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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Dennis Dutton/Pete Frisina

Preferred Meeting Date: Wednesday, November 5, 2008

Wording for the Agenda:

Discussion of Planning Commission's recommendations regarding a request from Richard Norman of Artisan Properties, Inc., owner of Storage Xxtra on SR 85 N, to either create a new zoning district to allow a broader variety of uses or to augment the uses currently allowed in the M-1 zoning classification.

Background/History/Details:

On 07/21/08, a letter was received from Richard Norman of Artisan Properties, Inc. (Storage Xxtra on S.R. 85 North) requesting additional uses in the M-1 zoning district. On 09/03/08, the BOC instructed Staff to research two potential alternatives: creating a new zoning district or expansion of the uses in the M-1 zoning district and return within three months to discuss research.
The PC held a Workshop on 09/18/08 to discuss the request. The Planning Commission was not in favor creating a new zoning district.
On 10/02/08, a second letter was received from Mr. Norman requesting general office uses in the M-1 zoning district limiting the size to no more than 450 sf or no more than 700 sf. On 10/16/08, the PC held a Workshop and made a motion to propose no amendments to the M-1 zoning district at this time stating that the Planning Commission had thoroughly reviewed the M-1 uses and made modifications on 02/22/07. The motion unanimously passed.

What action are you seeking from the Board of Commissioners?

Direction from BOC concerning the request of Mr. Richard Norman to create a new zoning district or augmenting the allowed uses in the M-1 zoning district.

If this item requires funding, please describe:

N/A

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

If so, when? Wednesday, September 3, 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 Wednesday, November 5, 2008

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

C. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding the creation of a new zoning district which would permit a broad variety of uses or would augment the allowed uses with the M-1 zoning district, as requested by Mr. Richard Norman of Artisan Properties, Inc. (Storage Xxtra on State Route 85 North).

Community Development Director Pete Frisina introduced Mr. Richard Norman to the Board and said that both he and Mr. Norman had come to the Board seeking either permission or guidance, and then turned the discussion over to Mr. Norman.

Mr. Norman said he has a dilemma where the product that he offers does not fall comfortably within any zoning category, and explained that ten years ago, he started a self-storage company that has evolved into more of a business center with a large number of tenants, office complexes, self-storage buildings, and even a small conference room. He stated that in February 2007, the Board of Commissioners "generously consented" to amend some of the allowed uses under the M-1 zoning category and that their consent had been very helpful to him, but since that time a number of other uses have arisen that he also wanted to have permitted under M-1 zoning. He summarized that he was requesting a series of specific uses to be added to the M-1 zoning districts, reminded the Board that the uses he was requesting were detailed in the letter he provided them earlier, and mentioned that the bulk of the uses he was requesting was for professional type services.

Mr. Frisina resumed the conversation by reminding the Board that the County had been through this type of exercise with M-1 zoning a number of times in the past, and gave a brief history of past efforts and studies undertaken by the Board of Commissioners in relation to M-1 zoning. He stated that after looking at Mr. Norman's request, he noticed Mr. Norman did not desire the type of businesses that are "heavily used" in M-1 zoning and he did not want the retail uses found in commercial zoning, but did desire businesses that are service oriented, and that he desired to have a mixture of professional services. He explained that in short, Mr. Norman wanted to "cherry-pick" uses from Fayette County's three main nonresidential zoning categories and essentially wanted to create something that was a combination of all those categories. Mr. Frisina stated that the problem is that Fayette County does not have a mechanism in place to allow for situations that Mr. Norman presents since the County's zoning is very specific and the permitted uses are also separated uses. As a result, he said staff would like to explore what options are available and to explore creating either a new zoning district or something that allows for some flexibility as opposed to "just trying to fit a square peg into a square hole". He recalled that a few years ago Fayette County had a Planned Unit Development (PUD) zoning category that allowed for a mixture of nonresidential uses, but it was "deleted" from the zoning ordinance around 1998 when Fayette County enacted a "wholesale kind of amendment of the zoning ordinance". He suggested that what was once deleted would now have to be

readdressed. He added that a PUD is a zoning classification that allows a developer to set standards for a development before bringing those standards to the County for the County's evaluation to determine if those standards met the County's expectations.

Commissioner Maxwell asked if Mr. Frisina was suggesting an increase to the number of uses in M-1 zoning or if his suggestion was to write a new ordinance to create a new zoning category. Mr. Frisina answered that he did not think that any one zoning category could address everything Mr. Norman was looking for, but reiterated that he would like to explore options in order to see if there is some way the County could create something that allows a business person or developer to create a mixture of uses within nonresidential zoning. Chairman Smith asked Mr. Frisina if he was thinking of a new zoning category, and Mr. Frisina replied that he was interested in reviewing the old PUD zoning for mixed-use businesses and wanted to see if they could be resurrected in order to meet these types of issues.

Commissioner Frady asked if nonresidential PUDs were similar in nature to residential PUDs, and Mr. Frisina replied that while they are similar there are exceptions. He said with a residential PUD, developers are allowed to set standards for different types of lot sizes and setbacks and the County would determine whether or not those standards are acceptable, but with a nonresidential PUD, the developers are also allowed to set their own standards and to supply to the County the types of uses they desire in the PUD district for the County's evaluation and approval.

Further discussion occurred in regard to the nature and safety concerns of nonresidential PUDs. Mr. Norman interjected that while he was open to the concept of a PUD, his original request was to allow some uses to be either directly or conditionally permitted in the M-1 category, and he thought that could be done rather quickly.

Chairman Smith said the problem he had with the request was with the safety issues that are inherent with businesses located in an M-1 zoning district, and that he was not comfortable with having forklifts and trucks in the same proximity where children may be present. He added that it was unfortunate the Board could not authorize an exception for this particular piece of property while it excluded all other properties located in M-1 zoning. He sympathized with Mr. Norman but said this was a safety issue, and he did not see any other way around the problem without developing some type of different zoning category for this type of unique use. Mr. Norman agreed that safety was an issue but added the types of businesses he wanted were professional services such as building contractors, engineering firms, insurance businesses, and real estate brokerages. Chairman Smith responded that while he did not object to those uses, he did object to permitting blanket professional services uses in an M-1 zoning since part of professional services includes child psychologists with the result that children and their safety are brought back into the equation.

Commissioners Frady and Horgan also were concerned that by creating a new zoning category or enacting nonresidential PUDs, Fayette County would take tenants away from people who constructed their buildings in properly zoned areas.

Chairman Smith said it was obvious that there were some problems with the issue and suggested that the Board allow Mr. Frisina to research two possible alternatives. He suggested the first alternative would be a long, drawn-out process of trying to design a new zoning district, and that the second alternative would be for Mr. Frisina to pick a few selected uses in order to review and determine if Fayette County should expand the allowable uses that are listed in the M-1 designation. Commissioner Peter Pfeifer added he would like to see some examples of nonresidential PUDs, and Commissioner Maxwell added that he wanted to have a report on this topic provided within three months.

The Board directed Community Development Director Pete Frisina to research two potential alternatives to the proposed amendments to the Fayette County Zoning Ordinance. The first alternative that the Board directed Mr. Frisina to research was the possibility of creating a new zoning district. The second alternative was to research some of the selected uses, as listed in the documentation provided with this request, in order to determine if there should be an expansion of the permitted uses in an M-1 zoning district. The Board further directed Mr. Frisina to return within three months to discuss his research. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.

1. **Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding the creation of a new zoning district which would permit a broad variety of uses or would augment the allowed uses within the M-1 Zoning District, as requested by Mr. Richard Norman of Artisan Properties, Inc. (Storage Xxtra on S.R. 85 North).**
Instructed by the BOC on 09/03/08 to proceed forward.

Dennis Dutton explained that Mr. Richard Norman had appeared before the B.O.C. and requested additional uses for his business. He confirmed that the B.O.C. had instructed Staff to have the proposed amendments ready for presentation at the December B.O.C. Workshop. He advised that there are basically two (2) ways to approach the request: 1) Revise the C-H Zoning District; or 2) Develop a Planned Unit Development-Planned Business Park Zoning District. He reported that Staff is not recommending amendments to the M-1 Zoning District. He also pointed out that there are some existing businesses which would not be allowed within the C-H Zoning District. He added that a PUD would allow a planned, mixed use of office, commercial, and industrial.

Chairman Powell stated that he had asked Mr. Dutton to bring copies of the L-B Limited Business Zoning District which was adopted in 1989, but deleted in its entirety years later due to the lack of usage of the zoning district.

Mr. Dutton introduced Mr. Norman to the P.C.

Mr. Norman thanked the P.C. for their help in amending the M-1 Zoning District previously. He stated that he had received numerous requests from office tenants; however, they were not able to locate in the development due to the use restrictions of the M-1 Zoning District. He said that Storage Xxtra is a nontraditional product in that there is a substantial amount of self-storage and professional offices which have evolved into a business park. He remarked that at the time of the development, the M-1 Zoning District was the only zoning district which allowed self-storage, which is the bulk of the project; however, self-storage has since been added to the C-H Zoning District. He added that he would like to be able to offer his development to more businesses which would not be inconsistent with the development and not be detrimental to the county. He provided a copy of his list of tenants.

Mr. Norman stated that he owns this type development in Columbus, Macon, Warner Robins, Paulding County, McDonough, LaGrange, and other markets. He said that his development was "turn key" since the tenants are provided everything except a telephone. He commented that it has been a great way to get new businesses up and running. He stated that his development had a lot of "satellite offices" for tenants who have a main office but need a small office in a particular area with basically a desk, telephone, and fax machine.

Mr. Norman remarked that to fast track the situation would be to add uses to the M-1 Zoning District. He stated that should he rezone a portion of his 19 acres there would be problems with complying with setbacks, etc. He added that should he rezone the entire tract to C-H there would be some uses eliminated.

Mr. Dutton advised that the City of Peachtree City has a General Industry (GI) Zoning District which allows what Mr. Norman is proposing.

Jim Graw stated that he was not in favor of amending the C-H Zoning District or creating a PUD.

Chairman Powell stated that he wanted to see the O-I Zoning District kept "pure". He said that the development is not as attractive as some of the existing office parks; however, it is not designed as an office park but it is ideal for start-up businesses. He noted that some of the uses in the M-1 Zoning District are not authorized in the C-H Zoning District. He reported that the M-1 Zoning District was recently amended for additional uses.

Al Gilbert commented that he was not in favor of rezoning the property from M-1 to C-H; however, he could support additional uses to the M-1 Zoning District.

Tim Thoms asked if each tenant has their own restroom facilities.

Mr. Norman replied that each unit has its own restroom.

Chairman Powell pointed out that a barber shop, beauty shop, dance studio, music teaching studio are not appropriate uses because some of the clients could be children and there should be no uses involving children in the M-1 Zoning District due to safety issues.

Mr. Norman replied that this point has already been stressed by Chairman Jack Smith and it is a point well taken.

Chairman Powell asked the P.C. how they would like to proceed since they did not want to create a new zoning district such as a PUD-PBP or L-B; however, he suggested that Staff continue development of a PUD.

Mr. Thoms replied that he was willing to look at additional uses for the M-1 Zoning District; however, he has not heard any tonight that are a good fit.

Mr. Graw concurred. He added that the development of a PUD would only provide additional uses. He said that the PUD should not be developed based on Mr. Norman's development.

Mr. Dutton noted that a PUD would provide for mixed uses such as office, commercial, and industrial. He reported that the applicant would present the intended uses with their Development Plan.

Chairman Powell asked Mr. Dutton to review the average cost per square foot for O-I vs. M-1, how much O-I property remains vacant, and the size. He said that the P.C. is not interested in amending the C-H Zoning District. He commented that he was interested in the Staff's idea and would like to see what they propose. He requested that the request be placed on the October P.C. Workshop.

Mr. Norman remarked that he was at the County's mercy and thanked the P.C. for their time. He said he would like to see the M-1 Zoning District revised with a limitation on size and additional uses.

The P.C. thanked Mr. Norman for attending the Workshop.

2. **Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding the creation of a new zoning district which would permit a broad variety of uses or would augment the allowed uses within the M-1 Zoning District, as requested by Mr. Richard Norman of Artisan Properties, Inc. (Storage Xxtra on S.R. 85 North).** *Instructed by the BOC on 09/03/08 to proceed forward. Discussed by P.C. on 09/18/08.*

Dennis Dutton stated that he had researched vacant O-I space along the S.R. 54 West Corridor; however, it appears that when property is rezoned to O-I, when it is developed it is usually occupied by a single tenant. He pointed out that there is one (1) lot on Sandy Creek Road containing a single-family dwelling, one (1) lot on Old Sandy Creek Road containing a single-family dwelling, two (2) lots on S.R. 54 West both containing a single-family dwelling, one (1) vacant lot, and four (4) subdivisions containing a total of 18 lots. He remarked that Mr. Richard Norman of Storage Xxtra had submitted a letter requesting permitting general office use within the M-1 zoning district provided that any such offices are limited in size to no more than 450 square feet or 700 square feet. He advised the PC that they have three (3) options: 1) Amend the M-1 zoning district; 2) Create a new Zoning District; or 3) Propose no amendments.

Chairman Powell recognized Mr. Richard Norman.

Mr. Norman asked if vacant lots meant not occupied or no structure on the property.

Mr. Dutton replied no structure on the property. He added that the majority of the O-I property contained one (1) structure and not a strip type development even though a structure may be occupied by more than one (1) tenant.

Chairman Powell advised that the M-1 zoning district had been revised in February 2007. He stressed that the PC wanted to keep M-1 and O-I as distinct different zonings. He said that the PC had reviewed the M-1 zoning district specifically for Storage Xxtra and he did not see any motivation by any of the PC members to develop a PUD or any motivation to increase the uses in the M-1 zoning district. He stated that the PC wanted to keep M-1 as currently written and because of this, the discussion is over. He added that the PC did not want to continue in the direction of further diluting the O-I.

Mr. Norman stated that the size of the unit, being as small as they are, has no impact.

Chairman Powell replied that it has to do with the uses as opposed to the size of the unit. He stated that size is not the overbearing factor, use is the factor. He added that he did not know what kind of energy development we will have in the next ten (10) years. He said we may find a new solar wind powered device which may fit in M-1 and we would need every bit of the property zoned M-1.

Mr. Norman commented that to a large extent, the development satisfies office needs; however, some office uses are allowed and some aren't.

Chairman Powell noted that the M-1 had been reviewed extensively in the past and several uses were added at that time; however, the PC is not ready to do anything further.

Mr. Graw remarked that there would probably be better usage of the facility if economics were better.

Chairman Powell remarked that the PC did not want to create something now because of the current economic conditions that, in the future, we may look back and ask why we did that.

Mr. Norman stated that he was getting foreclosure companies setting up temporary offices at his other locations due to economics.

Tim Thoms made a motion to propose no amendments to the M-1 zoning district at this time. He stated that the PC had thoroughly reviewed the M-1 uses and made modifications in 2007. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

Mr. Norman thanked the PC for their consideration. He added that the P&Z Staff had been one of the best groups that he had worked with and that they were very professional.

Al Gilbert advised Mr. Norman that the PC is not the final vote and that he could appear before the BOC.

ORDINANCE NO. 2007-02 - CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VI. DISTRICT USE REQUIREMENTS, SECTION 6-21. M-1 LIGHT MANUFACTURING DISTRICT APPROVED:

Chairman Smith remarked that the Planning Commission recommended approval 5-0.

Zoning Director Dennis Dutton remarked that the Planning and Zoning staff was requesting the Board of Commissioners to approve the zoning amendment to the Fayette County Zoning Ordinance regarding the permitted uses to the M-1 zoning district. He said these updated permitted uses would give more precise uses as well as adding more uses that could be supported by other businesses which were not retail and in which today's businesses could be incorporated into the warehousing distribution uses.

Chairman Smith asked if anyone wished to speak in favor of this amendment request. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve the amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-21. M-1 Light Manufacturing District, discussion followed.

Commissioner Frady questioned Section D. 1-B referring to half acre lots with sewage and central water. He recalled this had been removed from the ordinance for residential but could not remember if it had been removed in this particular section or not. He asked for clarification.

Attorney McNally interjected that this had been removed from residential but not taken out of the commercial.

Commissioner Pfeifer remarked that the staff and the Planning Commission had reviewed this many times and he wanted to thank them for all of their hard work on this item.

Commissioner Frady asked if a central sewer system was the same thing as a central sanitary system.

Attorney McNally replied that a central sanitary sewer system would be a bonafide sewer system.

Commissioner Maxwell said he had a question regarding the M-1 zoning district. He asked what was trying to be accomplished with the M-1 district.

Mr. Dutton replied in discussions with the Planning Commission it was very vague in how permitted uses were being interpreted in the M-1 zoning district. He said the M-1 zoning district was for light industry and not for major heavy industry with air pollution or a lot of noise. He said staff had come up with a list of things that go together. He said engineering firms were not listed in this but engineering firms would have the equipment and probably would be a good fit for something like this because general contractors were allowed in those type uses. He said it was specific in that the Planning Commission wanted to make sure that there was no retail in this but they wanted to put things in that would work together. He said they wanted to do away with the vagueness and put more permitted uses in.

Commissioner Maxwell asked Mr. Dutton to give him an idea of an area of the county that has M-1 so he could get a picture in his mind of this zoning district.

Mr. Dutton replied that S.R. 85 North was predominantly M-1. He remarked that the Lee Center was a large M-1 facility. He said there was also some M-2 along the S.R. 314 corridor and S.R. 85 as well.

Commissioner Maxwell said he had seen some of the paperwork regarding self-storage facilities. He asked if the county was allowing businesses to operate out of self-storage facilities.

Mr. Dutton replied that there was a new trend with some of the self-storage buildings where they were developing not only storage but handling certain types of office space within the facility. He said staff wanted to make sure that these types of businesses had the same sense of community although staff did not want an office park.

Commissioner Maxwell asked for clarification regarding self-storage facilities having several small businesses located there with relatively inexpensive office space.

Chairman Smith responded that generally with the new self-storage facilities what they had done in effect was take one of the self-storage units and the other unit would be an office. He said sometimes these units were side by side and sometimes they were part of the self-storage unit as a storefront and the other part was the doorway to get to the storage area.

Commissioner Maxwell said he was not aware of this kind of situation. He questioned if there were restrooms in these kinds of places.

Chairman Smith replied that he did not know.

Mr. Dutton interjected that there should be restrooms in these facilities. He said these would be required by code.

Commissioner Maxwell said if this was a business then a restroom would be a requirement. He asked if the Fire Marshal inspected these kinds of businesses.

Mr. Dutton replied yes and stated before these businesses could get a business license there would have to be an inspection by the Fire Marshal.
Commissioner Maxwell asked if this was something new that was being discussed tonight or had this been going on.

Mr. Dutton replied that this was something that had been in discussion with the Planning Commission for the last two to three months.

Commissioner Maxwell remarked on the self-storage facility located on S.R. 85 North across from Dixie Land Amusement Park and asked if there was a zoning for this type of business that would allow these small businesses to be located all the way up and down S.R. 85. He thought the intent was to keep Fayette County from looking like the Riverdale area.

Mr. Dutton responded the answer to Commissioner Maxwell's question was yes. He said if a general contractor wanted to locate in this business these would not be denied in the M-1 zoning district because certain types of joint development such as multi-

tenant buildings were allowed. He said staff had cleaned up the language and included more uses that were permitted and staff had tried to make these uses ones that would not include retail, walk-in or heavy parking.

Chairman Smith interjected that this was not an enabling ordinance because this was already allowed. He said this ordinance would include additional things that could not be done.

Commissioner Maxwell said he was not sure that he agreed with the overall concept of the M-1 zoning district but this was not an issue before the Board tonight. He said he was not sure how this zoning district got approved in Fayette County but it was certainly not something that he would have approved.

Commissioner Frady asked if there was a lot of walk-in retail business located there.

Mr. Dutton remarked that if a business owner wanted to locate a business selling handbags in that district they were now told no. He said in a wholesale operation it was defined as selling in mass quantities and distributing it out then they can do that, but the Planning Commission and staff were specific that they wanted to keep the retail out.

Commissioner Maxwell said in looking at this there was farm equipment sales, feed sales, fertilizer sales, tire sales, and shrubbery sales. He felt these sounded like retail sales but he questioned if it stated somewhere in the body of the ordinance where it was restricted to only being commercial.

Mr. Dutton replied that these were already in the ordinance.

Commissioner Maxwell said airports, hotels and trade schools were also listed and would be permitted.

Commissioner Frady suggested this be addressed at some point.
Commissioner Maxwell said he had a problem with the overall scheme of this zoning district and he just could not support this and allow more businesses to be located on North S.R. 85.

Commissioner Frady questioned Section C. conditional uses. He said it stated that animal hospital/kennel commercial or noncommercial. He felt this needed review at some point to see if there was anything that might need changing.

Commissioner Maxwell felt this zoning district was a dumping place for obnoxious things. He said there were experimental labs, feed lots, recycling centers and so forth and it just looked like a dumping ground. He said he was not sure of what the intent was for this kind of zoning but he did not know why there would be a zoning for "eye sore" type things that everybody wanted to keep out of Fayette County.

Attorney McNally remarked for many years M-1 zoning had been located in these areas. He remarked that M-1 was a use where things that would not be located in an office park or retail center would be located. He noted that M-2 zoning was even more intense. He said each community had to have some of that use in it and for many years this was where it had been located in Fayette County. He said it was up to the county to either aesthetically or in other ways make it as acceptable as possible. He said staff was recommending adding some uses and those uses have a little bit more sales flavor than there had been in the past. He said the county gets more calls for that rather than heavy duty manufacturing.

Chairman Smith asked if the Board had any further comments. Hearing none, he called for the vote.

The motion carried 4-1 with Commissioner Maxwell voting in opposition. A copy of Ordinance No. 2007-02, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.