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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, July 24, 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, adn Wall as presented by the Planning and Zoning Department.

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 nor have the PC members been able to reach consensus amongst themselves. 03/05/08, the BOC directed staff to return at later date with suggestions regarding the light and sound barriers on roadways, light intrusion, and a better definition of the 50% visibility requirement. On 04/02/08, the BOC directed staff to refine working, include 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 hearings.

What action are you seeking from the Board of Commissioners?

This is a public hearing, after which the Board may take action if desired.

The P.C. recommended APPROVAL WITH MODIFICATIONS 4-1

If this item requires funding, please describe:

Not Applicable.

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, July 24, 2008

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

**THE FAYETTE COUNTY PLANNING COMMISSION** met on July 2, 2008, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

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| **MEMBERS PRESENT:** | Douglas Powell, Chairman<br>Al Gilbert, Vice-Chairman<br>Bill Beckwith<br>Jim Graw<br>Tim Thoms |
| **MEMBERS ABSENT:** | None |
| **STAFF PRESENT:** | Pete Frisina, Director of Community Development<br>Robyn S. Wilson, P.C. Secretary/Zoning Coordinator<br>Sgt. Earl Williams |

**Welcome and Call to Order:**

Chairman Powell called the Public Meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. **Consideration of the Minutes of the meeting held on June 5, 2008.**

Chairman Powell asked the Board Members if they had any comments or changes to the Minutes. Al Gilbert made the motion to approve the Minutes. Tim Thoms seconded the motion. The motion unanimously passed 5-0.

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2. **Consideration of the Workshop/Public Meeting Minutes of the meeting held on June 19, 2008.**

Chairman Powell asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Bill Beckwith made the motion to approve the Public Meeting/ Workshop Minutes. Tim Thoms seconded the motion. The motion passed 4-0-1. Chairman Powell abstained from the voting due to being absent from the Public Meeting/Workshop.

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**THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON JULY 2, 2008 AND BY THE BOARD OF COMMISSIONERS ON JULY 24, 2008.**

3. **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 Walls) as presented by the Planning & Zoning Department.** *Instructed by BOC on 10/03/07 to begin review.*

Pete Frisina explained that the B.O.C. had received a request to allow a fence to remain in the right-of-way. He commented that the County Administrator had instructed Staff to go to the property to look at the fence. He remarked that Staff found the fence to be too high in terms of the ordinance. He said since there was a zoning violation; the County Administrator asked Staff to survey the County and many fences were found which do not comply with the current ordinance. He added that many of the existing fences are very expensive and constructed of wrought iron, brick, stucco, and rock with elaborate entrances. He remarked that these existing fences add aesthetics and value to the homes. He stated that based on Staff research, it is common for a city or county to only address fence violations on a complaint basis.

In which case if there are no complaints a fence violation may never be addressed. He stated without a permitting procedure the ordinance could not be enforced until after the fence is constructed. He noted that Staff began review on the current ordinance to see if the ordinance could be adapted to the existing fences and walls in the County.

Chairman Powell advised that questions from the P.C. had been forwarded to the County Attorney and his responses had been incorporated into the proposed ordinance. He said the County Attorney has provided his expertise and added some good points. He asked if there were any public comments.

Carl Imes asked how the proposed ordinance would be enforced.

Chairman Powell replied that a scaled drawing is required to be submitted to the Planning & Zoning Department for approval and the issuance of a Zoning Compliance Form. He added that fence companies would be advised of the proposed amendments.

Al Gilbert remarked that if someone calls in a complaint the Marshal's Office conducts an investigation.

Hearing no further comments, he closed the floor from further comments.

Tim Thoms made a motion to delete paragraph A in its entirety in the current ordinance. Chairman Powell seconded the motion.

Mr. Thoms explained that he was not comfortable with the proposed amendments. He said that the County had not enforced the current ordinance and how was it going to enforce the proposed ordinance. He stated that he did not agree with all of the stringent requirements in lieu of passing something much simpler.

Tim Thoms amended his motion to delete "Height" from the title of the current ordinance; delete paragraph A in its entirety in the current ordinance; and to delete "apart" in paragraph B and replace it with "in width and height" in the current ordinance.

5-17. ~~Height~~ Limitations of Walls and Fences.

~~A. In any residential zoning district, no wall or fence shall exceed four (4) feet in height within or along a boundary of a front yard. No wall or fence shall exceed eight (8) feet in height. All property zoned A-R where the use of the property is for farming, including the raising and selling of crops and livestock, is exempt from the four (4) foot maximum height requirement.~~

B. No wall or fence shall be constructed in a public right-of-way. Any entrance must be at least fourteen (14) feet ~~apart~~ ***in width and at least fourteen (14) feet in height*** at the driveway to allow for passage of emergency vehicles.

Chairman Powell seconded the amended motion. The motion failed 1-4 with Chairman Powell, Bill Beckwith, Al Gilbert, and Jim Graw voting in opposition.

After a very lengthy discussion on the Draft – Proposed Amendments, a consensus still could not be reached by the P.C. on all of the elements of the proposed ordinance. Three (3) of the members had problems with various elements such as fence height limitations, a scaled drawing, elevations, and materials to be utilized.

Jim Graw stressed his desire for requiring an ultimate height limitation. He pointed out that there are basically three (3) options: 1) increase the height of a wall/fence in the front yard to twelve (12) feet; 2) increase the height of a wall/fence in the side/rear yard to fourteen (14) feet; and 3) make no changes to the current ordinance. He stated that it is not the property owner's fault that their wall/fence is too high but it is the fault of the County because it did not enforce the ordinance.

A discussion was also held regarding the regulation of fence height by the zoning district; however, the County Attorney had stated that it was too complex to regulate walls and fences in this manner and that a uniform height is easier for enforcement. Some of the P.C. members were in favor of regulating fence height by zoning districts as follows: One (1) acre and two (2) acres– 4 feet in the front and 8 feet on the sides/rear; Three (3) acres – 6 feet in the front and 10 feet on the sides/rear; Five (5) acres – 8 feet in the front and 10 feet on the sides/rear; A-R – no limitations.

A discussion was held about tabling the proposed amendments to allow further discussion at the July Workshop; however, only one (1) of the P.C. members wants to establish a maximum height limitation. He stated that he was not willing to discuss the proposed amendments at a Workshop due to height limitations when the majority of the P.C. had agreed that there should not be a height limitation.

Bill Beckwith made a motion to approve the proposed amendments for Walls and Fences as modified below; Section 5-11. Common Area as submitted; and the three (3) Definitions as submitted. Chairman Powell seconded the motion.

Mr. Thoms reiterated that he was not comfortable approving the proposed amendments; however, he was going to vote in favor of the motion. He commented that after seven (7) Workshops, the P.C. still has not reached a consensus, but just a majority. He suggested that the P.C. make a recommendation and forward the proposed amendments to the B.O.C. and if they don't like the proposed amendments, then the B.O.C. will send it back to the P.C., because it is not a perfect ordinance.

Mr. Graw reiterated that he was not comfortable not having any set height limitations for control and added that he felt strongly about establishing height limitations and could not vote in favor of the motion. He asked why the other members wanted to delete the height limitations and have none when the height limitations had been in the ordinance for years. He expressed concern about decreasing a neighbor's property values due to an oversized fence.

Chairman Powell replied that things have changed over the years and what was good 30 years ago may not be appropriate today. He said thirty (30) years ago, people did not build $50,000, fourteen (14) foot high ornamental fences.

The P.C. modified the proposed amendments as follows with deletions in ~~strikethrough~~ and additions in **bold**, ***italics***, and ***underline***.

## 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~~, utility meter, or utility pole~~. Fences in the right-of-way ~~should~~ ***will*** 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.

~~5. No wall or fence, three (3) feet in height or greater as measured from the road grade, shall be permitted within 20 feet of the intersection of the right-of-way lines of the streets to provide a visibility triangle for traffic safety.~~

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, ~~shall not exceed five (5) feet in height. Light~~ 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 ~~comply with the following:~~

~~1. Where height requirements cannot be met due to changes in grade,~~ ***make*** adjustments ~~shall be made~~ to each section (as created by the columns or posts) of the wall or fence to meet the requirements to the greatest degree possible. This will result in a stair-step pattern as the wall or fence moves ~~down~~ ***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 ~~beginning 20 feet from the intersection of the right-of-way lines~~. 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 ~~lawfully existed, except in the respect of height~~ ***did not comply with the height requirements***, prior to (the adoption date) ***and*** which do not comply with these regulations are considered to be legally non-conforming and shall be allowed to be maintained and rebuilt to their current size and height. All walls and fences erected after (the adoption date) shall comply with the current requirements.

## PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE

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

## ARTICLE V. GENERAL PROVISIONS

5-11. ~~Reserved.~~ ***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 P.C. concurred with the proposed amendment.

## ARTICLE III. DEFINITIONS

***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.***

The P.C. concurred with the proposed amendments.

At this time, Chairman Powell called for the vote. The motion passed 4-1 with Jim Graw voting in opposition.

Chairman Powell commended Pete Frisina and his Staff on what a great job they had done preparing and explaining the proposed comprehensive amendments.

Mr. Frisina thanked the P.C. for taking the time tonight to review the proposed amendments, line by line.

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Chairman Powell asked if there was any further business. He advised that there were no rezoning applications submitted by the deadline; however, the Floodplain Management was advertised for the August Public Hearing and also one (1) preliminary plat.

Pete Frisina advised the P.C. that their comments regarding the S.R. 74 North Corridor would be made to the proposal and the proposal would be forwarded to the Town of Tyrone for their review and input. He also advised the P.C. that it was a consensus of the B.O.C. not to take action on, nor to amend the proposed amendments to the Land Use Element of the Comprehensive Plan for S.R. 54 West.

Robyn Wilson advised the P.C. that she would notify them if a Public Meeting/Workshop needed to be scheduled for Thursday, July 17, 2008.

There being no further business, Jim Graw made the motion to adjourn the Public Hearing. The motion for adjournment unanimously passed 5-0. The Public Hearing adjourned at 9:27 P.M.

**PLANNING COMMISSION**

**OF**

**FAYETTE COUNTY**

**ATTEST:**

**DOUG POWELL**
**CHAIRMAN**

**ROBYN S. WILSON**
**SECRETARY**

**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**

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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. Fences in the right-of-way will 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. 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 did not comply with the height requirements, prior to (the adoption date) and which do not comply with these regulations are considered to be legally non-conforming and shall be allowed to be maintained and rebuilt to their current size and height. All walls and fences erected after (the adoption date) shall comply with the current requirements.

## 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 - _____

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. Fences in the right-of-way will 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. 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 did not comply with the height requirements, prior to (the adoption date) and which do not comply with these regulations are considered to be legally non-conforming and shall be allowed to be maintained and rebuilt to their current size and height. All walls and fences erected after (the adoption date) shall comply with the current requirements.

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 _____ day of _____, 2008.

FAYETTE COUNTY BOARD
OF COMMISSIONERS

_____
Jack Smith, Chairman

ATTEST:

_____

Carol Chandler, Clerk