

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on September 3, 2009, at 7:21 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Fayetteville, Georgia.

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

MEMBERS ABSENT: Jim Graw

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

STAFF ABSENT: Pete Frisina, Director of Planning & Zoning

GUESTS: Jeff Evans of T-Mobile
Sarran Marshall of T-Mobile
Attorney Ellen Smith representing T-Mobile

Welcome and Call to Order:

Chairman Powell called the Public Meeting/Workshop to order and introduced the Board Members and Staff.

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1. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding telecommunication tower requirements.

Dennis Dutton explained that when reviewing locations for potential tower sites, T-Mobile provided Staff with information about the usage of cell phones and asked Staff to review the current ordinance for possible amendments. He presented a map indicating the two (2) mile distance separation between existing towers and a map indicating the one (1) mile distance separation between existing towers located within the highway corridor. He stated that both maps were prepared by Bryan Keller of the Stormwater Management Department.

Mr. Dutton pointed out the area located north of SR 54 West which was blanket zoned R-70 in 1973. He confirmed there was not a state route in this area and the ordinance does not permit a tower to be located in the R-70 zoning district. He introduced Jeff Evans and Sarran Marshall of T-Mobile and Attorney Ellen Smith, who was representing T-Mobile.

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Jeff Evans stated some of the difficulties that T-Mobile was experiencing were the 1,000 foot separation from an off-site residence, the separation between towers, and how the distance is measured.

Chairman Powell asked how 1,000 feet separation distance from an off-site residence was established.

Mr. Evans replied, per a previous Zoning Administrator, that P&Z Staff had recommended a 750 foot separation distance; however, the BOC increased the separation distance to 1,000 feet.

Al Gilbert stated that a previous PC member who worked for Georgia Power had commented, when the tower ordinance was being developed, that a cell phone company is not looked at like Georgia Power, Atlanta Gas Light, and other utility companies. He said the previous member remarked that a cell phone company is like a quasi public utility and the county should try to work with them as best as possible. He stressed that the County was trying to pacify the public and the cell phone companies when the ordinance was adopted; however, everyone knew there may need to be amendments in the future. He commented a tower was a very controversial issue and a landfill may be considered more acceptable to a resident than a tower.

Chairman Powell remarked cell phones are getting closer and closer to being a utility due to the increased usage.

Attorney Ellen Smith reported that this is the first year that people with cell phones only have exceeded the people with land line phones. She noted the Center for Disease Control (CDC) indicated that 15% of adults in Georgia are wireless users only. She said that a lot of people in this economy are getting rid of their land line because they can do more applications on their cell phones. She said it was difficult, if not impossible, to construct a tower and comply with the current ordinance and also meet the customer and FCC demands.

Bill Beckwith said when the tower ordinance was adopted, everyone thought that satellite phones would be utilized and then there would be all these unused towers.

Mr. Gilbert commented that a representative from Bell South attended the public hearings and he said that 15 years from now there will not even be any towers and there will be a box on the outside of your house which runs your computer, television, and your telephone; however, that has not happened.

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Sarran Marshall confirmed that the lease requires the tower to be removed and the site restored should the tower not longer be in use.

Mr. Gilbert remarked he would like to see the ordinance amended a little bit to allow construction of a tower without public hearings being required. He said public hearings for towers should be few and far between and if a public hearing is required, there better be a sound reason why the tower is needed.

Chairman Powell pointed out that to locate in the blanket zoned R-70 area either the ordinance would need to be amended or the property would need to be rezoned from R-70 to A-R.

Robyn Wilson advised that A-R may not be appropriate for a residential area due to the uses permitted, such as livestock.

Attorney Smith circulated a six (6) page handout which included an overview of policies, tower separation, setbacks from residential structures, alternative ordinance provisions provided from Peachtree City, Henry County, and Cobb County, and exemptions for County-owned properties. She said she had seen the 1,000 separation from an off-site residence ten (10) years ago; however, there were numerous applications and staff from the various jurisdictions was spending way too much time on tower applications. She reported that Henry County requires 50% of the height of the tower plus one (1) foot per each two (2) feet of tower height over 75 feet. She commented that a T-Mobile tower is required to be engineered to withstand a constant 70 mph wind with 90-95 mph gusts. She confirmed a tower is engineered to collapse and does not fall sideways.

Mr. Beckwith remarked the two (2) concerns heard the most from the public were concerns about the tower falling on a house and health concerns, such as electronic emissions which could “make me glow in the dark”.

Mr. Evans reported that the Telecommunications Act of 1996 gives a jurisdiction the right to regulate tower placement but not the right to prohibit them. He said that the effect of the current ordinance is prohibition because there are few locations where you can comply with both the 1,000 foot separation distance for an off-site residence and the two (2) mile separation requirement between towers due to the extensive low density development in the County. He stressed that this is why there has been no tower applications submitted because they would probably get denied. He said he had been told repeatedly by the previous BOC that they like the tower ordinance, it is there for a reason, and there is no need for deviation from the ordinance. He reported that 16.5% of households are using wireless service only and have no home land line. He commented the trend is going more and more toward wireless due to the availability of pictures, voice, data, internet transfers, and other available applications.

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Attorney Smith remarked that there are approximately 32 towers indicated on the maps submitted by Mr. Keller; however, there are very few towers for the population of the County. She reported that in Fayette County, 87% of sites are collocations on existing tower facilities. She noted that 13% of sites are “raw land” facilities; however, they have other carriers collocated on them. She said property owners who would not lease land to a cell phone company two (2) years ago are now much more receptive.

Attorney Smith pointed out that the current ordinance does allow people to approach the County to construct a tower on County-owned property.

Mr. Evans said that this section of the ordinance is ambiguous because it does not give the County the right to be exempt from their ordinance. He remarked that when the tower located at Porter Road and SR 85 South was constructed in 2000 or 2001, the County Attorney came before the BOC and asked for a waiver even though E-911 would be collocating on the tower. He suggested that an amendment be made to exempt the County from compliance with its ordinance. He added that in some jurisdiction, the Planning Staff has the ability to decide if a tower may be located on County owned property and the County Attorney negotiates compensation.

Mrs. Wilson stated that approval to locate a tower on County owned property would be a decision made by the BOC and not Staff.

Attorney Smith said that the County would be benefiting financially from allowing a tower to be constructed on County owned property.

Mr. Evans commented that if there were tall structures available in these areas then the telecommunication company would not build anything because of the costs. He noted that the coverage area depended on the terrain, the height of the antenna, and the frequency.

Tim Thoms asked if there are in-building repeaters for residential use.

Mr. Marshall replied that T-Mobile does provide a home based station; however, there is limited distance once you step outside of your home.

Mr. Thoms asked how the FCC is demanding of carriers.

Mr. Marshall said the FCC and the Department of Homeland Security require local jurisdictions and carriers to work together with the E-911 System. He noted the T-Mobile network had processed 7,325 E-911 calls in Fayette County in the past year, an average of 20 per day.

Chairman Powell asked who is responsible for the E-911 in Fayette County.

Mrs. Wilson replied Cheryl Rogers, Director of E-911.

Chairman Powell asked about towers being constructed on school property.

Mr. Evans replied that towers are being constructed on school property in Cobb County and Gwinnett County. He added that the parents are not thrilled with the idea and that it took years to receive approval. He noted that T-Mobile had constructed approximately six (6) towers this year on school property.

Mr. Gilbert pointed out that the ordinance would have to be amended to allow towers on school property and the Board of Education (BOE) would have to approve for a tower to be located on school property; however, the school may be able to do what they want to do on their property. He asked Staff to review past BOC Minutes because he remembered the BOC catching a lot of “flack” when the Maintenance Building was constructed on McDonough Road and it was stated that the County would never develop without complying with the County ordinances again.

Mr. Thoms said a visual impact analysis should also be required.

Mr. Marshall replied that towers can be designed to look like a tree, flagpole, light pole, church steeple, or be painted an aesthetically pleasing color.

Mr. Gilbert commented that when the ordinance was being developed, the County was trying to make sure as many carriers as possible could co-locate on a tower. He said the theory was to try to approve the tower administratively and to keep them out of public hearings. He stressed the ordinance was devised to please the public and the carriers. He added the cell phone carriers were very involved in the development of the tower ordinance.

Mr. Marshall pointed out the FAA requires lighting on a 200 foot high tower which is another visual impact so most of the jurisdictions limited towers to 180 feet in height.

Chairman Powell asked if there were any locations in the County with more than one (1) tower.

Mrs. Wilson replied there were two (2) towers on the same tract on SR 54 West, close to the hospital, and Lake Drive off South Jeff Davis Drive.

Mr. Beckwith asked about the two (2) towers located on SR 92 North.

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Mrs. Wilson advised that they are not located on the same tract but are close together.

Mr. Thoms asked what the FCC requires if there are areas where the E-911 does not work.

Attorney Smith replied that the FCC does not require jurisdictions to allow towers to build wherever they want to in order to provide E-911 coverage, but says that the County needs to have a plan, which Fayette County does, and carriers need to consider that plan in their design, so the burden is more on the carriers.

Mr. Beckwith commented if the property owner does not want to have a tower located on his property that the County can only do so much, which is a problem.

Attorney Smith said the carriers want the County to know that they have gone to property owners who have said no to a tower being constructed on their property.

Mr. Marshall reported that most property owners want a tower placed in the corner of their property because they may want to subdivide the property in the future and then it ends up being too close to an off-site residence. He said when a tower is placed in dense trees, the code requires ten (10) or 20 foot landscape buffer which sometimes mean you have to remove the mature trees and replace them with the landscape requirements.

Mrs. Wilson advised that the County would allow the mature trees to be utilized within the landscape buffer.

Chairman Powell asked why a tower was not allowed on residentially zoned property.

Mr. Gilbert replied the County wanted to stay away from residential property. He added that, at the time, there was not a need to open up a lot of property and the tower company could always come before the PC and BOC. He said a lot more tower applications have been denied than approved.

Mr. Beckwith asked the other PC members if they wanted to designate Sandy Creek Road as an overlay corridor.

Chairman Powell replied he felt this would be a disaster. He said he preferred to have the property owner request to rezone from R-70 to A-R.

Mrs. Wilson cautioned A-R had been denied in the past due to the uses allowed in close proximity to residentially developed property, such as livestock.

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Mr. Marshall commented to rezone to A-R in the middle of R-70 zoning may be considered “spot zoning”.

Mr. Gilbert said he would like to see a tower as a Conditional Use in the R-70 zoning district and to have established controls and not open the flood gate.

Mrs. Wilson advised that as a Conditional Use, no variance could be requested. She said either the tower met the conditions and was allowed to be constructed or if not, then it was not allowed. She pointed out that controls could be established for the R-70 zoning district and if they cannot be met, the Staff cannot administratively approve the Site Plan and public hearings will need to be held before the PC and the BOC. She reiterated that as a Conditional Use, a variance to reduce the requirements could not be requested.

Mr. Gilbert replied that this is fine.

Chairman Powell concurred.

Mr. Marshall suggested allowing a tower to be constructed in the R-70 zoning district and require the setbacks to be 150% of the tower height.

Mr. Thoms asked if Clear and Hughes Net are technologically feasible.

Mr. Marshall replied that Clear operates on the Y Max network and the signal can travel as far as a PCS signal; however, it is not available here because of the distance between towers is too great. He said that both need to co-locate an antenna on a tower but the technology is different.

Mrs. Wilson clarified T-Mobile’s proposed revisions as follows:

- 1) Reduce the two (2) mile separation distance between towers in the Highway Corridor to one-quarter of a mile which is comparable to other jurisdictions. The carrier would have to demonstrate there is a viable reason why the carrier cannot co-locate on an existing tower.
- 2) Reduce the one (1) mile separation distance between towers outside of the Highway Corridor to one-quarter of a mile which is comparable to other jurisdictions. The carrier would have to demonstrate there is a viable reason why the carrier cannot co-locate on an existing tower.
- 3) Reduce the separation distance for an off-site residence from 1,000 feet to the height of the tower.
- 4) Reduce the setbacks for the tower to the height of the tower.

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- 5) Allow multiple towers on the same site with additional restrictions, such as, being unable to

co-locate due to the line of site, lack of coverage, or the tower not being structurally engineered which must be verified by an engineer. Should a carrier remove their antenna from a pre-existing tower, they shall relocate on the other existing tower.

- 6) Measure distances from existing towers from the tower base instead of the tower facility (fence).
- 7) Provide the County the right to be exempt from your own code.

Mrs. Wilson clarified the PC's proposed revisions as follows:

- 1) Allow a tower in the R-70 Zoning District as a Conditional Use.
- 2) Allow a tower to be located on public school property, if acceptable to the BOE.

Chairman Powell advised that the proposed amendments would be discussed at future Public Meetings/Workshops.

Mr. Evans, Mr. Marshall, and Attorney Smith thanked the PC for their time and consideration.

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Chairman Powell asked if there was any further business. He asked Staff to prepare an index for the Zoning Ordinance.

Robyn Wilson replied she was preparing an index for the Zoning Ordinance; however, it will be the last item after all the revisions are completed.

Hearing no further business, Al Gilbert made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 4-0. Jim Graw was absent. The Public Meeting/Workshop adjourned at 9:07 P.M.

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OF
FAYETTE COUNTY**

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ATTEST:

DOUG POWELL
CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY