

THE FAYETTE COUNTY PLANNING COMMISSION met on July 5, 2007 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Douglas Powell, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Tim Thoms

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Planning & Zoning
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Delores Harrison, Zoning Technician
Bill McNally, County Attorney
Deputy Harold Myers

STAFF ABSENT: Dennis Dutton, Zoning Administrator

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 7, 2007.

Chairman Powell asked the Board Members if they had any comments or changes to the Minutes as circulated? Jim Graw made the motion to approve the Minutes. Al Gilbert seconded the motion. The motion passed 4-0-1 with Tim Thoms abstaining from the vote.

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2. Consideration of the Workshop/Public Meeting Minutes of the meeting held on June 21, 2007.

Chairman Powell asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes as circulated? Al Gilbert made the motion to approve the Public Meeting/Workshop Minutes. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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Pete Frisina read the procedures that would be followed including the fifteen (15) minute time limitation for presentation and opposition for petitions.

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON JULY 5, 2007, AND BY THE BOARD OF COMMISSIONERS ON JULY 26, 2007.

3. Consideration of Petition No. 1197-07, W. H. Calloway, Owner, and Stan Sugarman of White Road Associates, LLC, Agent, request to rezone 2.509 acres from R-40 to C-C to develop a Convenience Store with Gasoline Sales. This property is located in Land Lot 155 of the 5th-District and fronts on S.R. 314 and White Road. Staff recommended to table said petition until September 6, 2007 as requested by the City of Fayetteville.

**P.C. Public Hearing
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Attorney Nathan Wheat said that he had no problem with tabling the request until September 6, 2007; however, the City of Fayetteville has not initiated annexation procedures as of today. He stated that the question is whether or not the property is an unincorporated island as of January 1, 1991. He commented that he had been in contact with the City Attorney and the City Planning Department to determine if this is the case. He remarked that this issue should be resolved within the next ten (10) days and asked the P.C. to table the petition until the next public hearing.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none, he closed the floor from public comments. He advised that the County had received a letter from Mayor Steele dated June 21, 2007, and he is anticipating that the annexation process will require sixty (60) days and out of courtesy to the Mayor, he requested that the petition be tabled until September 6, 2007.

Jim Graw asked why the City of Fayetteville requested that the petition be tabled.

Pete Frisina replied that the City of Fayetteville would like for the County not to take action until they find out if they can do the annexation or not.

Mr. Graw asked why does the City want to annex the property.

Mr. Frisina replied that the subject property is an island and the City objects to the intensity of the proposed zoning district.

Tim Thoms asked if the annexation would be affected by the County rezoning the property.

Mr. Frisina replied not that he is aware of.

Attorney Wheat stated that, by Tuesday of next week, a decision should be made if the City can annex under this particular procedure for an island. He advised that they are researching old ordinances to figure out the history of the subject property. He said that by August 2, 2007, it should be clear if the City can proceed or not.

Al Gilbert asked if the petition was tabled for thirty (30) days, could it be tabled for an additional thirty (30) days.

Attorney Bill McNally said that the P.C. has a choice of going forward or to continue the petition for sixty (60) days as the City has requested. He stated that if the petition is tabled for thirty (30) days and the City has begun the annexation process in that thirty (30) days then it is reasonable for the P.C. to take the action to table the petition for an additional thirty (30) days. However, if the City has not begun the annexation process, he remarked that the P.C. could consider the petition.

Bill Beckwith made a motion to table the petition until August 2, 2007. Al Gilbert seconded the motion. The motion was unanimously passed 5-0.

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4. **Consideration of Petition No. 1198-07, Brett Vincent, Owner, and Attorney Steven Ott, Agent, request to rezone 1.872 acres from A-R and R-20 to R-20 to develop one (1) single-family dwelling lot. This property is located in Land Lots 43 and 22 of the 5th District and fronts on Morgan Road. Staff recommended approval with one (1) condition.**

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Attorney Jack Overman advised that the house, which burned down on April 2, 2007, was built in 1976. He confirmed that in 1999, 1.872 acres were subdivided from a larger tract which created a problem with the zoning. He stated that the petitioner is trying to get the house rebuilt. He pointed out that part of the property is zoned R-20 and the remainder is zoned A-R. He said that he was requesting to rezone the tract to R-20, which would place the property under one (1) zoning district. He confirmed that his client would dedicate the additional ten (10) feet of right-of-way as requested in the recommended condition. He asked the P.C. to recommend approval of the petition.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none, he closed the floor from public comments.

Al Gilbert made a motion to approve the petition with one (1) recommended condition. Tim Thoms seconded the motion. The motion unanimously passed 5-0.

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5. **Consideration of Petition No. 1199-07, HWG Limited Partnership No. 1, Owner, and James E. Kendrick, Agent, request to rezone 5.63 acres from M-1 Conditional to C-H to change from a Feed and Seed General Store to a Convenience Store with Gasoline Sales. This property is located in Land Lot 117 of the 4th District and fronts on S.R. 92 South. Staff recommended approval.**

James Kendrick advised that he operated the store located on the subject property. He said he was trying to keep his business alive. He remarked that farmers are slowly disappearing and need for the feed and seed sales have declined. He stated he would like to stay competitive with the other stores in the area and C-H would allow more options to keep the business going.

Chairman Powell asked if there was anyone to speak in favor of the petition.

Howard Guthrie stated that he owned the subject property and was in favor of the petition.

Chairman Powell asked if there was anyone to speak in opposition of the petition. Hearing none, he closed the floor from public comments.

Al Gilbert advised that in 1989, the P.C. received a request for a Feed and Seed Store; however, the property was not land used for commercial or light industrial. He said that a former P.C. member, who was a farmer, expressed the great need to be able to purchase feed, seed, and gasoline and not have to drive all the way to Griffin. He remarked that the P.C. struggled with the request. He commented that the P.C. concurred that it would be easier to control future rezonings with the M-1 Conditional zoning in place, which greatly limited the uses.

Mr. Gilbert advised that approximately three (3) years later, the P.C. received another request to revise the conditions placed on the original rezoning petition. He said that upon visiting the site, he saw rental trucks, landscaping materials, and car repairs. He stated that the P.C. denied the petition stating that it was not their intent to have the property utilized as commercial. He commented that when the property was purchased, the owner was not aware of what was allowed and what was not allowed and the B.O.C. allowed the conditions to be revised. He stressed the importance of potential buyers contacting the County to check the zoning of property.

Bill Beckwith asked if there was a similar property with a similar operation to the south of the subject property.

Mr. Gilbert replied that the property to the south was there prior to any zoning rules.

Tim Thoms asked if C-C was more limited than C-H.

Pete Frisina replied that C-C was less intense than C-H. He stated that Staff had reviewed the uses in C-C; however, the C-C zoning district would not accommodate the existing uses which the applicant is continuing. He explained that the store has evolved into a Convenience Store. He pointed out that the applicant intends on bringing the property into compliance under the C-H zoning district. He stressed that the County does not practice conditional zoning anymore under the advice of legal council. He added that this would provide an opportunity to clean up the situation.

Chairman Powell asked if this area is identified as a commercial node.

Mr. Frisina replied that this area is not designated as a commercial node.

Jim Graw said that he did not feel that M-1 Conditional is the proper zoning for the subject property. He commented that he felt the caboose was driving the train. He stated that the County has not been watching the store to ensure that the uses applied to the zoning are the uses which are being utilized. He added that the County is as much to blame as the individual store operator. He remarked that L-C is not the proper fit because it has a maximum building size of 3,500 square feet. He said that C-C would not give him the uses he has, but C-H will give him the uses he has. He stated that the uses cannot be grandfathered. He commented that he did not want to set a precedent for an area which is basically agricultural residential; however, he is unsure of the property zoning for the site.

Chairman Powell recognized Mr. Kendrick.

Mr. Kendrick advised that Mr. Guthrie has owned the property since 1997 and he has leased the property since 1997. He reported that feed and seed sales have gone down fifty percent (50%) with a 14.5% reduction in revenue. He stressed that he did not want to lose the business. He added that he understood the P.C.'s concerns about the future use of the property.

Mr. Beckwith stated that feed and seed sales is not going to make the business successful. He added that the C-H zoning district will fix what has happened in the past.

Bill Beckwith made a motion to approve the petition. Chairman Powell seconded the motion.

Mr. Thoms concurred with Mr. Beckwith and Staff in that this situation needs to be corrected. He said that if this was a fresh rezoning that he seriously doubted that C-H would be approved. He pointed out that this is the first commercial zoning south of Woolsey. He commented that if a five (5) acre parcel is approved for C-H on a highway scheduled to be four-laned that the P.C. would be setting a precedent, which would make it difficult to argue against future rezonings in the area. He said that the property should remain M-1 Conditional. He stressed that the proper zoning is A-R, which is in keeping with the character of the area and the land use plan.

Chairman Powell pointed out that the property is already being utilized as C-H.

Mr. Graw asked what would be the legalities if the property were rezoned M-1 Conditional.

Attorney Bill McNally advised that the conditions were not valid from the beginning. He said that the P.C. may condition upon physical setting and the need to protect the environment; however, you may not give a zoning and then curtail what is normally permitted within that zoning district. He stated that the property has been utilized as a commercial establishment for quite some time and the current conditions are invalid.

Chairman Powell stated that if the property could be utilized for all the uses in M-1 that would be much more intense than C-H.

Mr. Gilbert stated that the P.C. did not do a good zoning in 1989. He said that this was probably the worse zoning the P.C. ever did because it has become a creeping business. He commented that C-H is the only thing to do at this point in time. He remarked that the P.C. did it and now it needs to be corrected.

Mr. Beckwith asked Mr. Gilbert if he knew back then what he knows now, would he have recommended C-H at that time.

Mr. Gilbert replied that probably neither C-H or M-1 would have been approved.

Mr. Beckwith said that the property appears to be C-H.

Mr. Gilbert concurred and added that what it has become is not what was intended.

Mr. Graw asked what were the plans for the property?

Howard Guthrie replied that he owns a farm in the area and he knows all the neighbors. He said he would like to maybe add a little restaurant in the future which is allowed under the M-1. He commented he plans to clean up the site and relocate and screen the outside storage. He commented that he did not want to do anything which would be detrimental to the community. He added that he wants to enhance the appearance of the site.

Chairman Powell called for the vote. The motion for approval as C-H was passed 4-1 with Tim Thoms voting in opposition.

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6. **Consideration of the proposed amendments to the Fayette County Zoning Ordinance regarding Article III. Definitions; Article VI. District Use Requirements, Section 6-17. O-I, Office-Institutional District; and Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1. Conditional Use Approval, B. Conditional Uses Allowed, D. Conditional Uses for Non-Emergency Medical Transport Service as presented by the Planning & Zoning Department.**

Pete Frisina presented the following amendments:

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

Article III. Definitions

Non-Emergency Medical Transport Service. A service licensed by the State of Georgia under O.C.G.A. 31-11-1 through 31-11-82 as applicable and as administered by the Department Human Resources providing prearranged non-emergency medical transportation.

Article VI. District Use Requirements

Section 6-17. O-I, Office-Institutional District

D. Conditional Uses.

9. *Non-Emergency Medical Transport Service*

Article VII. Conditional Uses, Exceptions, and Modifications

7-1. Conditional Use Approval

B. Conditional Uses Allowed:

29. Non-Emergency Medical Transport Service. (Allowed in the O-I Zoning District)

a. The service must comply with all licensing requirements of the State of Georgia.

b. Parking of all medical transport vehicles is allowed in the side and/or rear yard(s) only in designated parking spaces. Medical transport vehicles shall be screened from the street via a fence or wall. The fence or wall shall be located between the designated parking spaces and the street. Said fence or wall shall be limited to wood, brick, stone, or concrete/concrete block with architectural treatment and shall be a minimum height of eight (8) feet.

c. No on-site vehicle maintenance or fueling facilities are allowed.

29.30. Outdoor Amusement Facilities, Rides, Structures over thirty-five (35) feet in height, including, but not limited to Bungee and Parachute Jumping.

Chairman Powell asked if the BOC wanted to proceed with the proposed amendments.

Pete Frisina replied that the Interim County Administrator had instructed Staff to advertise the proposed amendments for the July public hearings. He advised that the proposed amendments had been discussed twice previously. He pointed out that Non-Emergency Medical Transport would be allowed as a Conditional Use within the O-I zoning district.

Chairman Powell advised that the parking and screening fleet/company vehicles within the overlay corridors would be discussed at the next Workshop/Public Meeting.

Chairman Powell asked if there was any public input. Hearing none, he closed the floor from public comments.

Al Gilbert made a motion to approve the proposed amendments as submitted. Jim Graw seconded the motion. The motion unanimously passed 5-0.

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Chairman Powell asked if there was any further business.

Pete Frisina reminded the P.C. of the Public Meeting/Workshop scheduled for Thursday, July 19, 2007, in the Board of Commissioners Conference Room, First Floor at 7:00 P.M.

An unidentified citizen stated that he would like to address a sewage issue.

Chairman Powell advised the citizen that he was attending the wrong meeting and gave him instructions to the City of Fayetteville.

Another unidentified citizen stated she had attended the City of Fayetteville meeting by mistake and asked what action the P.C. took on Petition No. 1197-07.

Chairman Powell advised that the P.C. recommended to table the petition until August 2, 2007.

There being no further business, Jim Graw made the motion to adjourn the Public Meeting/Workshop. The motion for adjournment unanimously passed 5-0. The Public Hearing adjourned at 7:51 P.M.

PLANNING COMMISSION

OF

FAYETTE COUNTY

ATTEST:

DOUG POWELL
CHAIRMAN

ROBYN S. WILSON
SECRETARY