

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on October 21, 2010, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

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

MEMBERS ABSENT: Bill Beckwith

STAFF PRESENT: Pete Frisina, Director of Community Development
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

STAFF ABSENT: Dennis Dutton, Zoning Administrator

Welcome and Call to Order:

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

* * * * *

1. Discussion of proposed amendments to the Fayette County Zoning Ordinance, in its entirety. *This is part of a two (2) year long review of the Zoning Ordinance.*

Pete Frisina advised the Zoning Ordinance, in its entirety, had been presented to the BOC in August, September, and October. He confirmed the BOC authorized staff to advertise the Zoning Ordinance for public hearings. He reported he had met with each Commissioner individually and had received their input. He said while individual Commissioners had issues with various items in the zoning ordinance, they were not in opposition to the amendments of the Zoning Ordinance in their entirety. He commented he spent a majority of time discussing the proposed amendments to towers, the new Planned Unit Development-Planned Small Business Center zoning district, kennels, and home occupations.

Doug Powell asked if the revised Zoning Ordinance contains a Table of Contents.

Robyn Wilson replied she was preparing a Table of Contents; however, it would not be a part of the County Code of Ordinances but would be available for the PC.

Pete Frisina added the County Code of Ordinances has a “search” feature which will be beneficial to everyone. He opened the County Code of Ordinances on the computer and demonstrated the “search” feature.

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Doug Powell advised he would not be present at the November public hearing; however, he would like to review the revised Zoning Ordinance, in its entirety, and prepare his written comments.

Chairman Thoms asked how items which the PC does not like but don't want to vote in opposition of the entire revised ordinance would be handled.

Pete Frisina said a consensus should be taken among the PC on items the PC does not agree upon.

Jim Graw reminded the PC that the proposed amendments consisted of a consensus by the PC.

Doug Powell commented he would like to have the vote by the PC postponed since he was going to be absent.

Chairman Thoms stated the BOC has reviewed the proposed amendments for three (3) months and instructed staff to advertise for public hearings. He commented the PC has been obligated and tasked to make a recommendation. He said the PC needs to act on the proposed amendments. He advised the PC that the ordinance would have to pass by three (3) affirmative votes.

Robyn Wilson advised the PC to put their concerns in writing and forwarded to her so they could be inserted directly into the Minutes to be a part of the record.

Al Gilbert said it was important to have all of the PC's comments inserted into the Minutes so the BOC could read their concerns.

Doug Powell concurred.

Pete Frisina advised staff had made some revisions since the last submittal to the PC and he presented the following:

PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE

Art III

Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (*canis familiaris*) or domestic cat (*felis catus*). It shall not include livestock (see Sec. 3-62.) The number of animals kept shall be limited to three (3). (Adopted 08/25/05) (*put back in for further discussion*)

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Pete Frisina stated it was the consensus of the BOC that the definition of “Animal” not be deleted at this time, and that staff continue to review this issue after the revised ordinance is adopted.

Apiary. A place where bees and beehives are kept. (removed for further discussion)

Pete Frisina advised that the County Administrator requested this definition be removed and discussed further due to input received from a Commissioner. He said, until such time, bee keeping, as a class of use, is regulated by the Department of Agriculture, and would be allowed in the A-R zoning district.

Aviary. Any place where birds are kept confined for breeding, boarding, or similar purposes. (removed for further discussion)

Pete Frisina advised this definition will be removed at this time and discussed further. He explained staff had been working on the issue of an exotic bird rescue facility, but felt that what was being proposed needed more clarification.

Banquet Hall. A facility which is rented by individuals or groups to accommodate private functions including, but not limited to: banquets, weddings and/or wedding receptions, anniversaries, and other similar celebrations. (use added to C-C and C-H)

Pete Frisina advised banquet hall was added because staff had received questions of where this type use would be allowed.

Client. The party for which professional services are rendered. (Article VII Home Occupation)

Pete Frisina advised client would be discussed under Home Occupation.

Day Spa. An establishment offering massage therapy performed by a licensed massage therapist pursuant O.C.G.A. 43-24A-1, et seq, that in addition may also offer beauty care, body treatments, and the retail sales of related products. (change based on Attorney advise)

Pete Frisina explained the County Attorney suggested this be amended to conform to the County Code regarding massage therapy.

Dog Pen/Run. For the purposes of Article V., Accessory Structures and Uses, a dog pen/run is an outside open air enclosure, consisting of 400 square feet or less, used for the purpose of containing dogs. (clarification for Article V use only)

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Pete Frisina explained the purpose of this definition is to be solely utilized for Article V as an accessory structure and not to be confused with the kennel regulations. He added, in this regard, a dog pen/run needs to be located in the side or rear yard as other accessory structures. He explained that the intent is if a front yard is fenced in, it would not be considered a dog pen/run.

Massage Therapy. Massage therapy performed by a licensed massage therapist pursuant to O.C.G.A. 43-24A-1, et seq. (added for clarification for Permitted Use in O-1)

Pete Frisina explained this definition had been added for clarification.

Taxi Service. A service that offers transportation in passenger vehicles to persons in return for remuneration. This does not include Charter and/or Motor Coach Bus Service. (Commissioner concern that term "bus" implies "mass transit", changes made throughout ordinance)

Pete Frisina explained a Commissioner had expressed concern that "bus" could imply mass transit.

Art IV

D. Where a zoning district boundary divides a lot created after November 13, 1980, the property shall be rezoned to one (1) zoning district prior to submittal of a Preliminary Plat, Final Plat, Site Plan, and/or building permit, as applicable. Any existing development/structure located on a lot with multiple zonings which were lawfully built and existing prior to the adoption of this regulation (adoption date) and which does not conform to the provisions of this Article, shall be allowed to remain in place and shall be deemed a Legal Nonconformance which may include the lot, use, and/or structure.

In addition, any development (Preliminary Plat, Final Plat, Site Plan, and/or building permit, as applicable) that involves multiple lots to be utilized as one (1) lot shall be required to be combined.

(this paragraph will replace the paragraphs above)

Any development that involves multiple lots to be utilized as one (1) lot shall be required to be combined prior to submittal of a Preliminary Plat, Final Plat, Site Plan, and/or building permit, as applicable. In addition, any development which results in or is located on a lot with multiple zonings shall be rezoned to one (1) zoning district prior to submittal of a Preliminary Plat, Final Plat, Site Plan, and/or building permit, as applicable. Any existing development/structure developed on multiple lots utilized as one (1) lot or located on or a lot

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with multiple zonings which was approved through a Preliminary Plat, Final Plat, Site Plan, and/or building permit, as applicable, prior to the adoption of this regulation (adoption date) shall be allowed to continue development within the boundary established by said approved Preliminary Plat, Final Plat, Site Plan, and/or building permit.

Pete Frisina explained the paragraph had been re-written for clarification to exempt existing developments with multiple zonings and/or lots being utilized as one.

Art V

5-48. Manufactured Home. The placement of a manufactured home in a zoning district which allows a single-family dwelling as a Permitted or Conditional Use, other than MHP, shall comply with the following:

(Building code requirements deleted)

- ~~1. Approval shall be required from the Georgia Department of Community Affairs (DCA) and the Housing and Urban Development, as applicable. This approval shall be located in the electrical panel box of the building unit. The date plate shall be affixed to each building unit which assures compliance at the installation location.~~
- ~~2. A Georgia Insignia for Industrialized Building, when affixed to each building unit, shall indicate that the unit has been constructed and inspected in compliance with the approved plans and date on file with the DCA and/or HUD, as applicable.~~
- ~~3. A manual of the structure shall have a State of Georgia Engineer's seal and shall describe, in detail, the building construction and installation requirements.~~
1. The Manufactured Home shall comply with all applicable zoning requirements, including, but not limited to: minimum heated square footage.
2. The Manufactured Home shall be placed on a permanent foundation.
3. The middle support chassis shall be removed.
4. ~~The electrical and gas meters are to be set in the structure once all applicable final inspections are approved.~~

4. All applicable requirements shall be met within 90 calendar days and prior to the issuance of a Certificate of Occupancy.

Pete Frisina explained the items which were building code requirements were deleted.

Tower Ordinance

5. All tower facilities, excluding tower facilities associated with alternative tower structures, shall be enclosed by a steel chain link fence not less than eight (8) feet in height, with ~~vinyl~~ slat inserts for screening. Access to the communication tower shall be through a **locking** gate. In addition, a minimum of three (3) strands of barbed wire shall be used along the top of the fence to prevent unauthorized access to the tower. *(removed the strict vinyl requirement for screening in other portions of the ordinance but missed this one)*

Pete Frisina explained vinyl had been deleted throughout the ordinance; however, it was missed in this paragraph. He advised the only comment regarding towers was from one (1) Commissioner about the exemption of governmental property.

Art VI

A-R

Permitted Uses

5. Raising of livestock; *aquaculture, including pay fishing; ~~apiary~~*; and the sale thereof. *(apiary removed for further discussion)*

Pete Frisina explained apiary was deleted and will be discussed further.

Conditional Uses

Aviary; (removed for further discussion)

Pete Frisina explained aviary was deleted and will be discussed further.

C-C

Permitted Uses

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Auto parts and/or Tire store, retail sales and installation; (put in Conditional Use by accident and put back in Permitted Uses)

Pete Frisina explained this use was placed under Conditional Uses by accident and it will be placed back under Permitted Uses.

Banquet Hall (added)

Pete Frisina advised banquet hall was added because it was not addressed in the current ordinance.

C-H

Permitted Uses

Banquet Hall (added)

Pete Frisina advised banquet hall was added because it was not addressed in the current ordinance.

PUD (Commissioner concern that language needed to be strengthened to emphasize protection of public safety especially in terms of pedestrian safety)

J. Planned Small Business Center

1. Purpose. The intent of the Planned Small Business Center is to provide a business incubator center through a planned, mixed-use nonresidential development consisting primarily of a mix of office uses, service uses, and light industrial uses, with limited small scale commercial uses as appropriate for the area. A PUD-PSBC will allow innovative and creative design and promote high standards in the development layout **to alleviate incompatibility between the internal uses in the development to protect public safety to the greatest degree possible.**
2. Uses: Only those uses (Permitted and Conditional) allowed in the O-I, C-C, C-H, and M-1 zoning districts shall be proposed for the PUD-PSBC. Only those uses approved through the rezoning process shall be allowed.
3. Minimum Dimensional and Other Requirements.
 - a. Minimum Lot Size: Minimum of ten (10) acres.

- b. The proposed site shall be permitted only on a lot which fronts on and accesses a Major Thoroughfare, as specified by the Fayette County Thoroughfare Plan.
- c. Front, side, and rear yard setbacks and buffers along the exterior boundaries of the development shall be consistent with either the O-I, C-C, C-H, or M-1 Zoning District, as applicable to the use.
- d. The Development Plan shall indicate the different use areas for the proposed development. Appropriate separation, buffering, and vehicular circulation between uses internal to the development shall be established to alleviate incompatibility and protect public safety. *Vehicular access facilities shall be designed in a manner to preclude large vehicles (semi tractor trailers, delivery trucks, etc.) from utilizing areas where pedestrians are likely to be present.*
- e. Location: Only those areas indicated in the Fayette County Comprehensive Plan shall be given consideration for PUD-PSBC.
- f. Height limit: 35 feet

Pete Frisina explained a Commissioner expressed concern and requested that the language be strengthened to emphasize protection of public safety, especially in terms of pedestrian safety. Robyn Wilson reminded the PC that the uses allowed in the PUD would be approved by the PC and any change to the uses would require a public hearing.

Art VII

- A. Special Regulations. Prior to the issuance of development *a Conditional Use Permit* and/or building permits, a site plan, *as applicable to demonstrate compliance must shall* be submitted to the Zoning Administrator and approved by the appropriate County officials *applicable departments.* This requirement shall apply to all Conditional Uses allowed within the various zoning districts except for: farm outbuildings, home occupations, single-family residences, and temporary meetings and/or events which are conducted no longer than ~~fourteen (14)~~ *14 calendar* days per year. (*County does not issue "development permits"*)

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Pete Frisina explained that the County did not issue a specific permit titled "development."

Aviary; (removed for further discussion)

Pete Frisina explained apiary was deleted and will be discussed further.

8. Automobile Service Station, including gasoline sales and/or inside or outside emission testing, in conjunction with a Convenience Store. (Allowed in C-C and C-H Zoning Districts)

b. Gasoline pump islands, air and water hoses, and vacuum cleaners shall be set back the following distances from street rights-of-way:

(1) Major thoroughfare:

(i) Arterial: ~~thirty five (35)~~ 35 feet

(ii) Collector: ~~thirty (30)~~ 30 feet

(2) Minor thoroughfare: ~~twenty five (25)~~ 25 feet

e. Canopies shall extend no closer than fifteen (15) 15 feet from any street right-of-way.

Pete Frisina explained that the current practice has been to apply the front yard setbacks to gas canopies for the applicable zoning district, especially where overlay requirements apply.

16. Convenience Commercial Establishment. (L-C)

e. Gasoline pumps, air hoses, and water hoses shall be setback as follows:

(1) Major thoroughfare:

(i) Arterial: ~~fifty (50)~~ 50 feet

(ii) Collector: ~~forty five (45)~~ 45 feet

(2) Minor thoroughfare: ~~forty (40)~~ 40 feet

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d. Canopies used in conjunction with the sale of gasoline shall extend no closer than thirty five (35) 35 feet from any street right-of-way.

(current practice has been to apply front yard setbacks to gas canopies, especially where overlay requirements apply)

Pete Frisina explained that the current practice has been to apply the front yard setbacks to gas canopies for the applicable zoning district, especially where overlay requirements apply.

ART VIII.

8-4. ~~Penalties. Any firm, person, or corporation that shall do or fail to do anything prohibited or required by this Ordinance shall, upon conviction, be guilty of a violation of this Ordinance and shall be fined no more than \$1,000.00 or imprisoned for no more than sixty (60) 60 days or both for each offense. Each day a violation continues shall be deemed as a separate offense.~~ **(See the Fayette County Code, Chapter 1 General Provisions, Sec. 1-8. Penalties for violation of Code of Ordinances.)** *(addressed in the Fayette County Code of Ordinances)*

Pete Frisina explained since the Zoning Ordinance is becoming a part of the County Code and that penalties are already addressed in the County Code.

Art IX

F. “Writ of Certiorari” (Appeal). An applicant has 30 calendar days from the date of the Zoning Board of Appeals’ decision to file a “Writ of Certiorari” (Appeal) with the Superior Court of Fayette County. *(added based on advice from County Attorney)*

Pete Frisina explained a “Writ of Certiorari” was added per advice from the County Attorney.

Art XI

11-6. Appeal. An applicant has 30 calendar days from the date of the Board of Commissioners rezoning decision to file an Appeal with the Superior Court of Fayette County. *(“Writ of Certiorari” deleted based on the advice from County Attorney)*

Pete Frisina explained a “Writ of Certiorari” was deleted and “Appeal” was added per advice from the County Attorney.

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Art VII

Home Occupation. (Allowed in A-R, residential EST, C-S, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, DR-15, RMF, MHP, PUD-PRD, PUD-PRL, PUD-PEF, O-I, C-C, C-H, L-C, M-1, M-2, and BTP Zoning Districts) and the following nonresidential zoning districts: O-I, C-C, C-H, M-1, and M-2.) (See Single-Family Residence under Section 7-1.,B.) *The intent of these rules and regulations is to protect the health, safety and welfare of the general public and ensure that home occupations are regulated in a manner so they do not adversely impact surrounding residential properties, as residential areas and uses are normally separated from non-residential areas and uses.* (Amended 10/23/08)

- a. Residents. Only residents of the dwelling may be engaged in the home occupation *within the dwelling. All non-resident individuals, including employees, contractors, or part owners, associated with the home occupation shall not be engaged in the home occupation within the dwelling or on the premises.*
 - b. Incidental Use. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.
 - c. Display, Sale. No display of products shall be visible from the street, and only products produced on the premises may be sold on the premises, ~~except that bonafide agricultural products grown on the premises may be displayed in an Agricultural Residential Zoning District.~~ *The sale of products produced off the premises shall be prohibited.*
- # ~~Customers~~ Clients. *The number of clients shall not exceed more than two (2) at a time nor more than a total of ~~12~~ six (6) clients in any one (1) day and all services rendered to clients shall take place only within the dwelling. The hours of operation shall be limited to 9:00 am to ~~9:00~~ 7:00 pm.* (*changed customers to clients; too many clients; and hours too late*)

Pete Frisina expressed concern about the total number of clients and the late hours.

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The PC reached a consensus of: eight (8) clients, 9:00 am to 7:00 pm, Monday through Saturday. Pete Frisina stated that he would address the number of customers, clients and students and the hours of operations in the forth coming amendments.

- d. Area. Use of the building dwelling for this the purpose of the home occupation shall not exceed a total of ~~thirty five (35)~~ 25 percent of the principal building.
- e. Number. No more than four (4) home occupations may be issued per dwelling and the cumulative area devoted to the home occupations shall not exceed 25 percent of the dwelling.
- f. Alterations. No internal or external alterations inconsistent with the residential use of the building shall be permitted.
- g. Accessory Buildings. No accessory buildings or outside storage shall be used, except as otherwise provided herein.
- h. Music ,etc. Lessons and/or Tutoring. ~~Instructions in music and similar subjects~~ Lessons and/or Tutoring shall include, but not be limited to: music, dance, computer, martial arts, academic, and speech, shall be limited to two (2) students at a time nor more than a total of six (6) students in any one (1) day, and such lessons and/or tutoring shall take place in the dwelling. The hours of operation shall be limited to 9:00 am to 7:00 pm.
- # Daycare, Child/Adult: Daycare shall be limited to no more than three (3) children or three (3) adults at any time.
- i. Vehicles. Only customary passenger vehicles, vans and pick-up trucks shall be permitted to remain on the premises in association with a home occupation. Said vehicles cannot exceed two (2) axles, 22 feet in length, 10 feet in height, and/or 8,000 pounds (curb weight). No tow and/or rollback trucks shall be allowed to remain on the premises. A trailer used in association with the home occupation shall be permitted to remain on the premises. The aforementioned vehicles or trailer used in association with the home occupation may be stored in a detached garage.
- j. Uses. The following and similar uses shall not be considered home occupations: automobile service station; automobile and related ~~machine~~ vehicular sales lot on-premise; on-premise automobile, motorcycle, and/or farm/heavy construction equipment repair or

service/maintenance; ambulance service; *beauty salon, barber shop,* rescue squad; *on-premise* amusement or recreational activities (commercial); animal hospital; commercial kennel, veterinarian clinic ~~or~~ *with or without* animal boarding place; pawn shops; acid storage and manufacturing; heavy manufacturing; fortune teller; palm reader; *taxidermy, welding; on-premise pet grooming; medical/dental facilities; on-premise repair service (bicycle, lawn mower, small engine, and appliance); tire sales and storage; tanning salon; funeral services; tattooing;* and *on-premise* massage therapy (*office use only*). (clarification)

Pete Frisina explained a massage therapist could not have clients coming into their home, but could have an office in their home to receive phone calls, emails, maintaining files, etc.

* * * * *

Chairman Thoms asked if there was any further business.

Pete Frisina advised the PC that staff would contact them when they could stop by the Planning and Zoning Department to pick up their copies of the revised Zoning Ordinance, in its entirety.

Hearing no further business, Al Gilbert made a motion to adjourn the Public Meeting/Workshop. Jim Graw seconded the motion. The motion unanimously passed 4-0. Bill Beckwith was absent. The Public Meeting/Workshop adjourned at 8:31 pm.

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PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

**TIM THOMS
CHAIRMAN**

**ROBYN S. WILSON
P.C. SECRETARY**