

9/25/08

Elbert County Planning Commission

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With the directive from the Board of County Commissioners to remove all references to a regulatory Master Plan from Elbert County Planning regulations, the question over the advisory nature of the Master Plan has been finally settled.

Judge Holmes' legal construction in the SVV case has been shown to be counter to the intent of Elbert County regulations. Judicial activism is not too strong of a term to describe a judge's opinion that reaches a conclusion counter to the intent of the law.

I would like to publicly thank the Board of County Commissioners for their clear direction on this matter. The ambiguous Master Plan has haunted Elbert County for years. The Master Plan is a subjective device that must be interpreted and argued over, whenever it is referenced. A matter of interpretation and argument should never be elevated to the level of law.

Unfortunately, people who show up to provide such interpretations and engage in planning arguments are usually vocal partisans who favor more planning and more government regulation. They do not represent or speak for the balance of Elbert County citizens, and their effects upon Elbert County laws have been disproportionate to their numbers.

There is no justice or fairness in a vocal minority enacting regulatory law to govern the majority, whether they do it through a sympathetic judge, or through public spectacles in front of the planning commission. The Board of County Commissioners correctly took steps to turn back this effort.

The state ballot in this election contains 18 single-issue Amendments and Referendums. Not one of them comes anywhere close to representing an entire regulatory scheme such as a Master Plan. The point is, it's not reasonable or plausible that Elbert County could slide into a regulatory scheme of the magnitude of the Master Plan without voter intent.

An absence of intent is no basis to make law, yet this is precisely what Judge Holmes did in the SVV case. Judge Holmes' baseless regulatory construction was invented without a shred of voter consent, and the BOCC has recognized this inconvenient fact.

If citizens want a regulatory Master Plan, they should vote on the question. To date they have not, and until they do, the advisory nature of the Master Plan should be unambiguously recognized, and codified.