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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning and Zoning/ Comm. Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Dennis Dutton/ Pete Frisina

Preferred Meeting Date: Thursday, August 14, 2008

Wording for the Agenda:

Consideration of proposed amendments to the Fayette County Zoning Ordinance regarding Article V. General Provisions, Section 5-17. Height Limitation of Walls and Fences and Section 5-11. Common Area, and Article III. Definitions, Common Area, Fence and Wall, as presented by the Planning and Zoning Department. This item was tabled following the July 24, 2008 Public Hearing.

Background/History/Details:

10/03/07, BOC directed staff to review Zoning Ord. in terms of a possible permitting process for walls/fences, requirements for maximum height of walls/fences, additional conditions pertaining to architectural/aesthetic design of walls/fences, and required visibility through fence structures. PC discussed walls/fences at 4 Workshops; however, staff and PC not able to reach consensus not have the PC members been able to reach consensus amongst themselves. 03/05/08, the BOC directed staff to return at a later date with suggestions regarding the light and sound barriers on roadways, light intrusion, and a better definition of the 50% visibility requirement. On 04/02/2008, the BOC directed staff to refine working, including building materials, and clearer definition of "the street" in Exemption B-1 and return on 05/07/08. On 06/04/08, the BOC instructed staff to advertise for public hearing. On 07/24/08, the BOC this item after Public Hearing in order to have the proposed amendments "reworded" and reviewed by the County Attorney before presentation at the next Thursday meeting held on August 14, 2008.

What action are you seeking from the Board of Commissioners?

Adoption of the proposed amendments.

The Planning Commission recommended APPROVAL WITH MODIFICATIONS IN A 4-1 VOTE

If this item requires funding, please describe:

N/A

Has this issue come before the Commissioners in the past? Yes

If so, when? Thursday, July 24, 2008

Do you need audio-visual for the presentation? No

Back-up Material Submitted? Yes

STAFF USE ONLY

Approved by Finance? Yes

Reviewed by Legal? Yes

Approved by Purchasing? Yes

Approved by Administrative Staff? Yes

Staff Notes

Administrator's Approval Yes

Confirmed Meeting Date Thursday, August 14, 2008

- ○ Recognition/ Presentation
- ○ Public Hearing
- ◉ Old Business
- ○ New Business
- ○ Consent
- ○ Report
- ○ Other

10/03/07 – Instructed by B.O.C. to review walls/fences
10/18/07 – PC Wkshop
11/15/07 – PC Wkshop
01/17/08 – PC Wkshop
02/07/08 - PC Wkshop
03/05/08 – BOC Wkshop
04/02/08 – BOC Wkshop
06/04/08 – BOC Wkshop
06/19/08 – PC Wkshop
07/02/08 – PC Public Hearing
07/24/08 – BOC Public Hearing
08/14/08 – BOC Public Hearing

DRAFT - PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE

Delete Section 5-17. Height Limitations of Walls and Fences in its entirety and adoption of the following:

ARTICLE V. GENERAL PROVISIONS

5-17. Walls, Fences, and Entrance Structures located in a front yard in A-R and all residential zoning districts and Residential and Nonresidential Subdivision Entrance Walls and Fences.

A. All walls and fences shall comply with the following:

1. No wall or fence shall be constructed in a public right-of-way, and such wall or fence shall not be constructed any closer than three (3) feet from any fire hydrant. Walls and fences in the right-of-way **shall** be removed.

2. Any vehicular driveway shall have a minimum clearance of fourteen (14) feet in width and fourteen (14) feet in height to allow for the passage of emergency vehicles.

3. All walls and fences shall be maintained and repaired as required in the International Property Maintenance Code.

4. A Zoning Compliance Certificate will be required for all walls and fences located in a front yard prior to construction. A scaled drawing shall be submitted to the Planning & Zoning Department which shall include, but not limited to: wall and/or fence elevations, location, height of wall/fence, posts/columns, and ornamental statues, figurines, and light fixtures, visibility,

spacing over the entire linear footage of wall/fence, changes in grade, building materials, and other requirement of the ordinance.

B. Walls and Fences not exceeding four (4) feet in height shall comply with the following:

1. A wall or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, chain link or other wire materials, or other architecturally engineered facades which match these materials.

2. Posts or columns, light fixtures, ornamental statues, and figurines shall not be included in the measurement of the four (4) foot wall height.

C. Walls and Fences exceeding four (4) feet in height shall comply with the following:

1. A wall and/or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

2. A solid wall and/or fence shall not exceed four (4) feet in height and any portion of a wall and/or fence higher than four (4) feet shall have a minimum visibility of 50 percent (50%) which shall be uniformly spaced over the entire linear footage of the wall and/or fence. Columns and posts shall not be included in this calculation.

3. A vehicular entry structure shall not be subject to the four (4) foot wall and fence requirement or the minimum visibility of 50 percent (50%) within 35 feet of either side of the driveway.

D. Walls and fences that cannot meet height requirements due to changes in grade shall make adjustments to each section (as created by the columns or posts) of the wall or fence to meet the requirements to the greatest degree possible. ***In some cases***, this will result in a stair-step pattern as the wall or fence moves along the grade.

E. Exemptions.

The following shall be exempt from the above requirements:

1. In any residential zoning district where horses are kept in accordance with Article V. General Provisions, Raising and Keeping Horses in Residential Districts, a wall or fence made of chain link or other wire materials is exempt from the four (4) foot maximum height requirement and shall not exceed a maximum of five (5) feet in height in a front yard.

2. Where the use of the property is for farming in an A-R zoning district, including the raising and selling of crops and livestock, is exempt from the four (4) foot maximum height requirement, and exempt from the construction requirements of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

3. Walls and Fences in any residential or A-R zoning district;

   a. On a corner lot, in order to reduce road noise, a solid wall and/or fence along a street which is classified as an Arterial or Collector per the Fayette County Thoroughfare Plan shall be exempt from the four (4) foot maximum height requirement and the 50 percent (50%) visibility requirement. However, this exemption shall not apply to the street which the front door of the residence is facing.

   b. Where a temporary fence is used in conjunction with a construction site, said fence is exempt from the requirements of this section.

   c. A fence required for a telecommunication tower site shall comply with the requirements of Article V. General Provisions, Telecommunication Antennas and Towers and shall be exempt from the requirements of this section.

   d. A wall or fence used in conjunction with a storm water facility shall be exempt from the requirements of this section.

   e. A wall or fence used in conjunction with any non-residential Permitted Use or Conditional Use, including but not limited to: an Animal Hospital, Kennel; Cemetery and Mausoleum; Church, Temple, or Place of Worship; Colleges and Universities; Day Care Facility; School, Private; Telephone, and Electric or Gas Sub-Station or other Public Utility Facilities shall be exempt from the requirements of this section.

   f. With regard to the location of a wall or fence, a through lot shall be exempt from the four (4) foot maximum height requirement and the minimum 50 percent (50%) visibility requirement except for the area between the street from which the lot is accessed and the front building line which shall be treated as a front yard.

E. Residential and Nonresidential Subdivision Entrance Walls and Fences.

Subdivision Entrance Walls and Fences shall be placed on common property under the ownership of the Home Owners Association (HOA) or the Property Owners Association (POA). Common property shall be shown on the Preliminary Plat and/or Final Plat. Said walls and fences shall not be subject to the four (4) foot height or 50 percent (50%) visibility requirements, but shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

(Note: (Check with the Building Permits & Inspections Department for any permitting requirements for walls/fences/subdivision entrances.)

F. Nonconformance.

All walls and fences which were lawfully built and existing on August 14, 2008, and which do not conform with the provisions of this Article, shall be allowed to remain in place and shall be considered to be a legally existing non-conforming wall or fence. Additionally, any walls or fences built prior to August 14, 2008, that were in compliance with all codes and ordinances when it was built except for the height of the wall or fence, and which do not conform with the provisions of this Article, shall be considered a legally existing non-conforming wall or fence and shall be allowed to remain in place. All walls and fences built after August 14, 2008, shall comply with this Article.

PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE

Staff's additions to the current ordinance are indicated in **bold, <u>underline</u>**, and ***<u>italics</u>***.

ARTICLE V. GENERAL PROVISIONS

5-11. ~~Reserved.~~ ***<u>Common Area. When a common area is located between a lot and the road/street right-of-way, the setback on the lot shall be measured from the right-of-way as a front yard setback or from the common area as a side or rear setback and whichever is greater shall apply.</u>***

ARTICLE III. DEFINITIONS

<u>Common Area. Any part of a development that is not part of a building lot and is designated for the common usage of the development.</u>

<u>Fence. Structures made of posts, columns, boards, wire, pickets, wrought iron or rails.</u>

<u>Wall. Structures made of masonry or concrete.</u>

STATE OF GEORGIA;
COUNTY OF FAYETTE

ORDINANCE NO. 2008 - 06

AN ORDINANCE TO AMEND THE FAYETTE COUNTY ZONING ORDINANCE (1980), AS AMENDED, SPECIFICALLY ARTICLE V (GENERAL PROVISIONS) SO AS TO AMEND THE REQUIREMENTS FOR WALLS AND FENCES OF SECTION 5-17. HEIGHT LIMITATION OF WALLS AND FENCES IN ITS ENTIRETY, AS SET FORTH THEREIN; AND

SPECIFICALLY ARTICLE V (GENERAL PROVISIONS) SO AS TO ADD THE REQUIREMENTS FOR A COMMON AREA OF SECTION 5-11. COMMON AREA IN ITS ENTIRETY, AS SET FORTH THEREIN; AND

SPECIFICALLY ARTICLE III (DEFINITIONS) SO AS TO ADD THE DEFINITION FOR COMMON AREA, FENCE, AND WALL AS SET FORTH THEREIN; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED AS FOLLOWS:

Section I. The Fayette County Zoning Ordinance (1980), as amended, is hereby further amended by amending the provisions for walls and fences in its entirety; by adding provisions for a common area; and by adding definitions for Common Area, Fence, and Wall.

Section II. The Fayette County Zoning Ordinance (1980), as amended, is hereby further amended by deleting Section 5-17. (Height Limitation of Walls and Fences) in its entirety, and in lieu thereof, enacting a new Section 5-17. (Height Limitation of Walls and Fences) to read as follows:

ARTICLE V. GENERAL PROVISIONS

5-17. Walls, Fences, and Entrance Structures located in a front yard in A-R and all residential zoning districts and Residential and Nonresidential Subdivision Entrance Walls and Fences.

A. All walls and fences shall comply with the following:

1. No wall or fence shall be constructed in a public right-of-way, and such wall or fence shall not be constructed any closer than three (3) feet from any fire hydrant. Walls and fences in the right-of-way shall be removed.

2. Any vehicular driveway shall have a minimum clearance of fourteen (14) feet in width and fourteen (14) feet in height to allow for the passage of emergency vehicles.

3. All walls and fences shall be maintained and repaired as required in the International Property Maintenance Code.

4. A Zoning Compliance Certificate will be required for all walls and fences located in a front yard prior to construction. A scaled drawing shall be submitted to the Planning & Zoning Department which shall include, but not limited to: wall and/or fence elevations, location, height of wall/fence, posts/columns, and ornamental statues, figurines, and light fixtures, visibility, spacing over the entire linear footage of wall/fence, changes in grade, building materials, and other requirement of the ordinance.

B. Walls and Fences not exceeding four (4) feet in height shall comply with the following:

1. A wall or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, chain link or other wire materials, or other architecturally engineered facades which match these materials.

2. Posts or columns, light fixtures, ornamental statues, and figurines shall not be included in the measurement of the four (4) foot wall height.

C. Walls and Fences exceeding four (4) feet in height shall comply with the following:

1. A wall and/or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

2. A solid wall and/or fence shall not exceed four (4) feet in height and any portion of a wall and/or fence higher than four (4) feet shall have a minimum visibility of 50 percent (50%) which shall be uniformly spaced over the entire linear footage of the wall and/or fence. Columns and posts shall not be included in this calculation.

3. A vehicular entry structure shall not be subject to the four (4) foot wall and fence requirement or the minimum visibility of 50 percent (50%) within 35 feet of either side of the driveway.

D. Walls and fences that cannot meet height requirements due to changes in grade shall make adjustments to each section (as created by the columns or posts) of the wall or fence to meet the requirements to the greatest degree possible. In some cases, this will result in a stair-step pattern as the wall or fence moves along the grade.

E. Exemptions.

The following shall be exempt from the above requirements:

1. In any residential zoning district where horses are kept in accordance with Article V. General Provisions, Raising and Keeping Horses in Residential Districts, a wall or fence made of chain link or other wire materials is exempt from the four (4) foot maximum height requirement and shall not exceed a maximum of five (5) feet in height in a front yard.

2. Where the use of the property is for farming in an A-R zoning district, including the raising and selling of crops and livestock, is exempt from the four (4) foot maximum height requirement, and exempt from the construction requirements of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

3. Walls and Fences in any residential or A-R zoning district;

   a. On a corner lot, in order to reduce road noise, a solid wall and/or fence along a street which is classified as an Arterial or Collector per the Fayette County Thoroughfare Plan shall be exempt from the four (4) foot maximum height requirement and the 50 percent (50%) visibility requirement. However, this exemption shall not apply to the street which the front door of the residence is facing.

   b. Where a temporary fence is used in conjunction with a construction site, said fence is exempt from the requirements of this section.

   c. A fence required for a telecommunication tower site shall comply with the requirements of Article V. General Provisions, Telecommunication Antennas and Towers and shall be exempt from the requirements of this section.

   d. A wall or fence used in conjunction with a storm water facility shall be exempt from the requirements of this section.

   e. A wall or fence used in conjunction with any non-residential Permitted Use or Conditional Use, including but not limited to: an Animal Hospital, Kennel; Cemetery and Mausoleum; Church, Temple, or Place of Worship; Colleges and Universities; Day Care Facility; School, Private; Telephone, and Electric or Gas Sub-Station or other Public Utility Facilities shall be exempt from the requirements of this section.

f. With regard to the location of a wall or fence, a through lot shall be exempt from the four (4) foot maximum height requirement and the minimum 50 percent (50%) visibility requirement except for the area between the street from which the lot is accessed and the front building line which shall be treated as a front yard.

F. Residential and Nonresidential Subdivision Entrance Walls and Fences.

Subdivision Entrance Walls and Fences shall be placed on common property under the ownership of the Home Owners Association (HOA) or the Property Owners Association (POA). Common property shall be shown on the Preliminary Plat and/or Final Plat. Said walls and fences shall not be subject to the four (4) foot height or 50 percent (50%) visibility requirements, but shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

(**Note:** Check with the Building Permits & Inspections Department for any permitting requirements for walls/fences/subdivision entrances.)

G. Nonconformance.

All walls and fences which were lawfully built and existing on August 14, 2008, and which do not conform with the provisions of this Article, shall be allowed to remain in place and shall be considered to be a legally existing non-conforming wall or fence. Additionally, any walls or fences built prior to August 14, 2008, that were in compliance with all codes and ordinances when it was built except for the height of the wall or fence, and which do not conform with the provisions of this Article, shall be considered a legally existing non-conforming wall or fence and shall be allowed to remain in place. All walls and fences built after August 14, 2008, shall comply with this Article.

The Fayette County Zoning Ordinance (1980), as amended, is hereby further amended by adding Section 5-11. (Common Area) in its entirety, enacting a new Section 5-11. (Common Area) to read as follows:

5-11. Common Area. When a common area is located between a lot and the road/street right-of-way, the setback on the lot shall be measured from the right-of-way as a front yard setback or from the common area as a side or rear setback and whichever is greater shall apply.

The Fayette County Zoning Ordinance (1980), as amended, is hereby further amended by adding definitions to Article III (Definitions), thereby enacting a definition for Common Area, Fence, and Wall to read as follows:

Common Area. Any part of a development that is not part of a building lot and is designated for the common usage of the development.

Fence. Structures made of posts, columns, boards, wire, pickets, wrought iron or rails.

Wall. Structures made of masonry or concrete.

Section III. If any part of this Ordinance shall be declared unconstitutional by the judgment of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder of this enactment shall remain in full force and effect.

Section IV. All laws, ordinances, and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section V. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this 14th day of August, 2008.

FAYETTE COUNTY BOARD
OF COMMISSIONERS

_____
Jack Smith, Chairman

ATTEST:

_____
Floyd L. Jones, Deputy Clerk