

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on September 15, 2011, 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
Bill Beckwith

MEMBERS ABSENT: Jim Graw
Doug Powell

STAFF PRESENT: Pete Frisina, Director of Community Development
Phyllis Williamson, P&Z Administrative Secretary
Dennis Dutton, Zoning Administrator

STAFF ABSENT: Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

PUBLIC PRESENT: Bob and Bonnie Sitz
Lorraine Romano
David Brill

Welcome and Call to Order:

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

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1. **Consideration of the Minor Subdivision Plat for Nick Williams Subdivision, Nixon Williams, Owner/Agent. This property consists of 6.61 acres with one (1) single-family dwelling lot. This property is located in Land Lot 23 of the 6th District, fronts on Quarters Road and is zoned A-R.**

Nick Williams stated he wanted to build his personal residence on the subject property; however, the property was never recorded therefore, necessitating the approval of a Minor Subdivision Plat, which will be recorded.

Al Gilbert made the motion to approve the Minor Subdivision Plat. Bill Beckwith seconded the motion. The motion for approval unanimously passed 3-0. Members voting in favor were: Chairman Thoms, Al Gilbert, and Bill Beckwith. Jim Graw and Doug Powell were absent.

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

2. **Consideration of the Revised Preliminary Plat for River Park Subdivision, Phase II, John Wieland Homes and Neighborhoods, Owner/Developer, and Phil Mallon, Fayette County Public Works Director/County Engineer, Presenter. This property consists of 116.19 acres with 47 single-family dwelling lots. This property is located in Land Lots 194, 223 and 224 of the 7th District, fronts on S.R. 92 North, and is zoned C-S.**

Phil Mallon, Director of Public Works/County Engineer, stated the County needed to have revisions made to the Preliminary Plat of River Park Subdivision, Phase II due to a portion of the property now being impacted by the West Fayetteville Bypass. He explained Phase II was never developed with streets etc., as was Phase I. He noted under the previous configuration, the Owner/Developer would have lost two (2) single-family dwelling lots. He confirmed the County worked with the original Engineer to shift the two (2) lots to another location on the property while still complying with all requirements for the C-S Subdivision. He requested the approval of the Revised Preliminary Plat.

Chairman Thoms asked if there were any public comments.

Hearing none, Bill Beckett made the motion to approve the Revised Preliminary Plat of River Park Subdivision, Phase II. Al Gilbert seconded the motion. The motion unanimously passed 3-0. Members voting in favor of approval were: Chairman Thoms, Bill Beckwith, and Al Gilbert. Jim Graw and Doug Powell were absent.

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3. **Discussion of the proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, in its entirety.**

Animal Control

Peter Frisina stated the Board of Commissioners has asked staff to look at the ordinance as it addresses the maximum number of pets a resident can own, with the maximum, at this time, being a total of three (3) dogs and /or cats. He said the BOC has asked for a better way to regulate than just

by the numbers. He reported staff worked on the animal ordinance last year and thought it odd that dogs and cats were controlled under the same requirement when dogs are more closely aligned with kennels than cats. He remarked staff thought about deleting cats out of the requirement. He commented the BOC asked more work be done on the animal regulations

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and perhaps the County should not regulate pets on a number basis, but on a nuisance basis. He said he discussed the issues with Alan McCullough, Director of Public Safety, Tom Bartlett of EMS, and Fred Sisson of Animal Control. He stated they agreed that it should be handled on a nuisance basis which relates to noise, damage to property, and care of animals. He noted Mr. Sisson suggested that situations could probably be handled primarily on a nuisance basis. He said he is waiting on the Public Safety and Animal Control Departments to get back with him to let him know if they can handle this on a nuisance basis. He noted to regulate on a nuisance basis would remove animal control from the P&Z Department's oversight; however, P&Z would still handle regulation of kennels. He added kennels would then be for breeders and/or boarders. A handout indicating the Comparison of Animal Control Regulations for Fayette County, Cherokee County, Cobb County, and Gwinnett County was distributed. Said handout is attached hereto and made a part hereof.

Bob Sitz presented a handout indicating the impact of revised animal control studies of the problems with suggestions of changes to the ordinance. Said handout is attached hereto and made a part hereof. He said he had spoken with some of the BOC and had made suggestions to them also.

Bob Sitz made the following suggestions:

1. County should offer incentives for people to allow more than three (3) pets per owner, if the pets are spayed or neutered. Use incentives to encourage spaying or neutering, but not make it mandatory. This would benefit rescuers as well.
2. Grant money is sometimes offered by pet store chains to cover costs involved with spay and neuter programs.
3. Possible "trap, neuter or spay, and release programs" to allow rescuers to pick up strays, have them spayed or neutered, inoculated, and returned/released where they were found, with someone feeding them. The animals are marked with a microchip or the cat's ear is notched for identification.
4. Avoiding fines for first offense, perhaps offering a warning for first offense, as an accident could occur to allow the animal to escape (a tree falling on your fence, power outage for electric fence, etc.)
5. Define how animals should be restrained on property and/or leashed and/or restrained off the

property, as cats are not easily leashed.

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6. Settle the confusion as to why this is regulated by P&Z and not Animal Control, except the licensing of a commercial kennel.

Al Gilbert stated the Planning Commission members were not experts on animal control and would have to trust the people in our Animal Control Department to make suggestions on the changes that need to be made for home pet owners. He advised Mr. Sitz to sit down with Fred Sisson in the Animal Control Department and run his ideas by him.

Chairman Thoms thanked Mr. Sitz for his input and told him he would be informed of the work being done so he could take part in the discussion. He advised if the regulation continues to fall under the P&Z Department, the PC prefer to do it in reference to land use or zoning matters rather than based on the number of animals. He added the PC should not be responsible for regulating the number of pets. He said the PC will continue to study the proposed amendments and take direction of staff on amending the ordinance based on number of animals and/or pets.

Telecommunication Tower

Dennis Dutton stated the Board of Commissioners (BOC) requested staff to review the telecommunication tower ordinance. He explained the BOC requested staff to consider the following, in terms of telecommunication tower regulations in the Zoning Ordinance:

1. Distance requirements between a telecommunication tower and the boundaries of a municipality or other jurisdiction
2. Variance for the height of a tower
3. The notification process for neighboring properties, including homeowners' associations and individual property owners within a specified distance
4. Determine if the ordinance is clear in terms of application process and review for completeness.

Dennis Dutton suggested that a review of the telecommunication tower regulations of other municipalities be conducted to see how they compare to the County's. He explained the concerns grew with two (2) applicants of new towers, adjacent to property in Peachtree City/Tyrone, triggering questions.

The Planning Commission discussed the following points:

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1. Jurisdictional boundaries and if there should be a minimum distance from a tower located in the county, but abutting property located in one of the cities or another county (in addition to the usual setback from a property line or from an additional tower). This could be like a “good neighbor policy” Presently we have no additional setback from another jurisdiction.
2. Notification of the affected property owners and municipality adjacent to a new tower location with a sign, ad or mail out
3. Should the notification, be such as to trigger a public hearing or just notify the adjacent owners, if the tower meets requirements? (as there is no avenue to stop the tower if it meets requirements)
4. Definition of complete application
5. Additional height review (should that go before PC & BOC.)
6. Would we allow city residents input to a tower adjacent to them, when the tower meets all requirements and the county has no legal rights to deny the tower?

Pete Frisina distributed a chart showing the regulations for submitting a permit application in Peachtree City. Said chart is attached hereto and made a part hereof. He pointed out the City does not have a setback from County property. Any new tower goes before a public hearing. The price of application could be as much as \$4,500, in comparison to the County’s \$150. The reason for the increase in price is that the City contracts with an independent third party of tower experts to review the application.

Al Gilbert stated our restrictions, in the past, have been so very stringent and we had eased up a bit. He questioned if the County would be reversing all of that.

Chairman Thoms stated the need to accommodate a communication network as the county had been directed by the FCC to try to facilitate that.

Pete Frisina stated people previously used the cell phones primarily when they were away from home; therefore, towers along the major thoroughfares were needed. He reported many have abandoned their land lines and only have cell phones, which expands the need for towers in residential areas. He noted the present distance from one tower to another is one (1) mile in the highway corridor zones and one and one-half (1 ½) mile in the remaining areas.

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Al Gilbert stated he would agree with posting a sign to let property owners know that a tower application is made for a tower adjacent to them (with a phone number to call) or to post ads in the newspaper. However, he was concerned that residents would be coming in to protest a tower that county staff must approve if the application meets all requirements.

Pete Frisina stated staff could post a sign, but he thought mailings and ads in the newspaper would be cost prohibitive. He also stated a public hearing for towers that meet all legal requirements would give the public the false impression that staff had the power to halt construction of the tower.

Chairman Thoms said he did not know if the cities would welcome county residents' complaints if the towers were built in the city. He stated there should be some type of reciprocity, that is, if the county located towers near municipal boundaries they have additional requirements then towers in the municipality should also meet those same requirements. He remarked if more stringent requirements are required, such as posting of signs, for county located towers near municipal boundaries, then towers might be located more often in areas away from municipal boundaries which means citizens in the county near municipal boundaries have more say regarding tower locations than do citizens that do not happen to be located near municipalities.

Bill Beckwith suggested notifying a home owner's association that a tower would be constructed near them.

There was a short discussion on what constitutes a complete application and what weight does a letter from the FAA carry in an application when it is a federal rule that has to be met, regardless of county regulations.

Pete Frisina asked Bill Beckwith to check on FAA requirements regarding the letter for a tower.

Dennis Dutton said presently, we do not have a clear way of dealing with two (2) applications in close proximity to each other and he would like to see a change in the ordinance saying the second applicant should submit a Letter of Intent rather than an additional application. He remarked then if the first application is rejected within the 30 day review process, the second applicant would be contacted to submit their application. He commented it would also be necessary to give the second applicant a time frame to submit an application once they are notified.

Pete Frisina stated he would take the PC comments to the BOC and let the PC know their input.

Farm Outbuildings/Accessory Structures

Pete Frisina stated a county resident had stated an interest in locating a recording studio in a farm outbuilding on property zoned A-R. He explained presently, this would not be allowed because if the applicant wants to operate a business in the building, they are not allowed to conduct a business in an accessory structure, as a home occupation. He added as a barn, it would have to be utilized for agricultural purposes only. He remarked, in some cases, the previous owner sells the property and the new owner doesn't need the building for agricultural uses but for something else. He asked should the County address this based on other factors, such as how it impacts the surrounding properties, does it create traffic problems, etc.

A letter was submitted from Architect Richard Pierce King addressing Farm Outbuildings, their applicant's situation, and an example of another ordinance from Franklin, Tennessee and how they regulate Private Home Recording Studios. Said letter and Franklin, Tennessee Ordinance is attached hereto and made a part hereof.

Al Gilbert stated he thought this should be addressed by what impact it has on the surrounding area, perhaps through a Special Use Permit that would also state how it could be operated.

The PC said if we are going to allow someone to do something which is not in compliance with our ordinance, we need to have criteria for how they are allowed a variance from the rules, very much like the ZBA operates; however, as the ordinance stands it does not allow a variance from the ordinance. The PC also stated the request that has been made involves a very large piece of property which would probably impact the surrounding area less and does deserve additional consideration perhaps with something like a Special Use Permit.

Pete Frisina stated, as an example, you could request a Special Use Permit for things that do not meet the constraints of the ordinance, and then it goes to a public hearing and is approved or denied in a case by case basis. He said staff would review Special Use Permits.

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Chairman Thoms asked if there was any further business. Hearing none, Bill Beckwith made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 3-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, and Bill Beckwith. Jim Graw and Doug Powell were absent. The Public Meeting/Workshop adjourned at 8:39 P.M.

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PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

TIM THOMS
CHAIRMAN

PHYLLIS WILLIAMSON
P&Z ADMINISTRATIVE SECRETARY
FOR ROBYN S. WILSON
SECRETARY