of William and Renee Pritchard for a variance to the rear setback for property located at 1000 Apalachee Way, Buckhead, Georgia (Tax Parcel 058A-030).

Tara Cooner, Senior Planner, stated Candace Carlson, on behalf of Bill and Renee Pritchard, is requesting a variance to the rear yard setback for property located at 1000 Apalachee Way. This is the 40’ rear setback to the Georgia Power property line. The 1.05 acre lot is currently vacant and is located on a cul-de-sac and a corner, so it is a wedge shaped lot with double front setbacks. The request is to allow a pool to be located behind the proposed house. The zoning ordinance allows a variance when there are hardships or exceptional conditions on the property, and the circumstances surrounding the variance request cannot be of the applicant’s own making. Bill & Renee Pritchard spoke in favor of the application and explained that the property had topography issues. The design professional, Candace Carlson, addressed what she felt were two hardships: the double front setback on the property, which reduces the building area, and the topography, which both she and the Pritchards said would greatly increase grading costs. Neighboring property owners Arlon Kennedy and Steve Michaels spoke in favor of the application. The Planning Commission discussed the setbacks of immediately surrounding properties, one of which is within the 40’ setback, the others conform with the zoning ordinance. Also discussed was the fact that the lot is vacant and whether the house could be designed to work with the lot shape. Specifically, one Planning Commission member addressed
that the Pritchards knew or should have known the lot size and topography when they purchased the lot. The house design was discussed and, according to Ms. Carlson, the house shown on the submitted drawing is representative, but not the final design. The desired house is approximately 2400 square feet at ground level and will have a second floor and at least a partial basement. Finally, a couple of diagrams presented by staff were examined. One shows that the submitted house plan and pool will fit within the building area if rotated. The second shows the submitted house and pool in the same orientation, but pushed back. The slight overlap into the front setback may be addressable by an administrative variance. Both of these options were rejected by the applicant; the first because it does not face the lake and the second because of grading concerns. No one spoke in opposition to the application and the Planning office received no comments. The Planning Commission voted 6-2, with one recusal, to recommend approval of the variance request. Connie Booth and Jonathon Tonge dissented on the basis that the applicant should have been aware of the issues on the lot and has, therefore, created the circumstances surrounding the request. Staff visited the site yesterday and took additional photos of the lot to show the topography. The lot does have a natural terrace in one area, but the overall grade to the lake is not severe. Staff also looked at several other vacant lots in the neighborhood and those lots had significantly greater topo issues. Also a consideration is that the design of the house with a basement will require significant grading regardless of the topography. Of more concern to staff is the fact that this request, should it be approved, will set a precedent. Very few of the homes in that neighborhood have pools and most of the homes are built on the rear setback. Allowing this variance would basically give a green light to any of those houses that wanted to install a pool inside the rear setback.

Chair Warren allowed proponents to speak.

Candace Carlson, 1651 Doster Road, Madison, speaking on behalf of the Pritchards, stated they are requesting a variance to the rear yard setback. The applicant requests relief from the rear lakeside setback of 40’ to 20’. They were unaware of the setbacks on this lot and their builder had told them that the house and pool were buildable. She stated they were trying to work with the topo of the lot. The lot is pie shaped and they feel there are hardships.

Renee Pritchard, 964 Harper Street, Madison stated that their neighbors were supportive. They have always had a pool and will probably not build if they can’t build a pool. She stated that we are asking for a 20’ setback.

Commissioner Clack stated that he could not see this as a hardship. He further stated that the owners should have researched their proposed house and pool plans with the Planning office before purchasing this lot and therefore created a hardship on themselves. Commissioner Milton stated he would like to see a home built on this site and asked if they could go back and work with Planning.

Chair Warren allowed other proponents or opponents to speak. There were none.


3. Morgan County is proposing a Text Amendment to add regulations for zoos to the Morgan County Zoning Ordinance.

Tara Cooner, Senior Planner, stated Planning staff were approached by Michael Vaden and Bill Killmer in March regarding regulations for a public aviary. As they researched their options and met with various aviary and zoo experts, opportunities expanded to
them to obtain other animals, thus changing the concept from an aviary to a zoo. The proposed language establishes the minimum lot size at 10 acres, as well as setbacks and buffers. It addresses toilet facilities, lighting, signs, parking and trash. An emergency plan must be submitted that provides for animal escapes, storms, medical emergencies, fires and escape routes for both public and employees, and requires a minimum of 4 safety drills per year (most zoos only run 1 or 2 per year). A plan must be provided to control and treat insects and parasites. A perimeter fence is required a minimum of 8' high with double strand of barbed wire. Animal enclosures must be constructed to industry standards, which are established per species, and are inspected by regulatory agencies, such as USDA, DOA and DNR. County officials must be present at these inspections during construction so that concerns may be raised to the regulatory agency. A zoo facility must be inspected yearly by the County building official prior to the issuance of a business license (this is in addition to the spot inspections by State or Federal regulatory agencies). All zoo facilities must submit a recycling plan and the design of the facility cannot divert waste runoff into state waters. There must also be a disposal plan for removal of dead animals and waste not included in the recycling plan. The proposed language also provides for accessory uses common to a zoo facility, such as restaurants, concessions, retail shops, basic playgrounds, camps and assembly areas. Other possible uses that will require additional conditional use permits include an event facility and amusement rides. The use is proposed as conditional in C2 and AG. If located in the C2 zoning district, the facility must be connected to a municipal water and sewer system. If located in the AG zoning district, the facility plan must include a minimum of 20% open space, not including areas used for animal enclosures. The Planning Commission asked questions regarding sizes of zoos and animal enclosures. Bob Hughes, Michael Vaden, Bill Killmer, and Andrew O’Connell spoke in favor of the application. No one spoke in opposition. Prior to the Planning Commission meeting, the Planning office received no comments. The Planning Commission voted 8-1 to recommend approval of the text amendment. John McCarthy dissented, as he is not a proponent of zoos.

Chair Warren allowed proponents to speak.

Proponents

Michael Vaden, 1021 River Farm Run, Madison, Georgia
Bill Killmer, 2001 Little River Road, Madison, Georgia

Mr. Killmer stated this would be high quality growth for the area and will keep green space, help the tax base, restaurants and shops, and ties in with other events in Morgan County. Mr. Vaden stated they had worked with the Planning Office to make the zoo have high standards. The zoo will be of quality and is highly regulated by the State. Mr. Vaden stated he has credibility in the zoo area and has raised different species. He has increased the population of species and would like to work with other species of birds. He has the knowhow but has to have doors open to the public for credibility.

Bob Hughes, Morgan County Chamber of Commerce

Mr. Hughes stated that the Morgan County economic mixture of businesses in the County is balanced for a rural community. The zoo would help hospitality, retail and agriculture areas. He advised it was a balancing act to provide income and new fields of tourism. This would provide new jobs and the Chamber of Commerce is in favor.

Chair Warren allowed opponents to speak.

Opponents

Attorney Michael Daniel, representing William Pettit, opposed the text amendment as regards to agriculture. Mr. Daniel presented a list of petitioners opposing the text
amendment for zoo facilities. He stated that Morgan County zoning is based on density and wants to maintain the pastoral scene. Changing the zoning would impact Mr. Pettit's subdivision. He expected agricultural in his area and with this zoning change it would change from pastoral to business. The involvement of DOT and a traffic lane does not go with the agricultural layout. Mr. Daniel asked the Commissioners to reject the text amendment on agricultural designation.

Chair Warren asked for opposition. There were no other opponents to speak.

MOTION by Comm. Harris, seconded by Comm. Clack to approve a Text Amendment to add regulations for zoos to the Morgan County Zoning Ordinance. Unanimously Approved.

4. Petition from Michael Vaden for a conditional use permit to allow a zoo at 1021 River Farm Run, Madison, Georgia (Tax Parcel 049-010).

Tara Cooner, Senior Planner, stated Michael Vaden and his business partner Bill Killmer, are requesting a conditional use to allow a zoo facility at 1021 River Farm Run. As mentioned previously, this application started as a permit to operate a public aviary. Mr. Vaden and Mr. Killmer both have extensive backgrounds working with animals and exhibits. Two concept plans have been submitted for the zoo; the first shows the facility located on the 33.5 acres currently owned by Mr. Vaden. The second allows for an expansion of the facility if additional land is obtained. Both feature design elements such as a Phase I entrance at Mr. Vaden’s current drive off of Highway 83, with a Phase II entrance located on Little River Road. Both show a small parking lot that will become employee parking when the larger parking lots are installed. There are several considerations regarding this application.

First, the property is located in an area that was divided as a large lot subdivision. The zoning for the property is AG and was not changed with the creation of the subdivision. The subdivision does have covenants that prohibit the use of the property for dairy, swine or poultry operations and prohibits the use of mobile homes. There is nothing in the covenants that restrict the use of the property for additional animal related businesses. There are additional restrictions on division of property and setbacks. However, Morgan County does not enforce covenants, so any dispute regarding those covenants must be between property owners. The zoning ordinance views the land as AG and allows any use permitted in the AG zoning district.

Also regarding the subdivision, Mr. Vaden’s home is currently located on one of the lots proposed to be used by the zoo. Mr. Vaden has indicated that his plan is to eventually allow the building to be absorbed by the zoo and relocate his family. Although the application is to locate the zoo at 1021 River Farm Run, the address of the zoo will actually be at the zoo entrance, most likely off of Highway 83, and not on River Farm Run.

Further regarding the subdivision, the recorded setbacks required for the subdivision will be enforced. This is a 250’ setback off of Highway 83 and Little River Road and 100’ off of River Farm Way. No structures are allowed in these setbacks.

Traffic has been questioned. As a tourism attraction, it is unknown how much visitation the zoo will receive. Staff did not find any comparisons for zoos located in a rural agricultural area, although there are several zoos that have been built outside of urban areas and the city has expanded to surround the zoo. The majority of the traffic to the zoo will probably be from Highway 83. Staff anticipates that only locals visiting the zoo will come the back way from Little River Road. Keep in mind that should visitation impede traffic on Highway 83, DOT may require the installation of turning lanes on the highway.
The applicants are aware that this is a future possibility.

Another consideration is that the zoning ordinance does not regulate the ownership of animals. So if the state licenses an individual to own exotic animals, there is nothing in the County’s ordinance to prevent it. An example is Mr. Vaden's current collection of rare and exotic birds. So Mr. Vaden could assemble any collection of animals he pleases on his property as a private operation. This conditional use application is not about whether he can have animals, it is about having a public facility.

A comprehensive emergency plan has already been received that covers all of the emergency situations required in the zoo facility ordinance.

Michael Vaden and Bill Killmer gave a presentation regarding their backgrounds and experiences, and explained their design ideas for the proposed zoo. They confirmed to the Planning Commission that the zoo will grow in stages and will start with birds, and possibly antelope, sloths or monkeys. They explained some of the safety procedures utilized by zoos and exchange programs between zoos.

Mr. Killmer also explained that the design concept includes green initiatives, and in support of that, asked for a condition that will allow them to use pervious materials for the parking lots.

Bob Hughes and Andrew O'Connell spoke in favor of the application.

William Pettit spoke in opposition to the application. He has the only other house constructed on River Farm Run and was concerned that he was unaware of the proposed zoo and possible impacts to his property value. He stated he was in favor of a zoo, but not the proposed location next to his property.

One letter in opposition was read from Neal Vason, who owns property approximately one mile down Little River Road. He expressed concerns regarding residences nearby and traffic. Mr. Vason also called the Planning office and suggested a condition regarding failure of the venture.

At the Planning Commission meeting, the Chairman briefly reviewed 20+ support letters that had been received. According to the emails received yesterday, the number of support letters is now around 90.

The Planning office received several calls with questions regarding the application, the majority of them after the Planning Commission meeting. Only Mr. Vason’s call was specifically in opposition.

Chair Warren allowed proponents to speak.

Proponents

Bill Kilmer, 2001 Little River Road, Madison, stated that he is a registered landscape architect and focused on projects related to the environment. He has worked on resorts and is half owner of Burnt Pine Plantation. He has the experience to build a world class facility. The zoo will be tucked in and will not be offensive. Safety will be addressed on all issues with highest standards. There will be no negative impact to the neighbors. Mr. Kilmer stated he owns 180 acres in the area.

Michael Vaden, 1021 River Farm Run, Madison, stated as a young boy he raised exotic animals and has designed an entire exhibit area before at the Discovery Center Museum. He wants everything perfect. This is his passion and wants to educate. He stated he has a stack of letters from neighbors in agreement. The zoo will evolve over time adding
antelope, monkeys, zebra, anteater, etc. He would like to establish a botanical garden and he will preserve the character of the site. Water consumption at the zoo will be less than a six family subdivision. They would eventually employ about seventy people.

Seth Jones, 351 North Main Street, Madison; Brandon Haws, 2001 Little River Road, Madison; and Adam Arnold, Covington, who all work for Michael Vaden at the River Farm Aviary, expressed the quality of work performed, expertise, and the Vadens being gracious.

Opponents

Attorney Michael Daniel, representing William Pettit, stated that Mr. Vaden never approached his neighbor William Pettit about the zoo and when you buy a home you have expectations. Mr. Daniel stated that the majority is trying to effect Mr. Pettit.

The value of the Pettit's land is not similar to Atlanta. Mr. Daniel had a opposition letter from McGinnis Realty & Appraisals stating they feel a zoo in this location in Morgan County is detrimental to home and land owners. That it would negatively impact sales in the general area, driving down values for current residents.

Mr. Daniel presented a copy of declaration of covenants, conditions, and restrictions for the River Farm that was recorded in superior court. Also presented to the commissioners was a copy of possible diseases from wildlife from the CDC. He advised this puts a burden on our health department for safety and health.

Mr. Daniel asked the Commissioners to respectfully deny the conditional use permit and to put the zoo in a commercial area.

Mr. Pettit stated he heard about the zoo seven days before the Planning Commission meeting. He asked that he have more time to do studies and to work something out.

MOTION by Comm. Clack, seconded by Comm. Milton to table a conditional use permit to allow a zoo at 1021 River Farm Road, Madison until the next meeting August 6, 2013 in order to hear all options. Unanimously Approved.

MOTION by Comm. Ainslie, seconded by Comm. Harris to exit Regular Session and enter the Morgan County Building Authority Special Called Meeting. Unanimously Approved.

MOTION by Comm. Ainslie, seconded by Comm. Harris to re-enter Regular Session. Unanimously Approved.


Ellen Warren, Chair

ATTEST: CS/JL

Jane S. Laseter, County Clerk