

PUTNAM COUNTY BOARD OF COMMISSIONERS



117 Putnam Drive, Suite A ♦ Eatonton, GA 31024

Called Meeting Agenda

Wednesday, May 25, 2022 ♦ 11:00 AM

Putnam County Administration Building – Room 204

Opening

1. Call to Order
2. Pledge of Allegiance (GM)

Regular Business Meeting

3. Request by LA Development LLC for an appeal of the Planning and Zoning Commission's decision at 163 Overlook Drive. Presently zoned AG [Map 089D, Parcel 010, District 2] (staff-P&D) – **Tabled from 4-19-22 BOC meeting**

Closing

4. Adjournment

The Board of Commissioners reserves the right to continue the meeting to another time and place in the event the number of people in attendance at the meeting, including the Board of Commissioners, staff, and members of the public exceeds the legal limits. The meeting cannot be closed to the public except by a majority vote of a quorum present for the meeting. The board can vote to go into an executive session on a legally exempt matter during a public meeting even if not advertised or listed on the agenda. Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities are required to contact the ADA Compliance Officer, at least three business days in advance of the meeting at 706-485-2776 to allow the County to make reasonable accommodations for those persons.

File Attachments for Item:

3. Request by LA Development LLC for an appeal of the Planning and Zoning Commission's decision at 163 Overlook Drive. Presently zoned AG [Map 089D, Parcel 010, District 2] (staff-P&D)



PUTNAM COUNTY PLANNING & DEVELOPMENT

117 Putnam Drive, Suite B ♦ Eatonton, GA 31024

Tel: 706-485-2776 ♦ 706-485-0552 fax ♦ www.putnamcountyga.us

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APR 13 2022 PM 3:55

Putnam County
APPEAL APPLICATION

THE UNDERSIGNED HEREBY REQUESTS AN APPEAL BEFORE THE:
 x PUTNAM COUNTY BOARD OF COMMISSIONERS

APPLICANT: LA Development, LLC

ADDRESS: 163 Overlook Drive, Lot 10
Appealed Property

PHONE: 706-923-0190

APPEAL IS AGAINST: (check one of the following)

 x Decision made by the Planning and Zoning Commission

REASON FOR APPEAL:

Both Planning Staff and Planning Commission improperly interpreted the county's code so as to prohibit the subdivision of one lot to allow the removal of part of the platted lot from Overlook S/D. One parcel will remain the conforming lot 10 in the Overlook S/D. The other parcel will become a stand-alone conforming AG-2 parcel with egress to MLK Drive with deed restrictions limited to only residential use.

 x FILING FEE (\$110.00 - CHECK NO. 1105 CASH C.C.)

SIGNATURE OF APPLICANT: *[Signature]* DATE: 4-13-22

* ALL APPEALS MUST BE FILED **WITHIN TEN DAYS** OF SAID DECISIONS PER THE *PUTNAM COUNTY CODE OF ORDINANCES*,

- CHAPTER 66 – ZONING, SEC. 66-157(d)(1) AND SEC. 66-158 (c)(1).,
- Chapter 28 – Development Regulation – Sec. 28-101.

OFFICE USE: DATE FILED: <u>4/13/22</u>	RECEIVED BY: <u><i>[Signature]</i></u>
DATE OF DECISION MADE BY DIRECTOR OF PLANNING & DEVELOPMENT: _____	
DATE BUILDING PERMIT ISSUED: _____	
DATE HEARD BEFORE PLANNING & ZONING COMMISSION: _____	

RCUD 2022 APR 13

[Signature]



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Minutes

Thursday, April 07, 2022, ♦ 6:30 pm

Opening

1. Call to Order

Chairman Alan Foster called 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, Lisa Jackson, Courtney Andrews, Angela Waldroup, and Attorney Adam Nelson via Zoom

Ms. Courtney Andrews called the Attendance.

3. Rules of Procedures

Ms. Courtney Andrews read the Rules of Procedures.

Requests

4. Request by **LA Development LLC** for an appeal of the Director of Planning & Development's decision at 163 Overlook Drive. Presently zoned AG. [Map 089D, Parcel 010, District 2].

Ms. Lisa Jackson, Director of Planning & Development, gave a summary of the appeal. She stated that Mr. White requested to revise the major subdivision plat for Overlook at Pea Ridge. The Board of Commissioners approved the plat on June 5, 2021. LA Development LLC has requested to have the subdivision plat amended in order to subdivide parcel 089D010 into two separate parcels. The subdivided parcel would not front or be accessed by the interior road which is required of a major subdivision. She read Section 28-23 of the Putnam County Code of Ordinances. The request was denied under Section 28-40-b-3. In response to the termination, LA Development filed an appeal pursuant to Section 28-101.

Mr. Lowell White Jr. represented this request.

Mr. White stated that he and his son own the 15-lot subdivision. He referred to the plat in the packet and explained how they were requesting to subdivide the parcel. The 10.4-acre AG lot had a minimum 5-acre lot requirement. He stated that Ms. Jackson told him that the 5.2-acre lot they requested to remove from the subdivision would have been okay to be removed if it was left out of the original approved plat.

Ms. Jackson clarified that the parcel could not be a standalone parcel, but it could be combined with another parcel within the subdivision.

Mr. White stated that the county code did not have a mechanism that allowed them to remove the parcel from the subdivision. They were under contract and wanted to create a standalone parcel outside of the subdivision. Potential buyers would like to place a barndominium on the 5.2-acre lot which was not allowed by the subdivision covenants. He explained his understanding of Section 28-23 of the Ordinances. The parcel would have 400 plus feet on MLK Jr. Drive and would conform to the AG zoning.

Lowell White III spoke in favor of the request.

No one spoke in opposition

Chairman Foster stated that based on Section 28-23, Ms. Jackson had the right to deny the request. He viewed the lot and could not find any adverse effect of subdividing the parcel. He would like people to be able to do as they would like with their properties as long as there is no adverse effect on the community or neighbors. He asked Mr. White for clarification on the parcel being a part of the subdivision.

Mr. White stated that the remaining portion of the lot would remain in the subdivision with access to the interior road.

Chairman Foster stated there was nothing in the ordinance that prohibits someone from removing a portion of land from a subdivision. He explained his understanding of Section 28-23 of the Ordinance.

Ms. Jackson explained Section 28-23 of the Ordinance.

Member Farley stated that the parcel was in her district and was in violation of the ordinance. If the board approved the request, they would need to do the same for everyone.

Mr. White disagreed with Ms. Jackson's interpretation of Section 28-23 of the Ordinance.

Attorney Adam Nelson stated that the duties of the P&Z board and the Board of Commissioners was to review ordinances and determine how they should be interpreted. Staff and the county had never allowed the removal of property from an existing subdivision. If someone wanted to move under Section 28-23 it was allowed under the same rules as the subdivision. He explained that it was the choice of the P&Z board or the Board of Commissioners as to how they would like to interpret Section 28-23.

Mr. White asked Attorney Nelson if there has ever been a request to remove acreage before.

Attorney Nelson deferred to staff.

Ms. Jackson stated that it has been requested before and it was not allowed. It had only been combined with an adjacent parcel and not left as a standalone parcel. A developer presented a plat requesting to have standalone parcels with access on the main road and was denied. After she directed them to the code, they complied. Mr. White's original major subdivision submittal had multiple lots with direct access to the main road and he was given the requirements of a major subdivision. They allowed him to remove lot 15 and 16 for future access to the main road. He also had to remove access from the main road for lots 8, 9, 10, and 14.

Mr. White stated that this situation is different from the original submittal, and he needed clarification from the attorney or Ms. Jackson if his request had been asked before.

Ms. Jackson clarified that it had been requested before and when the applicants were told they were not able to do it, they complied with the code. No one had ever appealed the decision.

Mr. White shared his experience with developing and being able to remove land from a subdivision in Cobb County.

Vice-Chairman Hill stated that lot 10A, if divided, should be held to the same standard as lot 10 within the subdivision.

Mr. White stated that Section 28-23 gave him the opportunity to remove land under valid conforming reasons, upon the zoning director's approval.

Ms. Jackson stated that Section 28-23 applies to all major, minor, and site plan divisions and shall be approved by the director and the same procedures had to be applied.

Attorney Nelson confirmed that Ms. Jackson was correct and explained the way staff and the county interpreted Section 28-23.

Chairman Foster stated that ambiguity should be enough. It seemed arbitrary to deny the request simply on the basis that there was nothing in the ordinance that controls it.

Attorney Nelson stated that they should be careful with the term ambiguity. This situation required you to read into the ordinance and determine what was the intent when the ordinance was drafted. The request from LA Development LLC asked for the board to remove portions of the subdivision and the county has not done that previously. If the board allowed them to remove it, the county would need to address when they would allow or not allow it to be removed.

Member Mitchell stated that Attorney Nelson mentioned a loophole and that worried him. He thought that it was clear that the ordinance did not allow them to allow the change. He felt strong that the director had read the ordinance and is compelled to follow what the ordinance stated.

Chairman Foster asked Attorney Nelson if there was a place in the ordinance that stated that once a major subdivision had been platted and approved, a portion could not be removed for another purpose.

Attorney Nelson suggested that a final recorded plat established property boundaries and rights. It is filed with the clerk of courts and established rights between neighbors. A final plat should be replaced with another final plat. He was not aware of the ordinance stating that a final plat would be final.

Member Jones stated that they need to look into the framer's intent of the ordinance. If this subdivision was populated with neighbors and people got upset with the HOA and applied to remove themselves from the subdivision, the framers wanted to keep that intact. He agreed that Mr. White's situation was unique because no one lived there but it is the director's decision.

Chairman Foster asked for a motion and stated that he would prefer if there was an actual reason to deny the request. He did not like the idea of denying someone the use of their property for something that does not cause an adverse effect to the community.

Motion: **Member Farley** made the motion to uphold the Director of Planning & Development's denial of the request by LA Development LLC regarding their original request to subdivide their lot at 163 Overlook Drive [**Map 089D, Parcel 010, District 2**].
Second: **Member Mitchell**

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

New Business

None

Adjournment

Motion: **Vice Chairman Hill** made the motion to adjourn the meeting
Second: **Member Mitchell**

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

Meeting adjourned at approximately 7.34 pm

Attest:

Lisa Jackson
Director

Alan Foster
Chairman