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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Pete Frisina/Dennis Dutton

Preferred Meeting Date: Thursday, August 14, 2008

Wording for the Agenda:

Approval of permission for staff to advertise proposed amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1. Conditional Use Approval, B. Conditional Uses Allowed, 23. Home Occupation as presented by the Planning & Zoning Department.

Background/History/Details:

The P&Z Department had a property owner of a lot zoned C-H that contains a vacant single-family residence who asked if the property is sold or rented, if the new property owner could have a Home Occupation. Upon review of the Zoning Ordinance, it was discovered that a Single-Family Residence is a Conditional Use allowed in the C-C, C-H, M-1, M-2, and O-I zoning districts. A Home Occupation is a Conditional Use allowed in the A-R and residential zoning districts but is not a Conditional Use in the C-C, C-H, M-1, M-2, and O-I zoning districts. Based on these requirements, a single-family residence is not allowed to have a Home Occupation in the C-C, C-H, M-1, M-2, and O-I zoning districts. Instructed by BOC on 06/04/08 to begin review.

This issue was discussed at length at the June 4 BOC Workshop. It will be heard in Public Hearing by the BOC on September 25.

What action are you seeking from the Board of Commissioners?

Permission to advertise the proposed amendments for the P.C. on 09/04/08 and the B.O.C. on 09/25/08.

If this item requires funding, please describe:

N/A

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

If so, when? Wednesday, June 4, 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

06/04/08 - Instructed by BOC to begin review
06/19/08 - PC Wkshop
08/06/08 – BOC Wkshop

DRAFT – PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE

Staff's additions to the current ordinance are indicated in **bold, underline**, and ***italics***. ~~Strikethrough~~ indicates deletion.

ARTICLE VII. CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS

7-1. Conditional Use Approval, B. Conditional Uses Allowed:

23. Home Occupation. (Allowed in A-R**,** ~~and~~ residential zoning districts***, C-C, C-H, M-1, M-2, and O-I zoning districts***).

a. Residents. Only residents of the dwelling may be engaged in the home occupation.

b. Incidental Use. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.

c. Display, Sale. No display of products shall be visible from the street, and only products produced on the premises may be sold on the premises, except that bonafide agricultural products grown on the premises may be displayed in an Agricultural-Residential Zoning District.

d. Area. Use of the building for this purpose shall not exceed thirty-five (35) percent of the principal building.

e. Alterations. No internal or external alterations inconsistent with the residential use of the building shall be permitted.

f. Accessory Buildings. No accessory buildings or outside storage shall be used except as otherwise provided herein.

g. Music, etc. Instruction in music and similar subjects shall be limited to two (2) students at a time.

h. Vehicles. Only vehicles used primarily as passenger vehicles shall be permitted to remain on the premises.

i. Uses. The following and similar uses shall not be considered home occupations: automobile service station, automobile and related machine sales, automobile repair or maintenance, ambulance service, rescue squad, amusement or recreational activities (commercial), animal hospital, commercial kennel, veterinarian clinic or animal boarding place, pawn shops, acid storage and manufacturing, heavy manufacturing, fortune teller, palm reader, and massage therapy.

For Your Information Only

37. Single-Family Residence. (Allowed in the C-C, C-H, M-1, M-2, and O-I Zoning Districts).

a. Said residence shall be a single-family detached residence.

b. Said residence shall not be less than 1,200 square feet, and said residence shall not be allowed in subdivision developments as defined by the Subdivision Regulations of Fayette County.

NEW BUSINESS:

D. Discussion of proposed amendments to the Fayette County Zoning Ordinance, Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1. Conditional Uses Approval, B. Conditional Uses Allowed, 23. Home Occupations, as presented by the Planning and Zoning Department.

Mr. Pete Frisina discussed the need for the proposed amendments to the Zoning Ordinance with the Board. He said staff is seeking permission to work on the ordinance and that the work would basically be a housekeeping measure to bring more uniformity to the ordinance. He explained that in residential zoning classifications, home occupations are allowed as a conditional use but, however, our Zoning Ordinance does not allow home occupations when a citizen lives in a home on a site that has a nonresidential zoning classification such as O-I, C-C or C-H. He informed the Board that there is a handful of properties in the County where homes are in nonresidential zoning districts but the property has not sold or has not been developed so the home owners are still living there. He said Planning and Zoning wants to work on the Home Occupation portion of the ordinance to allow home occupations within a home in all of the nonresidential zoning districts. He emphasized that staff's intent was to clean up the ordinance in order to allow citizens who have a nonresidential lot which contains a single-family residence to use the property in a nonresidential manner. Some discussion followed. The Board's consensus was to give Planning and Zoning permission to begin the review of the Conditional Uses to determine the feasibility of adding Home Occupation provisions to C-C, C-H, M-1, M-2 and O-I zoning districts as Conditional Uses. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.