

MINUTES

PLANNING & ZONING REGULAR MEETING

DECEMBER 13, 2010

6:00 PM

Present:

Diane Sheffield –Chair
Larry Ganus – Vice Chair
Mari VanLandingham
Ed Allen
David Tranchand
Catherine Robinson
Dr. Tony Arnold
Alonzo McBride
Dr. Gail Bridges-Bright
Frank Rowan
Isaac Simmons, School Board Rep

Absent:

Willard Rudd

Staff:

Mr. David Weiss, Assistant County Attorney
Anthony Matheny, Growth Mgt. Director
Jean Chesser, Deputy Clerk

CALL TO ORDER:

Chair Sheffield called the meeting to order with a quorum present and led in the Pledge of Allegiance to the U.S. Flag.

Each member present stated his/her name for the record and there were no declarations of conflict stated by any of the Commissioners.

AMENDMENTS TO AGENDA:

Commissioner Allen requested Agenda be amended to include Voting “No Zoning Changes in the Two Districts Affected by the Area Plans until the Area Plans are Resolved”.

Chair Sheffield said she wasn’t sure that is something the Commission could do because it was not advertised.

Ms. Pennington asked for clarification if Commissioner Allen meant “ no Zoning Changes or No Future Land Use Map Amendment Changes” and Commissioner Allen stated “**No Future Land Use Map Changes until the Area Plans are Resolved; just in the I-90 Corridor and the Overlay Wetumpka-Lake Talquin Area Plan**”.

Commissioner Ganus said that may be a problem because the areas really have not been defined yet and Commissioner Allen responded they have not been defined yet, but the area plans are still in effect and they are looking forward to establishing boundaries.

Commissioner Ganus said there is a general line, but that has not been approved or discussed yet and he isn't sure what all that would cover.

Chair Sheffield asked if the Commission could have that added to the agenda to be talked about once they have talked about everything else and the Assistant Co. Attorney said based on the notice that was published that he doesn't know that that would be sufficient notice to the property owners for it to be considered for a vote this evening.

Chair Sheffield and Commissioner Allen asked if it could be put on the agenda for the next P&Z public meeting and Mr. Weiss said that could be done, and there would be no problem in doing that, as long as it is properly noticed.

Chair Sheffield said that was what they would do. **Planning & Zoning Staff is to add this item on the next P&Z Public Meeting Agenda.**

Commissioner Allen then read into the record a letter he had addressed to the Planning Commission dated 12/13/10 concerning the Workshop of 12/9/10 on EAR Amendments, public comment dissecting and gutting the draft from several special interest attorneys with no input from the citizens being a travesty – See Letter in its entirety which is included in the Official Minutes Record of 12/13/10 Meeting.

APPROVAL OF MINUTES: 10/21/10 & 11/17/10

(a) Minutes of Regular October (10/21/10) Meeting --The minutes of the October 21, 2010, had not been included in the Commissioner's agenda packets by the P&Z staff for consideration. Therefore, the October 21, 2010, minutes will be considered for approval at the next P&Z Regular Meeting.

(b) UPON A MOTION BY COMMISSIONER GANUS TO APPROVE THE MINUTES OF THE NOVEMBER 17, 2010, P&Z WORKSHOP MEETING AS PRESENTED, AND UPON A SECOND BY COMMISSIONER BRIDGES-BRIGHT, THE COMMISSION VOTED 11-0, BY VOICE VOTE, IN FAVOR OF THE MOTION.

Chair Sheffield said a couple of things before getting into their Business –

- (1) At the Workshop Meeting on 12/9/10, the P&Z Commission removed / took off the table any discussion of anything relating to mining; they decided they needed more time to discuss the mining issue in depth.
- (2) Tonight they will be looking at the Conservation and the Future Land Use Amendments – minus any amending of the mining issues so they will not be discussing that tonight.

Commissioner Allen said he disagreed with that because at the Workshop meeting on 12/9/10 the attorneys had all of the time they wanted or needed to address mining issues and to disallow the citizens of this County not to speak on the mining issue is a disenfranchisement to those citizens.

Commissioner Rowan responded he thought the Commission voted to disregard them at the present time.

Commissioner VanLandingham said they could not vote at the workshop and Commissioner Bridges-Bright agreed, and added they did have a consensus.

Commissioner Allen responded he still felt it is a travesty to have citizens coming in to speak to issues in the Conservation Element and the FLUE and the Commission not allowing comments from those citizens.

Chair Sheffield said when they get into the mining issue they will be having workshops and public meetings and there will be opportunity then to have some input, and that her feeling is the input at that time would be –

Commissioner Allen responded the Commission also allowed the attorneys to address the mining issues at the workshop meeting on 12/9/10, and to not allow the citizens to address the mining issue is improper.

Commissioner Ganus stated he disagreed because the Growth Management Director had previously Stated the mining issue is much larger than what they have been addressing and the changes they have been making, and it will take a lot of time in order to do it right and the Commission will need a lot more input from the affected parties. He said he feels the Commission is doing the right thing by tabling the mining issue and to bring it up next year and work on it and have everybody satisfied with the final product.

Chair Sheffield “Well, I know that what we had put into the EAR was waiting until 2012 to have it addressed, but we’re going to start on it right away, correct?”

At this point Mr. Barry Haber, President of the Friends of Lake Talquin addressed the Commission stating “there have been numerous community meetings concerning mining and that apparently after the community meetings were held, the best friends of the County became the mining companies; not during the community meetings, but afterwards. He said there were several letters that he had responded to and requested his response to the attorneys (mining) be included in the P&Z Commissioner’s packet and they were not. Mr. Haber said the P&Z Commission should not be impartial to the attorneys for the mining companies because the Commissioners represent their districts, their community and these people don’t have attorneys to represent them. He said what the citizens have is the community input. He said the citizens of the Wetumpka, Lake Talquin Area have attended workshops, given public input and a 300 person petition concerning the mining operations and none of this is being heard; it is being ignored. In closing Mr. Haber stated it is a travesty that the mining companies are even considered at this point – they are not part of the community and they didn’t present all of their letters/information during the community meetings and they should be ignored; the Planning Commission should go on with what is good for the community as they represent the communities, not the mining companies”.

Chair Sheffield said Mr. Haber’s comments were so noted. She said she would like to hear what everybody has to say about mining, but would like to hear it at the time when the Commission will be discussing the mining issue. She said she feels they will have a much better product if they take their time and do it right as there is a lot things she needs to learn about mining and that she can’t make a

decision until she knows those things. Chair Sheffield said she feels they will be better served to wait and discuss the whole issue at one time.

Commissioner Bridges-Bright agreed with Commissioner Ganus that they should wait until they are better informed and able to make an intelligent decision on the mining issue.

Chair Sheffield said another issue brought to her attention is several requests that have been received late this afternoon for map changes. She said "those need to go through the proper procedure and would have needed to be advertised for tonight's meeting so they will not be discussed during this meeting", and then added she was sure they will be scheduled very soon.

PUBLIC HEARING:

Comprehensive Plan Amendments & Transmittal

Mr. Matheny explained the information given to the members tonight is the same thing they were given at the 12/9/10 meeting, with the changes made to the Conservation Element and the Future Land Use Element that the Commission had pretty much reached a consensus on. He said Ms. Pennington will walk the Commission through all of the changes she had made, and based on what the Commission had asked that she do. He added the extra letters he gave the Commission tonight were being presented as a courtesy to the individuals who sent them to him. He said "You now have every letter that I have received from the different property owners. You don't have every piece of e-mail and every correspondence; and we talked about that last Thursday but those things have been noted and were noted every time we got something that has been discussed with our consultants and they have taken that into consideration. "

CONSERVATION ELEMENT:

Ms. Pennington explained she has been working with Preble Rish in updating the Comprehensive Plan to reflect the consideration of the EAR which was adopted by the County in 2009. She reviewed changes she has made that were based on recommendations of the Commission at their meeting on 12/9/10, and in response to questions from Commissioner Ganus, Ms. Pennington explained she is only covering the three policies that she changed – **Policy 5.2.7 Section C** – deleted word 'shall' and Added word "**May**", **Policy 5.2.22** Removed entire policy 5.2.22 and **Policy 5.6.1** –

At this point Mr. Matheny interjected "Just to add on to what Marina is saying, everything else, unless you told her specifically that you wanted a change or work shop -- that's what you reached consensus on approving so she has made all of the changes you asked her to make whether it was removing any reference to mining, which she did, or anything else; so the rest of it you were Okay with it as of last Thursday."

Ms. Pennington said in Policy 5.6.1 she removed some changes they had proposed to make so Policy 5.6.1 was left unchanged, with the exception of correcting the name of the Department of Planning & Zoning to its correct name –Planning & Community Development Department. She also stated " There were some additional changes that we had proposed to that Policy and you asked me to remove those changes so all of the changes with Mining will be dealt with in 2012".

Commissioner Allen referred to Policy 5.6.3 and asked “Did we not just say that we would immediately start on the mining policies?”

Ms. Pennington “I did not say that”.

Commissioner Bridges-Bright “Madam Chair said that.”

Commissioner Allen “Madam Chair did you not say that?”

Chair Sheffield “Yeah, we put it in there but we gave ourselves until 2012, but it doesn’t mean we have to wait until December 2012 to do it. Right Anthony?”

Mr. Matheny “Correct. We’ll be working on it as soon as we can get started on it – the whole thing is it’s at the end of 2012 to hopefully get it all done.”

Commissioner Ganus “Well, I had a thought—Is there or could we put something in there about some steps being developed to working on it; some kind of skeleton plan or something – an outline of what needs to be done – and a timeline of accomplishing it so that we will get to work on it?”

Mr. Matheny “I would recommend doing that not tonight, but maybe earlier in the year because we still have a lot of work to do just to get through the other two area plans and get this through the County Commission first. Remember, we were going to try to get this done and get it to DCA so maybe they’re not as harsh with us and then -- that’s our first priority and then we have to simultaneously start working on those area plans so I can’t – I think any kind of timeline tonight would be complete conjecture. I just don’t think --”

Commissioner VanLandingham “I don’t think he was suggesting a timeline – were you (Commissioner Ganus)?”

Mr. Matheny “Well, that’s the word he used”.

Commissioner Ganus “Well, not tonight but maybe, I don’t know Ed (Commissioner Allen) but maybe we may want to put some terminology into that particular part to encourage that --”

Commissioner Allen “It just appears to me that by the end of 2012 two years is an awfully long time to wait for these issues to be resolved. I mean – does everybody agree with that, or am I wrong?”

Commissioner Ganus “I know how things get put off”.

Commissioner Allen “Any time, as I stated in my previous letter to the Board (P&Z), we all know what happens to things that get put off to a later date -- 2012 and we’ll be adjusting that to 2015.”

Commissioner Robinson “So you want to see it 2011?”

Chair Sheffield “I know we discussed that.”

Commissioner Rowan "I think 2012 should be left in there so that we don't have to jump right in and get it done. If we complete it before 2012 that's fine but I think this is an end date that we're putting in there."

Commissioner Ganus "The other thing I was going to say is at least one of the area plans will include some mining changes too, so it's going to kind of have to work together in some cases, I think, in order to accomplish the end goal that we're looking at."

Commissioner Allen "I agree with that. The mining issues are in the area plans; in the Wetumpka Lake-Talquin area plan."

Commissioner Ganus "**Could we say in Policy 5.6.3 --- Beginning in the first quarter of 2011 and ending no later than the end of 2012?**"

Mr. Matheny "You can, but -- I'm just telling you that based on the volume of work that we've got to get done I can't guarantee it. I mean we can -- we can shoot for that goal. We can shoot for the goal but I can't guarantee that's gonna happen. I mean -- but you can certainly make that a goal that we'll try to shoot for."

Commissioner Allen "What are we going to do about the mining issues in the area plans? Are we still gonna not address those?"

Mr. Matheny "Well like we talked about, Commissioner Allen at the last meeting or workshop, the area plans probably are not going to be completed and transmitted until -- I would say late Spring, early Summer -- I'm not sure how long it's gonna take. This is -- we've got a lot to work through on those, especially if you decide, or if you and or the BOCC decide that we need additional community meetings which have been mentioned. I have no idea how long that's gonna take but when you have to give public notice, you have to plan it -- you've got sub-committees ya'll were talking about working with. It's a lengthy process. I mean, I think we're on line with by the end of 2012. Now any other language -- I think that's fine if you want to add it, but I still can't guarantee that we'll hit those benchmarks."

Commissioner Ganus "Are we still going to have consultants working with these plans that we're headed into next?"

Mr. Matheny "There will be some -- there will be a consultant working with us in some shape, fashion or form I can assure you. We have to have. We don't have -- I mean, we have a full plate besides this; our staff can't do it. We have to have consultants helping us with it."

Commissioner Ganus "Well, do we have a lot on the agendas coming up for our regular meetings every month?"

Mr. Matheny "I have no way of telling you that. I mean now, because --"

Commissioner Ganus "Do you have anything lined up now?"

Mr. Matheny "We have some potential items lined up and I'll talk about some of them later on tonight, but --"

Commissioner Ganus "I know a couple of months this past year meetings were cancelled for lack of anything to do."

Mr. Matheny "Right, but those are new items Larry -- Mr. -- Commissioner Ganus those are new items. We have plenty of existing work that we're doing and if you want to stop by one day and I'll give you a run -- I'll meet with you, we'll go to lunch and I'll talk to you about it. We have plenty of other things that we're doing each day with a very decimated staff so it doesn't -- just because new items aren't coming before ya'll in the brand new fresh items, there's plenty of stuff coming up; and old projects, minor sub-divisions that have been dormant that are coming back in asking to go through the continued process, Major sub-divisions, special exceptions, all kinds of things. We have plenty to do."

Commissioner Ganus "That's in-house staff work. What I'm saying is we're still going to have consultants working with your department--"

Mr. Matheny "Right."

Commissioner Ganus "--that we could bite this off in little chunks every month. Have something scheduled every month and move, and we don't have to do the whole thing in one night that way because we can break it down."

Commissioner VanLandingham "Chip away at it".

Mr. Matheny "Right and that is the plan to be biting chunks out of it and working on it because obviously, we can't wait until 2012 to get started and that's a great way to put it -- chipping away at it and I agree with you totally and that is our goal -- that is what we're going to try and do. What I'm telling you is if you pick dates that are benchmarks for us to hit I can't guarantee that we'll hit them. We'll try but the plan is to chip away at it continuously."

Commissioner Arnold "I'd like to ask Mr. Matheny a question also if I could in the light of this two year deadline that we're setting for ourselves. During that two year window I would like for you to interpret for me what Policy 5.6.1 would imply and any person acquiring or holding property as a mineral reserve for future mining in the County shall be given the opportunity to file a map and/or legal description of such property with Gadsden County and then it says mining in these areas shall only be allowed through a land amendment. If someone holding property as a mineral reserve files a map or a legal description, does that later on give them legal standing to -- or does that put us in a position of having to grant them the right to mine that land later on?"

Mr. Matheny "Well, I think to break it down to what you're saying Commissioner is that -- and what we talked about Thursday night, is that we can't stop mining interests to come in for a land use amendment and legally go through that process and they can; they can continue to do that. Now whether or not that gets approved is up to first ya'll and then ultimately the County Commission so I can't tell you if they'll get approved. If they want to change their land use designation to mining or to expand mining they'll have to go through the process ; make application and it's a lengthy and time-consuming ."

Commissioner Arnold "And it requires a land amendment?"

Mr. Matheny "Yes, and they can still do that and we can't just arbitrarily stop the citizen from having the right to do that. Now the attorney may have something else to say on it if you need to ask them a question but that's my understanding."

Commissioner Allen "I would like to just clarify something you said about trying to stop mining interests. Nobody is trying to stop mining interests; just trying to put it in proper perspective."

Mr. Matheny "Did I say anything about -- What did I say?"

Commissioner Allen "Yes, you said stop mining interests. You mentioned that and I just wanted to clarify it."

Mr. Matheny "I can't remember exactly what I said Commissioner Allen, but anyway -- OK."

Commissioner Ganus "Did we decide what we're going to do with 5.6.3?"

Commissioner Allen "I would like to see us put in there that beginning the first quarter that we address the mining issues."

Commissioner VanLandingham "And like Larry said have it resolved no later than the end of 2012?"

Commissioner Allen "That's still an awfully long time to resolve the mining issues."

Chair Sheffield "Does anyone want to make a motion to make that change?"

Commissioner Ganus " I'll make a motion to add at the beginning of that sentence in Policy 5.6.3 to read "Beginning in the first quarter of 2011 and --" continue on with rest of sentence and Commissioner VanLandingham made a second to the motion.

Chair Sheffield called for discussion.

Commissioner Arnold "I was wondering if we might also want to consider amending that to include during the first quarter of 2011 establishing a timetable for dealing with the mining issue."

Chair Sheffield "Does that really need to be in the Comprehensive Plan?"

Commissioner Bridges-Bright "Would that be an amendment?"

Chair Sheffield "We can do that. We can establish a timeline, but do we need it in the Comprehensive Plan that we're going to establish a timeline?"

Commissioner VanLandingham "Is it in the Conservation Element?"

Commissioner Simmons "Why would you want to establish a timeline when you've got the director telling you that you can't adhere to a timeline; said you aren't going to have adequate steps so I don't see -- I think it's in vain to do that."

Commissioner Robinson "Are these calendar years or fiscal years?"

Chair Sheffield "Calendar years. Any more discussion?"

Commissioner Allen "Yes, one other question. Does that mean at each meeting we're going to discuss this at the beginning or the end of each meeting?"

Chair Sheffield "It would be OK with me if we had special meetings for it. I like that idea; having special meetings just for – if ya'll are willing to come and do that."

Commissioner Robinson "But, he's saying they don't have the staff power – the manpower to discuss mining. You're (Mr. Matheny) saying you don't have the staff power"

Commissioner VanLandingham "Madam Chair, you have a motion on the table."

Mr. Matheny "No, let me clarify that. If we need to have a few special meetings throughout the year to specifically address some mining issues we can do that. We can have workshops, meetings, we don't ; certainly I wouldn't think you would want to have as many as you've been doing for this since August or September, but you can have special meetings. Now we have the staff – I'm always going to be there and if I need to bring in staff I will but I will work with you to have whatever meetings we need to have."

Commissioner VanLandingham "But that doesn't need to be in the Comp Plan?"

Mr. Matheny "No, those are housekeeping details and don't need to be part of the Comp Plan."

Commissioner Ganus - to Mr., Matheny - "Do you remember from Thursday night's meeting the things you enumerated on in the mining category that need to be done. Could you write that down somewhere and give it to us so that we have an idea of what we're approaching? You said something about the map, getting the map squared away and – I don't know but there were several items that you said needed to be accomplished."

Ms. Pennington "I don't think that we have gotten there. We know that there is a lot of work to do and we were pointed out last week that the existing land use map , and we are aware now that there are some mining operations that are not shown there so we know that map needs to be corrected. We know that the Future Land Use Map also does not show the mining of some lands that are being mined so we know that both maps need to be revised and re-addressed. I pulled all of the policies that deal with mining in the Future Land Use Element and the Conservation Element. I cannot tell you what needs to be done but I can tell you that there are discrepancies so in general if you want to set up what needs to be done it is to review the maps and correct them, and review the policies and correct any discrepancies that may be there reflecting where the County want to go with mining."

Mr. Matheny "No, I can't do that right this second, but I can do it later but one of the things that is going to limit how much time we can spend on this the first of the year, the first couple of months is again we haven't decided what workshops we are going to have with the County Commission; how many or if we're going to have any at all. There is – we've got to go through some of the similar process – not the in-depth that we've gone through with ya'll, but we've got to go through some of the similar process with them. And, going back to what Commissioner Robinson said there is only so many hours in a week to do it and there is only so much staff and it doesn't matter whether we have consultants or not; they are working on our project but they're working on other client's projects too so they give us

part of their time each week but not their sole time so I'm not trying to make excuses, I'm just trying to be honest with you and not mislead you in any way.

Chair Sheffield "Ok, we have a motion on the table and a second, everyone in favor say aye."

THE BOARD VOTED 11-0, BY VOICE VOTE, IN FAVOR OF THE MOTION BY COMMISSIONER GANUS AND AS SECONDED BY COMMISSIONER VANLANDINGHAM --' MOTION AS STATED "AT THE BEGINNING OF POLICY 5.6.3 OF THE CONSERVATION ELEMENT (PAGE 10 OF THE 10-21-10 DRAFT) "BEGINNING IN THE FIRST QUARTER OF 2011 AND BY THE END OF 2012, THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT SHALL REVIEW AND UPDATE THE MINING POLICIES IN BOTH THE CONSERVATION AND THE FUTURE LAND USE ELEMENT."

Mr. Matheny asked if the Commission was voting to approve the Conservation Element or just voting to add the above language to Policy 5.6.3 and Commissioner VanLandingham responded the Commission was voting to just add the above language to Policy 5.6.3. The Commission will vote on both the Conservation Element and the Future Land Use Element together, once they review the Future Land Use Element.

FUTURE LAND USE ELEMENT:

Ms. Pennington explained based on the Commission's recommendations from last Thursday's meeting, changes were made to three of the policies in the Future Land Use Element as follows:

Policy 1.1.5 (M) (Page 11) She said there were a number of revisions to that policy (Mining Policy) and it was recommended they **remove all of the changes and leave it as it is.**

Policy 1.14.5 (Page 27) Ms. Pennington explained this is not a new Policy, but rather a policy that had been adopted by the County in July of 2009, but it had not been included in the electronic copy or the hard copy so **now it is being reflected.**

Policy 1.15.2 (Page 28) Ms. Pennington explained changes had been proposed to delete the Wetumpka Lake-Talquin and the US 90 East Corridor. However because these area plans have been delayed, the policy is being left **"unchanged"**.

In addition to the above, Ms. Pennington said based on recommended changes from the Commission tonight on Policy 5.6.3 in the Conservation Element, Policy 1.1.22 (page 13) of the Future Land Use Element needs to be changed to read the same as Policy 5.6.3.

UPON A MOTION BY COMMISSIONER ARNOLD AND A SECOND BY COMMISSIONER TRANCHAND THAT POLICY 1.1.22 FUTURE LAND USE ELEMENT BE AMENDED TO READ THE SAME AS POLICY 5.6.3 OF THE CONSERVATION ELEMENT , "AT THE BEGINNING OF POLICY 1.1.22 OF THE FUTURE LAND USE ELEMENT, (PAGE 13) "BEGINNING IN THE FIRST QUARTER OF 2011 AND BY THE END OF 2012, THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT SHALL REVIEW AND UPDATE THE MINING POLICIES IN BOTH THE CONSERVATION AND THE FUTURE LAND USE ELEMENT."

THE BOARD VOTED 11-0, BY VOICE VOTE, IN FAVOR OF THE MOTION.

Chair Sheffield said they have gone through everything that was discussed at last week's meeting on the Conservation and the Future Land Use Elements and called for public comments on the two elements and there were none.

Chair Sheffield "Now you know we will not be making any decisions on mining."

Commissioner Simmons "Should be no discussion on mining."

Chair Sheffield "Right." She then inquired of Ms. Pennington concerning new policies (a result of new State requirements) that have gone in on zero scaping, homeowners associations, neighborhoods, conserving water, etc. and if they could get sued if those things don't happen and Ms. Pennington responded she couldn't answer that and added an update that DCA has put a hold on rule making (probably because of the new administration) --the Land Use Needs Rule and the Planning Change Rule as they have been working on them. The requirements are still on the Statute and DCA is drafting language on some of those policies to meet the requirements of the law, but at this time the rules are still on hold.

PUBLIC COMMENTS:

Mr. Anthony Fedd, Site Director of BASF Quincy Operations addressed the Commission expressing thanks to them for allowing him to make a statement for the record prior to the Commission's vote tonight on the EAR based Comprehensive Plan Amendments. On behalf of BASF Mr. Fedd thanked the Commission for changes they made at their December 9, 2010, workshop meeting; in particular, as he understands the amendments will not include the business of the Future Land Use and Conservation Elements as they relate to mining issues here in Gadsden County. Mr. Fedd explained those changes reflect his and his colleagues comments from the December 9th meeting. He said BASF's understanding of the first step in the process of future consideration of the Future Land Use and Conservation Elements will be the creation of a study committee with representatives from the P&Z Commission, the general public and affected businesses serving as members. Mr. Fedd expressed his interest in serving on the committee as well as any similar body that will be looking at planning and zoning issues as they impact mining activities. He said he would be pleased to submit his credentials to the Commission if that will help facilitate his selection to serve on the committee. Mr. Fedd also presented a letter (shown in agenda packet) to the Commissioners with BASF's comments/concerns/recommendations specific to the Conservation Element and the Future Land Use Element of the EAR-based amendments to the Comprehensive Plan. Mr. Fedd further explained, as discussed in the December 9th meeting, the County's Future Land Use Map is not accurate and does not reflect the extent of BASF's operations and he respectfully requested the Commission consider changes to correct this map problem.

Mr. Kenneth Jones, Lake Yvette Homeowners' Association addressed the Commission stating he was very pleased to hear the quote of Former Commissioner John Yerkes (a good friend of his and a good friend of the neighborhood) as to how Commissioner Yerkes was appalled by a number of things. Mr. Jones said he had one general question which was based on the many, many notes that Commissioner Yerkes had given to the homeowners' association. He asked if the Commission could give them any clues as to where changes might possibly happen in terms of industrial, commercial and light industrial based on the Comp Plan in terms of industrialization of Highway 90, down in the Midway area.

Chair Sheffield "Go ahead Anthony. Anthony can answer your question."

Mr. Matheny "That will all be addressed in the Area Plan and the US 90 Corridor Plan at a later date. All of that will be talked about and we may even have more community meetings if ya'll think that that is necessary, but that will be in the US 90 Corridor Plan."

Chair Sheffield "I think we're going to have to work with Midway on that as well. A lot of Highway 90 is in Midway now."

Commissioner Arnold "May I make a comment on that issue? We will be forming a citizen's committee to decide how to proceed with the 90 Corridor Overlay in the near future, and I would like to encourage you (Mr. Jones) to stay in contact with Commissioner Tranchand who represents Lake Yvette, if you would like to participate in that Committee. We will also be inviting members of Midway to participate and we would like to get that going quickly so that we're ahead of the curve when it comes time to vote on those; on the two overlays that we'll be dealing with. I think Commissioner Tranchand will probably be helping to coordinate the 90 East Overlay Committee and I don't know if one is necessary for Talquin, but Commissioner Allen would be the appropriate person to handle that."

Commissioner Allen "I'll have to check with the citizens out there. Basically they are 'meetinged' out."

Commissioner Tranchand "If I could just add a couple of comments. While I know Mr. Jones well and we served together in the past on the Lake Yvette Homeowners' Association Board, I do want to make it very clear though that I represent District One, and not just Lake Yvette. It's very important to me that the community realize that. I was also involved with the initial land use plans that were developed under Bruce Ballister back in 2000 -2001 and I am quite aware of the desires of the residents of that area at the time, so I feel very comfortable taking care of this sub-committee chair and I look forward to everybody's support and help on that."

Mr. Kent Safriet, Hopping Green & Sams, Representing Roberts & Roberts, Inc.(AKA Chuck Roberts property off SR 267) addressed the Commission to renew his request "on record" that has been made in a couple of previous letters, as well one letter included in the agenda packet requesting a map amendment from current zoning to mining. He said "I understand the Commission earlier said they are not going to make any map amendments tonight and that's their prerogative – Board's prerogative, but I just want to note on the record that request was made and procedurally making map amendments is appropriate during the EAR based changes so I just want to note that in a procedural manner and if the Commission does want to make that, that's fine and if they don't, I understand that as well. I just wanted to make it clear on the record. Thank you Madam Chair."

Commissioner Allen asked Mr. Safriet about one of his letters in which he referred to "historic use of sand mining" on Mr. Roberts property. Yet as Commissioner Allen recalled, Mr. Roberts had bought the property as Ag-3 category and to request a mining historic value of that as mining, that he believes if Mr. Roberts purchased it as Ag-3 and it reverts back to Ag-3 that he doesn't know how Mr. Safriet could request that it be "historic value."

Mr. Safriet responded that he didn't know where Commissioner Allen got "historic value" from and the words he believed they had used were that historically it had been used for mining, as had other properties around that area, and many properties in that area are being mined today and have historically been mined and they were purchased as AG-3 so just because you purchase something with a designation on it doesn't mean it wasn't being used for something else so that's where that information comes from. He said it is the Commissions prerogative, as well as the Board's prerogative to

make map amendments to properly reflect what land uses would be appropriate. He said that's what he is asking the Commission to do and if the Commission wants to amend the map with respect to Mr. Roberts property that he is asking that 64 acres be designated as mining on the land use and that the remaining 80+ acres be designated Conservation from the Ag-3 designation that currently exists on all 144 acres today.

Chair Sheffield "Well, that is a whole separate process Commissioner Allen and we're not going to discuss it tonight."

Commissioner Allen "I understand it's a separate process but I was just commenting on his comments."

Commissioner Rowan "We don't need to comment at this Board meeting."

Property Appraiser Clay VanLandingham, Gadsden County addressed the Commission concerning tonight's conversations on maps and errors in the mapping. He said from what he has seen, it appears the County's existing Land Use Map and possibly their Future Land Use Map has been based on information from the Property Appraiser's Office. He stated, "I would like for this Board and the Growth Management Department and the Preble-Rish people to understand that our maps are used for assessment purposes. We do not show zoning. We do show land uses and those land uses are uses that we derive from codes by the Department of Agriculture. I think this Board, just like a lot of citizens think if we have something classified as AG-3 then that is supposed to be agricultural lands. It may or may not be; that is just a classification that we put on those properties. To be agricultural land, you have to come in – or to get the classified exemption for agricultural, you have to come in and make application and there are certain factors that determine whether you get that AG classification or not. On our classified use that you see on our web site, you could have agricultural activities going on inside the City limits so **please do not take what we have on our web site defined as a classified use as something in the form of zoning.** I don't know if I made myself clear on that or not, but I will be glad to work with this Commission, Preble-Rish and the Growth Management Department to either educate myself or to educate you all as to what our maps mean and how we use those terms."

Chair Sheffield inquired if Mr. VanLandingham was referring to the existing land use map and Ms. Pennington responded that was correct and as she had previously explained " the Comprehensive Plan Program requires local governments to have an existing land use map – how is the land being used. That is what the GIS people and most people use – the Property Appraiser's data – because that is the best data. They are the ones who know how the land is being used. The Future Land Use Map has nothing to do with the Property Appraiser's data – nothing. It was adopted by the County, it has been amended over time and it obviously needs some changes from the mining uses, but has nothing to do with that, so forget about the issue with that one – it is this one, the existing land use map. As I said many local governments use the Property Appraiser's data, so a conversation –"

Property Appraiser VanLandingham "Should have been had. Probably would have been a good idea, but"

Ms. Pennington "Yes, it would have been a good idea because obviously the data is not updated, so – but that's part of all of the work that needs to be done for the mining."

Property Appraiser VanLandingham turned to face the BASF representatives and stated "I would also like to extend an invitation to the BASF folks. As far as your land, we may show it as agricultural or AG-3,

but we would be delighted to change it to mining for you. So if you have existing maps that shows what areas you are currently mining we would like very much to get together with you so we could update our records”.

Chair Sheffield “So this existing map is not a zoning map, but shows how the land is being used at this time?”

Ms. Pennington “Exactly.”

Commissioner Ganus “According to his criteria.”

Property Appraiser VanLandingham “**Right, according to assessment criteria for the Department of Revenue; not necessarily for any zoning or planning and growth criteria”.**

Commissioner Ganus “Well could I ask someone a question – last Thursday evening I recommended that we pull this existing land use map out of this package. Is that still applicable to what we’re discussing tonight?”

Ms. Pennington “Yeah, I think we said we would pull it out. It’s a new map that we were including because it is a rule that requires us to do so. We will get an objection from DCA and then we will start the conversation – you know, let them know that the data that we have is not updated or needs to be revised and we’ll take it from there. So, we’ll pull it from the web site and we’ll pull it from the package.”

Commissioner Bridges-Bright thanked Proper Appraiser VanLandingham for his clarification and now she recognizes the map does not reflect what was being expected of it.”

Chair Sheffield called for a motion to approve and move forward with the Conservation Element and the Future Land Use Element and Commissioner Simmons So Moved with a Second by Commissioner Ganus.

Chair Sheffield called for questions –

Commissioner Allen suggested this be put off until the existing land use map with assessments is brought up to date. He said the Commission was given the packet tonight to vote on and the existing land use assessment map is not up to date.

Chair Sheffield responded that Ms. Pennington discussed how they will deal with that.

Mr. Matheny “Whoever made the motion may want to amend the motion or make a motion to include the removal of the existing land use map. We’re not going to include it. We’re going to get, as Marina stated, DCA will then come back to us and say where is your existing land use map and then we’ll deal with that separately.”

COMMISSIONER SIMMONS AMENDED HIS MOTION TO READ -- APPROVE THE CONSERVATION ELEMENT AND THE FUTURE LAND USE ELEMENT WITH THE REMOVAL OF THE EXISTING LAND USE MAP, AND COMMISSIONER GANUS MADE A SECOND TO THE AMENDED MOTION. THE COMMISSION VOTED 9-2, BY VOICE VOTE, IN FAVOR OF THE MOTION.

Let the record reflect Commissioners Ganus, Simmons, Tranchand, Sheffield, McBride, Arnold, Bridges-Bright, Robinson, Rowan voted in favor of the Motion.

Let the Record Reflect Commissioners Allen and VanLandingham voted against the Motion.

DISCUSSION: Property owner initiated Land Use Amendment Requests

Mr. Matheny said from time to time they get requests from property owners who come in and say they want to change their land use designation because the County made a mistake in 1991 when they adopted the Comprehensive Plan and the land use designation is wrong.– example designated commercial and wants to change it to rural residential. He said they could be right but one of the things to be careful of when that happens is to go through the process and determine whether or not that was in fact a mistake the County made or if it is something the applicant needs to apply for and pay the appropriate fees and do the public hearings and be heard. “It’s one of those things I was asked to bring to you and we have a couple of them. I won’t go through the individual cases tonight, but I know there is one person here who has a request in to have his property re-designated to another land use, but we have several of those requests pending and I was asked by the County Administrator to bring it to the Planning Commission to let ya’ll decide whether or not the County would take that request and go forward with it and pay for it and not charge the applicant or to require the applicant to go through the normal process , pay the fees, advertise, have the public hearings – do that kind of thing. There’s mostly – the pit falls of this are many. If you decide to do that you have to be – if you decide to go ahead as a County and initiate the process and not require the person to pay the fees and we take it on as the County, then there could be studies involved with that land use designation change, there could be traffic studies, pollution studies – it could be environmental study – it could be any number of things depending on what kind of property – what they want, what they are and what they’re wanting to go to. Those are always borne by the applicant. If we say that we made a mistake – yes applicant we agree with you – we made a mistake –then we’ve got, we’re opening the door up to many, many other such requests and then it’s going to be harder to tell the people in the future that, you know, you’re going to have to make application, we’re not going to pay for it. So, I want you to think about that. Does everybody understand what I’m talking about? It’s one of those items where you are sympathetic to the person; very sympathetic to the person making the application or making the request and we’ve got a couple – again, I’m not going to name names tonight, but we have a lady out in Havana who lives close to the golf course who is wondering why in the world she is designated commercial and I have to kind of agree with her but one of the problems is going back and second guessing the Planning Commissioners and the County Commissioners back in 1991 who made those decisions. That’s tough and again I’m not saying that the person requesting it isn’t right but unless it’s a – usually it’s better if it’s brought in by lots of folks, lots of parcels and sometimes that happens – you’ll get 10 or 12 or 15 or 20 parcels that may be hundreds of acres and they want to change their land use designation and that’s a little bit better argument, you know if they say ‘we were wronged back 20 years ago’. This should have never been AG-2 – it should have been rural residential; whatever. Anyway, I’m kind of putting the bug in your ear. I don’t know if you want to act on it tonight or not, but it’s one of those things to be very cautious about, but I was asked to bring it to you for you to consider and I’m doing that tonight.” If you have any questions or comments I will be happy to discuss it.

Commissioner Ganus “My comment is that without looking at it on a case by case basis we don’t know whether they’re moving up or down in classification and what the motive – the true motive is because

we've been duped before by people saying oh I want a land use change for myself and within two months they have sold it to a developer and I'm not saying that the people that you have right now that you're talking to are anywhere near that but we have been through that in the past. We know what can happen and there may have been mistakes made in the past, but to just open the door – that could create some major changes and major problems.”

Chair Sheffield “I think some of the, if you want to call them mistakes -- I've known a lot of the planning directors over the years ever since we've had them, and when you're talking of future land use map they look at it and they try to predict what areas will probably go commercial and you have the one lady who bought a piece that was on the map as commercial but she built a house there because it was a residential area rather than commercial; but some of that happened just because of trying to look in a crystal ball and figure out how growth is going to go because when you're talking future land use map, that's what you have to do. If you didn't do it that way, then it would be an existing land use map, right?”

Commission response “Right”

Chair Sheffield “So, how you fix those things – I don't know. I don't think the responsibility should be placed on the County to cover the expenses of somebody wanting to down zone – I think probably that's mostly what it is.”

Commissioner Ganus “How much of it is up and down – can you give us a feel for that?”

Mr. Matheny “Well, you're talking about going from something like Ag to Residential -- higher density?”

Commissioner Ganus “Right, or Residential to Commercial – something that moves them up to make it more valuable.”

Mr. Matheny “I will tell you, several of them are actually wanting to go down from commercial to residential.”

Commissioner Ganus “Is it already developed property?”

Mr. Matheny “Well, no. There's nearby commercial in both cases, but again there's an argument both ways. What I'm bringing to ya'll is not the argument, but should the County in those cases say 'well you do very likely have a – I'm not sure it was the best thing that happened 20 years ago and we'll process it for you and you won't have to pay any fee'. They're wanting us to take on the burden of paying the fees and going through -- doing the studies and that sort of thing instead of them making application. Now you can make application tomorrow for anything and – well, let me back that up. If you have adjoining properties that are already in the land use designation of what you're trying to go to. You can't just arbitrarily come in – there are some parameters. But, these requests are wanting us to take on the financial burden and do it, and again it's a – while very sympathetic to these folks and I'm not saying that they're not right, but you are then second-guessing what happened with your predecessors and the decisions they made. I mean, it's very complex.”

Commissioner Ganus “I guess what bothers me the most is, like you say, it's been 20 years since all of this was done, so what has prompted this movement at this point? It's been like this for 20 years and nothing has been a problem, and now all of a sudden it becomes a problem.”

Mr. Matheny "Well, I was asked by the – there's again several people that you are considering land use amendments and I was asked by the County Administrator just to, in general, bring you this question. I'm just doing what I was asked to do."

Commissioner Ganus "Well personally, I don't have enough information from what you have told us tonight to make any kind of decision on this. We need something more specific or something to --"

Commissioner Allen "I agree with Larry on that."

Mr. Matheny "Well, you could do it and here's the problem though and it's – if you do it on a case by case basis the only way I know to do that is have the person come in pre-application and explain what their problem is and that's one way of handling it, which I was going to get to that. That's one way of handling it -- have the person appear in front of you and say 'I've got this problem before I make application. Do you think it's a problem the County made or do you think I should bear the cost and make application?' Now, we could do it that way."

Chair Sheffield "You know, I think some of it is a matter of you buy a piece of property, and you need to do your homework and find out what's zoned around you or how the land around you is --"

Commissioner VanLandingham "Yeah but again Diane, you know that original map. I think I've heard it referred to several times that it was done in crayon. I'm sure there were mistakes made and if they were mistakes made on people's property why should they have to pay to fix something that the County did?"

Chair Sheffield "Yeah, but if you open that door --"

Commissioner VanLandingham ""I know and I'm not saying that is what we should do; but I'm just saying I can see that side of the argument."

Chair Sheffield "I think where the problems are – OK, they're drawing with crayons and their crayon melted into lines that went beyond where they intended to color it in, that kind of situation and I guess if somebody could prove the crayon melted into their property then that would be one thing, but --"

Mr. Matheny "Well another problem is there's areas –I'll give you an example -- I won't– this gentlemen is here tonight and he may want to speak. I don't know and I'll leave that up to him. I won't say his name. There's a commercial area just outside of Quincy, a little commercial pocket within rural residential and probably when they were doing the land use map back in 1990-1991, they planned on that expanding into more commercial growth in that little area. Well, it hasn't; it's remained residential and there's a little small pocket of commercial and they feel like their being commercial being– they want to be able to do other things in a residential way – whether that's adding, you know putting another building there or whatever it might be so they want it residential so they can do those things and that's a pretty good argument; but there's also an argument on the other side that says back in 1990-1991 when the Planning & Zoning Commission and the Board of County Commissioners were considering that they thought that might be a viable commercial area, but it hasn't turned into that yet."

Chair Sheffield "See, I don't call that a mistake."

Mr. Matheny “And that’s why I am here. That’s your decision – you could have the person – I mean I’m just telling you one way to do it is to have the person come before you and give you their situation and then if you think it’s a County mistake – you know the County initiates the process . If you think it’s not a County mistake then they (applicant) need to go through the process and they bear the expense, go through the application, the public hearings, the public notice and all of those expenses; and you know they can be quite expensive. So, and it’s one of those things you know that you don’t have to make a decision on tonight. If you want to mull it over and make a decision in January, or whatever. I’m just bringing it to you. I was asked to bring it to you, so I’m just sort of giving you pros and cons.”

Commissioner Allen “I agree with Larry’s first assessment that it should be done on a case-by-case basis. We can’t just sit here and arbitrarily open the doors.”

Commissioner Robinson “That’s what I would prefer, too.”

Commissioner VanLandingham “And could we have some more information?”

Commissioner Ganus “ I think we’ll listen to anybody’s argument one way or another, but without knowing the particulars on a case, I don’t think we need to make any rules that change our current procedures. We have waived the fees before by this Commission so that won’t be anything new so we’re flexible – we’ll listen.”

Mr. Matheny OK, if ya’ll want to do it like that I will be happy to start that process.”

Commissioner Arnold “Is there any reason they can’t just go ahead with their request, and as part of the request ask us to waive the fees based on what we hear in their initial presentation?”

Mr. Matheny “tonight or later?”

Commissioner Arnold “No, In the future when they make application --.”

Mr. Matheny “That is what I was recommending. I was saying if you want to do it that way, they could come to you and say “here’s the problem Planning Commission. I think I was wronged, you know back when the Comp Plan was done. I would like the County to initiate that land use change. I don’t want to have to pay for it. The County made the mistake and that’s what I’m saying – they could come in front of ya’ll--”

Commissioner Arnold “But that doesn’t have to be a special pre-application process that --”

Mr. Matheny “No, it wouldn’t be any expense in that part of it. I would just be asking what ya’ll wanted to do and again, that’s something that I need to run procedurally by the County Attorney and make sure that it’s OK to do it that way, but I think – and then if you decide No, that you haven’t shown enough evidence to us that the County bears the burden or the County made a mistake, then they would have to go through the application process and pay everything. If you feel compelled that the County made a mistake it would be on us to fix the mistake and all associated costs. Only thing I caution there is whatever you decide to do is tread carefully because you’re going to have others who come in front of you and make very compelling arguments and again I’m not saying that they’re wrong. I’m just saying that those people are going to start showing up more frequently and saying I want my land use change for these reasons and I want you to hear me out.”

Commissioner Tranchand “If we were to adopt this, as you suggest, and have them come in and make a preliminary presentation, what kind of guidance would we get from you on the issue?”

Mr. Matheny “Well I’d be – I’d be prepared to comment on it, yeah.”

Commissioner Bridges-Bright “Would you be prepared to comment on the financial impact to the County as a whole to the entire process?”

Mr. Matheny “Somewhat. Now, we don’t know until they make application and we start doing -- for the lack of a better word – use a legal term that may not be appropriate, but some type of discovery. Doing our research, doing our due diligence we don’t know what we’re going to encounter, you know. They may want to go – They may want to go from AG 3 to Rural Residential, but to use it as rural residential, there may be a certain amount of wet lands on there, other issues, and again that’s always been historically the burden of the applicant to answer those questions, to provide engineering studies – to do those kinds of things– If the County starts doing those things -- I’m very sympathetic to the applicant and I want to make that clear because if I had property and I thought I was wronged then I’d be just like them – I’d be in my department too.”

Commissioner Robinson “Is there some kind of criteria we can come up with like a check list saying some of the reasons why – you know, why they weren’t properly notified back then and that was the reason why –“

Mr. Matheny “ Well, that would be on them. That would be their burden – they would have to come to you and say, you know like back then – Now let me caution you on that without going into great detail. All of this was run in the paper back then, and when you say back then – to some of us 20 years ago is in some instances like two weeks ago. That’s like -- you know, the public notice – it was run in the paper just like we do now. I mean notice was given and whether or not they received the notice or saw the paper or whatever; that’s some of the things you are going to hear and again, not saying that they are wrong or that they misinformed you at all – it’s just something you need to be very careful before you go forward with it because it has greater implications.”

Commissioner VanLandingham “Well, and I will caution this Board to -- and for some of the newer members – We have been lied to. I mean under oath people have stood at that podium and lied through their teeth, so just because they’re standing up there and sworn in doesn’t necessarily mean that when it comes to people’s property and money – I’ve found –“

Commissioner Bridges-Bright – “They may think they were set up.”

Mr. Matheny “I would recommend if you go forward and having them come and make their case to you, that the criteria they provide to you is very strong and is overwhelming on why it should be changed, and I mean there is no exact science to any of that; you have to use your judgment, you have to use what you think is best for the community , you have to use your historical judgment and what you know has happened in the past and some of the people that made these decisions back in ‘91 – I mean, I spent more time than I meant to, but that’s what I was asked to present to you tonight on that issue. Now I don’t know if there’s anyone here to speak on that or not.”

Chair Sheffield called for public input/comments.

Mr. Murray Seay of HWY 12 (Point Milligan where 161 and 12 intersect) addressed the Commission and state he was the gentlemen Mr. Matheny was talking about. He said his piece of property that he currently lives on – the house has been there since 1954. He said that was a long time, way before 1991 and the neighbors living around him are in the same situation he is in and that their homes have been there since the late 50's or early 60's and it's always been residential. It's never been commercial and he said they would just like to have the property changed to residential ; that it is not commercial property and never has been, that it has always been residential. He responded to Chair Sheffield that the little store sits at the very front of the intersection.

Commissioner Ganus asked if Mr. Seay has plans for this piece of property and Mr. Seay responded "Yeah, I'm going to live there."

Commissioner Ganus explained to Mr. Seay that he is grandfathered in with his house and no one is going to challenge him on that and Mr. Seay said he understood that but that there is something he wants to do with his property and he can't do it with it zoned commercial.

Commissioner Robinson added that if the house gets destroyed he probably couldn't build back with it zoned commercial.

Commissioner Ganus explained he has been wanting to ask this question and said for Mr. Matheny to correct him if he was wrong that if someone could use a piece of property for a lower classification than its classified as on the map; for instance, it's commercial and could he not build a house on commercial and Mr. Matheny responded " No".

Commissioner VanLandingham asked if Mr. Matheny was saying that if Mr. Seay wanted to tear down his 1954 home that he couldn't build back there and Mr. Seay said that was right and if he wanted to put another house back there, he couldn't do that either.

Mr. Matheny said there is actually a replacement clause and what he thinks Mr. Seay was originally thinking about putting a mother-in-law cottage or something in but no matter where your house is, if it's destroyed that within a year or two years (said he wasn't sure which and would have to look that up as he didn't come prepared to discuss that tonight) but it could be replaced.

Commissioner VanLandingham inquired if that was because of natural disaster or fire – something like that and Mr. Matheny responded it would be for whatever happened to it – if a tree fell on it, fire, natural disaster --.

Commissioner VanLandingham asked if it was correct that if Mr. Seay destroyed his house because he doesn't like it and wants to build a new one, he couldn't do that and Mr. Matheny said he wasn't sure that he would have to look it up and make sure. He said there are instances where you can replace a mobile home with a site built home, even if it's in a non-conforming district so he would have to look the other up and make sure on it.

Commissioner VanLandingham inquired whether or not at this time, right now, Mr. Seay couldn't build a mother-in-law suite and Mr. Matheny responded he could not – that he could not expand.

Commissioner Ganus asked how much land they were talking about because that is another factor that would be involved in what could be placed there and what Mr. Seay wanted to go to and Mr. Seay responded 2.76 acres and that he wanted to go to Rural Residential.

Mr. Seay said everything around him is residential, has always been residential– has never been commercial, but it is all zoned commercial.

Commissioner Ganus said it was his understanding that when the map was created in the late 80's or early 90's that it was popular thinking at that time that intersecting roadways was a good place for commercial property and that he feels that may be where Mr. Seay and other residents in that area fell into the commercial zoning because they knew those people had houses there and wanted to live there and all of that and they were probably looking at the area around the intersection of the roads there being commercial.

Mr. Seay responded that may have been their thinking and then asked didn't the Commission feel the residents should have been notified and given an opportunity for their input into how the property was going to be zoned.

Commissioner Ganus said he was not involved in that process but the Commission has been advised over the years that during that process the County had attempted to allow everyone the opportunity to express their desire as to how their property would be categorized and Chair Sheffield said she was involved during that process and remembers that when the map was being prepared they went through about a year or year and a half by public notices that land was being zoned, maps were being drawn up and that they didn't send individual letters to the individuals telling them "this is how your land is going to fall". She said "I believe that area was zoned commercial because there was commercial here, here, and here, and whether the red pencil spread a little further than they intended, I don't know."

Commissioner Simmons asked what the problem was with Mr. Seay going ahead and making application for a zoning change and Commissioner VanLandingham said it was because Mr. Seay didn't want to pay for it.

Mr. Seay responded "No, No I'm not going to pay for."

Mr. Curtis Richardson, neighbor of Mr. Seay, addressed the Commission explaining his daddy bought their property in 1959 and always thought it was residential. He said he had never gotten anything from the County and that he had left Quincy in the 90' doing construction outside of the Country so he couldn't have known and that his mother was old, she didn't know, his daddy was dead and that senior citizens back in those days didn't pay a lot of attention to the newspapers and probably didn't even read the newspaper. He asked the Commission how his mother was supposed to know the property was being changed. He said he bought the property from his mother and sister in 1992 and his concern is that he had a trailer on the property at one time, it is not there now and the County will not let him put another one back on it, he can't build a house on it and he asked what good that land was doing him.

In response to Commissioner Ganus' question as to whether or not there is any other rural residential property connecting with this commercial Chair Sheffield responded yes.

Mr. Richardson said right at the point is the store; there was previously another store on the right side of the point, and there is a funeral home on the left side of the point. He said those are the only

commercial things that are in that area and Chair Sheffield responded they were able to put the funeral home there because it was zoned commercial.

Commissioner VanLandingham asked Mr. Matheny what the fee would be and he said it would be rather expensive – probably well over a thousand dollars to go through the entire process.

Commissioner Ganus asked if that was for each lot and Mr. Matheny responded “No, they could come in as a group with all signing or with one person signing as the legal representative for all of them.”

Commissioner Ganus asked if they could divide the fees up and Mr. Matheny said that was correct. Mr. Matheny said the whole question is not if there is adjoining rural residential as there is adjoining rural residential in the back area where the commercial property ends and it could probably be put together that way.

Commissioner VanLandingham asked the County Attorney what the chances were of all of these individuals getting together and suing the County for making that mistake and the County ultimately having to pay for it.

Mr. Weiss explained “Anyone could file a law suit and it would be hard to say the chances for their success, but you would have to define what the mistake was, because as Chair Sheffield said earlier that this wasn’t a mistake and the County probably intended it to be what it is and if the County properly noticed it and all of the procedures were correct—“

Commissioner Bridges-Bright asked if with this being presented to them for discussion, and with them not having any information on which to base their decision, should the Commission move forward and Chair Sheffield said it wasn’t really on the agenda for the Commission to make a decision tonight and that it would need to be agendaed and publicly noticed; that she thought Mr. Matheny just wanted the Commission to be thinking of how they would handle those situations and that she didn’t think they could go forward.

Mr. Curtis Richardson re-addressed the Commission and stated “what ya’ll are going to force me to do is sell my place to commercial and move out of Quincy. Is that what ya’ll trying to do?”

Chair Sheffield responded “No, sir.”

Mr. Richardson “Well that’s what it seems like. I didn’t make the mistake. I don’t know who did. I don’t really care. All I know is I can’t do what I want to do with my property as far as building a shed, putting a house, putting a trailer back on it where one was so now you going to force me to sell out to the commercial people and make my neighbors mad with me I reckon.”

Chair Sheffield asked if that was correct, that he couldn’t build a house on the property and Mr. Richardson responded nothing could be built on it, not even a goat shed.

Mr. Richardson and Mr. Seay left the meeting at this time.

Commissioner Tranchand “ I have to be real honest; my sympathies don’t lie with people who won’t stay for the whole discussion on their issue.

COMMISSIONER GANUS MADE A MOTION THAT ANY LAND USE CHANGES THAT COME BEFORE THE PLANNING COMMISSION MUST INCLUDE APPLICATION FOR A LAND USE CHANGE SO THAT IT CAN BE PROPERLY PRESENTED SO THE COMMISSION AND THEY CAN SEE WHAT ALL THE PARTICULARS OF THE CASE ARE, AND IF THE COMMISSION DOESN'T HAVE THAT APPLICATION AND DON'T KNOW WHAT IS GOING ON AND DON'T KNOW THE HISTORY OF THE WHOLE THING, THEN THE COMMISSION CANNOT MAKE THE KIND OF DECISIONS THEY NEED TO MAKE. THE APPLICATION MUST BE IN THE FORM OF AN APPLICATION FOR A LAND USE CHANGE, REGARDLESS OF WHO ENDS UP PAYING FOR IT; THAT THE PLANNING & ZONING COMMISSION STICK WITH THEIR PROCEDURES REQUIRING AN APPLICATION TO COME BEFORE THEM BEFORE MAKING ANY DECISION.

Mr. Matheny said if the Commission does that, the fees will have to be charged up front and it will be on a case-by-case basis for the County Commission to decide whether or not to refund the fees but staff will have to do their job up front --" take application, take the fees just like we do every day from numerous people".

Commissioner Arnold said that would put the applicant in the position of having to roll the dice and hope the Board of County Commissioners will waive the fees and Mr. Matheny said he was going by what Commissioner Ganus had recommended.

Chair Sheffield asked if they needed to vote on the motion and the County Attorney said he didn't think they could vote on it because the item had been brought before them for discussion only and had not been noticed for public hearing. He said it could be placed on the Commission's next meeting agenda.

A BRIEF RECESS WAS TAKEN AT 7:50 PM AND MEETING RESUMED AT 7:55 PM.

DISCUSSION: Planning Commission Composition, Attendance & Procedures

Mr. Matheny referred to the original By-Laws of the Planning Commission and said the County Administrator had requested this item be brought up before the Planning Commission regarding problems in the past with member attendance. He said it is stated that with three consecutive unexcused absences the BOCC will ask for the resignation of that P&Z member. He said some of the BOCC members are expressing concerns about the absenteeism and he felt it is something that should be taken very seriously and that he was not preaching, but had been asked to bring this up and he was simply doing what he had been requested to do by the County Administrator. He also discussed the number of members serving on Planning Commissions surrounding areas, and most of them only have 7 members. There was discussion among the Commission concerning the By-Laws, Ordinances, Procedures, etc. of the Planning Commission and the make-up of the Commission remaining at 12 as stated in the By-Laws rather than a lesser number and no action was taken on this issue.

STAFF REPORT: Mr. Matheny expressed thanks to the Commission for their professionalism and his opportunity to work with them during 2010 and looks forward to working with them in 2011.

Commissioner Ganus asked if Mr. Matheny had a new staff member present earlier in the meeting and Mr. Matheny responded he had forgot to introduce her. He said her name is Lauren Stanley , a short term intern who has been a big help to him, that she may or may not be with the Department much longer. He said he is looking at hiring another staff planner, full time, who can be pro-active, not only in planning but possibly in going out and secure other grants – those sorts of things.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION AT THIS TIME, AND UPON A MOTION BY CHAIR SHEFFIELD AND A SECOND BY COMMISSIONER VANLANDINGHAM TO ADJOURN, THE MEETING WAS ADJOURNED AT 8:25 PM.

DIANE SHEFFIELD, CHAIR

Jean Chesser, Deputy Clerk