

THE FAYETTE COUNTY PLANNING COMMISSION met on October 6, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, First Floor, Fayetteville, Georgia.

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

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Community Development
Dennis Dutton, Zoning Administrator
Tom Williams, Assistant Director of Planning and Zoning
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

Welcome and Call to Order:

Chairman Thoms called the Public Meeting to order. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Public Hearing Minutes of the meeting held on September 1, 2011.

Chairman Thoms asked the Board Members if they had any comments or changes to the Minutes. Al Gilbert made the motion to approve the Minutes. Bill Beckwith seconded the motion. The motion passed 4-0-1. Members voting in favor of approval were: Chairman Thoms, Al Gilbert, Bill Beckwith, and Jim Graw. Member abstaining from the vote: Doug Powell.

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2. Consideration of the Public Meeting/Workshop Minutes of the meeting held on September 15, 2011.

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Jim Graw made the motion to approve the Public Meeting/Workshop Minutes. Bill Beckwith seconded the motion. The motion passed 3-0-2. Members voting in favor of approval were: Chairman Thoms, Al Gilbert, and Bill Beckwith. Members abstaining from the vote were: Jim Graw and Doug Powell.

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Chairman Thoms explained to the audience that a Preliminary Plat was the subdivision of property which was already zoned and only the technical aspects of the Preliminary Plats could be addressed by the public.

3. **Consideration of the revised Preliminary Plat of Southmill Subdivision, Brent Fayette, LLC, Owner, and Billy Brundage of Brundage Engineering, Inc., Agent. This subdivision consists of 43.38 acres, consisting of 18 single-family dwelling lots, fronts on SR 85 South, and is zoned C-S.**

Billy Brundage, Agent, stated the preliminary plat was basically the same layout as the previously approved preliminary plat which has now expired.

No one was present to provide public comment; therefore, Chairman Thoms closed the floor from public comments.

Jim Graw referenced the comments from the Environmental Health Department regarding Lot 5 and Lot 11 being the most challenging for individual disposal systems. He asked if the two (2) lots would perc.

Billy Brundage replied a Level III Soil Survey had been performed on all the lots; however, these two (2) are the worse but they do perc.

Al Gilbert made the motion to approve the Preliminary Plat. Jim Graw seconded the motion. The motion unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell.

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4. **Update from the BOC Workshop held on October 5, 2011, regarding: Telecommunication Towers and Illegal Nonconforming Lots.**

Telecommunication Towers

Pete Frisina stated the BOC had questioned the telecommunication tower ordinance and procedures. He said he provided the BOC with a list of what an application consists of and the administrative time frame; however, there are still questions about what staff should be doing. He confirmed the P&Z Department had received eight (8) telecommunication tower applications at the first of the year and they all ran smoothly. He reported there was an issue with two (2) competing towers and the

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ordinance was amended to address some flaws. He said the BOC wanted to tighten up the ordinance on when a tower is considered planned. He noted the ordinance allows staff 30 days to review an application and in turn, the applicant has 30 days to resubmit all the information lacking from the application. He reported if the applicant fails to meet this 30 day deadline, the application is automatically withdrawn. He stated, it was suggested by a member of the BOC that once an application is withdrawn, it should not be resubmitted within a certain period of time.

Pete Frisina pointed out documentation from the feds, such as FCC and FAA, and structural standards are required which has no bearing on what the county does in terms of reviewing setbacks and tower separation requirements. He said upon reviewing the ordinance if the county does not need the documentation, he would then recommend that it no longer be required. He confirmed a tower company has to abide by the FAA and FCC and the county has no bearing on their decisions.

Doug Powell confirmed a tower cannot be constructed without county approval but if the county is the final approving authority, the county should ensure they are in compliance before the county gives them permission to build.

Pete Frisina replied a tower cannot be constructed without the FAA's approval.

Bill Beckwith concurred with Pete Frisina.

Jim Graw suggested when the first section of the ordinance is revised that the staff require a tower petitioner to provide, in a binder, all of the items of A through K when they walk in the door and if any one (1) of the 11 items are missing, the staff tell the petitioner that they don't have all of the required items and to return when they have all of the items on the list. The actual application process would start when the applicant gives the staff a folder with all of the items (A through K) in the binder.

Al Gilbert asked what would keep a tower company from receiving approval and dragging their feet with another tower company waiting.

Pete Frisina replied any tower approved must be built within one (1) year.

Doug Powell said the newspaper indicated there was an incomplete application received and was holding up a subsequent application and FAA approval was discussed. He stated it seemed to be if an application is submitted first does that mean they will receive approval first and they have all the time in the world because they got there first.

Pete Frisina replied that under the FCC guideline, when an application is submitted, the county has 30 days to review the application and notify the applicant their application is incomplete, and in turn, they have 30 days to resubmit or the application is withdrawn.

Doug Powell stated there should be some minimum standards for an application.

Pete Frisina replied this is exactly what he is going toward.

Al Gilbert said staff is being placed in the middle of a competition and once an application is submitted, it is in until it is approved or disapproved.

Bill Beckwith concurred.

Pete Frisina said staff is stuck in the middle of this situation and no matter what decision is made by staff someone is going to challenge it. He added the less required, the less there is to review.

Pete Frisina said the BOC questioned whether staff should be able to grant a variance for tower height. He stated he informed the BOC that staff cannot grant a variance for a tower; however, the two (2) mile separation requirement was reduced to 1.5 miles and the setback from an off-site residence had been reduced from 1,000 feet to three (3) times the tower height or 500 feet, whichever is greater, in December of 2010, which reduced the need for public hearings.

Pete Frisina said the BOC suggested the establishment of a good neighbor policy for adjacent jurisdictions. He stated the BOC discussed requiring a 0.5 mile setback from an adjacent jurisdiction. He reported any tower that could not meet the 0.5 mile setback would require a public hearing which would encourage the tower company to comply with the 0.5 mile distance.

Al Gilbert pointed out a public hearing tower application has not been approved since 2002.

Chairman Thoms expressed concern about public hearings only if the proposed tower was 0.5 mile from the adjacent jurisdiction but not 0.5 mile from other properties.

Al Gilbert asked how far the proposed tower was from the city limits of Peachtree City.

Dennis Dutton replied approximately 474 feet to the boundary.

Pete Frisina said the BOC suggested that public notification be given for a proposed cell tower site that is being administratively approved. He stated he had concerns that if a sign is posted, people will think they have input and they will be frustrated when they find out they don't have input in an administrative process. He suggested to the BOC that a sign basically stating the site is a proposed cell tower site that provides a number or website for information could be an approach.

Chairman Thoms instructed staff to review the telecommunication ordinance and present their amendments at a future meeting.

Pete Frisina advised he would be attending the BOC Workshop in December to give them an update.

Illegal Nonconforming Lots

Pete Frisina stated he also discussed illegal nonconforming lots with the BOC. He confirmed the county does not take legal action or issue permits for these lots. He said if the house burns down; a building permit cannot be issued until the lot is brought into compliance with the ordinance, and in some cases, insurance companies refuse to pay until such time. He added that once a property owner is made aware the lot is an illegal nonconforming lot, he is required to disclose this information if he places his house on the market.

He said the best way to alleviate an illegal nonconforming lot is to rezone it so the lot will be conforming. He pointed out the problem is when the zoning is not in compliance with the land use plan. Staff is reluctant to recommend a rezoning that does not comply with land use plan as it could be used against the County in other rezoning requests. He suggested staff investigate criteria for the rezoning of an illegal nonconforming lot that does not comply with the land use plan to maintain the integrity of the land use plan. He pointed out an example would be SR 54 West which is land used residential but consideration could be given for properties abutting SR 54 West for Office zoning.

Al Gilbert said the situation of a house burning down sounds like a hardship and should be considered by the ZBA.

Bill Beckwith concurred.

Al Gilbert asked if an exception could be listed under each zoning district to address this type issue.

Jim Graw concurred.

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Pete Frisina said in the case of an extreme hardship such as the house burning down, one of the BOC suggested allowing the property owner to rebuild in the same footprint. He added consideration could possibly be given in the zoning ordinance for acts of God. He advised that zoning ordinances are usually designed to bring everything into compliance over time.

Doug Powell suggested starting off with proposed amendments dealing with a hardship for a burned down house and acts of God. He asked how lots became legal nonconforming lots.

Robyn Wilson explained the entire county was comprehensively rezoned on November 13, 1980, and if there was a recorded deed to a lot which did not comply with the Zoning Ordinance at that time, it was considered a legal nonconforming lot.

Doug Powell asked what prohibits the county from comprehensively rezoning the entire county again.

Robyn Wilson remarked if the county did a comprehensive rezoning what would you do 10 years from now when this same problem arose. She pointed out that prior to 1980; the A-R zoning district did not require a five (5) acre minimum or a 50 foot side yard setback.

Doug Powell replied a comprehensive rezoning did not sound like a good idea.

Pete Frisina stated staff would work on the issue and bring suggestions back to the PC for discussion.

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5. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding: Farm Outbuildings.

Dennis Dutton explained problems had arisen concerning farm outbuildings where the property had sold and the new property owner does not farm; however, a farm outbuilding shall be utilized for agricultural purposes only so they are unable to utilize the farm outbuilding. He stated Robyn Wilson, Tom Williams, and himself have been charged with addressing this issue; however, each person has a different approach.

Dennis Dutton said one (1) approach is addressing auxiliary structures as a Conditional Use by adding auxiliary structures to farm outbuildings and greenhouses. He remarked an auxiliary structure would not be limited to agricultural purposes only.

Doug Powell asked if auxiliary structures could be based on acreage.

Robyn Wilson replied this approach would allow one (1) 1,800 square foot auxiliary structure on property zoned A-R consisting of five (5) to 10 acres or unlimited square footage and number on property zoned A-R consisting over 10 acres. She said she was not requiring architectural standards because existing farm outbuildings did not have to comply with architectural standards.

Doug Powell and Bill Beckwith concurred with this approach.

Robyn Wilson asked if the PC would allow a business to operate from an auxiliary structure.

Doug Powell replied if a business operated from an auxiliary structure it would have to be considered a home occupation.

Robyn Wilson advised this would also require an amendment to Article VII regarding Home Occupations.

Pete Frisina asked if artistic and business are the same thing. He added it is a hard line to draw. He said a professional athletic could need a personal training facility so is this a business.

Jim Graw stated he looked at storing grading equipment in an auxiliary structure differently than a recording or artist studio.

Doug Powell asked how antique cars could be stored in an auxiliary structure and grading equipment could not be stored there.

Jim Graw commented a hobby is not the same as operating a business.

Bill Beckwith asked what if the owner of the property sold some of his antique cars.

Jim Graw replied it would then become a commercial business depending on how many were sold.

Doug Powell said it seems a waste to have these structures and not allow people to use them.

Pete Frisina replied this issue is how you clean up the existing structures and what will be allowed to be constructed in the future.

Doug Powell asked if an art zoning district was feasible. He added a creative zoning district needs to be created to stimulate growth for large lots in the county.

Al Gilbert suggested limiting the acreage requirement for this type use to 25 acres. He asked if a NBA player wanted to convert the farm outbuilding into a gym.

Robyn Wilson replied this is the direction she was going in with the proposal of an auxiliary structure.

Al Gilbert remarked in order to entice professional athletics and entertainers to live here; the ordinance needs to be amended.

Robyn Wilson concurred and stated she would like to see auxiliary structures address more than just the arts.

The PC concurred.

Tom Williams stated he had done some research and there is an issue regarding solid waste by denying use of the building which will encourage demolition. He said there has been a lot of demand throughout the country and Europe for older farm buildings to be used by the arts community as artist studios, recording studios, performing arts, and pottery studios; however, there is no retail activity. He remarked his proposal was to allow an Artist Studio such as practice of the arts including creating, teaching, performing, and recording of the full spectrum of arts including, but not limited to: fine arts, visual arts, and performing arts as a Conditional Use under the A-R zoning district.

Chairman Thoms asked staff present their amendments at a future meeting.

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Chairman Thoms asked if there was any further business.

Pete Frisina reminded the PC of the Public Meeting/Workshop scheduled for Thursday, October 20, 2011, in the Board of Commissioners Conference Room, First Floor at 7:00 P.M. He advised staff had discussed a Variance request from the Subdivision Regulations for the PC to consider regarding contiguous area for residential lots which will probably be considered on October 20, 2011, or November 3, 2011.

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Bill Beckwith advised he would be absent on October 20, 2011.

Pete Frisina distributed the rezoning application for the proposed PUD-PRL. He asked the PC to review the Summary of Intent, Development Plan, and architectural renderings and to send him an email regarding any concerns after reviewing the PC Minutes. He pointed out some concerns: time limitation vs. Noise Ordinance; tower height is 180 feet not 100 feet and activity courts were to be relocated in this vicinity; statement regarding striving to preserve the specimen trees in development area, as much as possible, such as relocating a driveway but not a building; and information on traffic flow and traffic study needs to be summarized in the Summary of Intent. He suggested that the PC review the rezoning application and if they have any concerns he would forward those to the applicant. He added that, if needed, the PC could discuss the Summary of Intent and Development Plan at the October Public Meeting/Workshop.

Chairman Thoms advised the PC Minutes regarding the Pre-Recommendation Meeting would be posted on the P&Z Department website by Friday, October 7, 2011.

There being no further business, Doug Powell made the motion to adjourn the Public Hearing. The motion for adjournment unanimously passed 5-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. The Public Hearing adjourned at 8:51 P.M.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**TIM THOMS
CHAIRMAN**

**ROBYN S. WILSON
SECRETARY**