

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on March 1, 2012, 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
Jim Graw
Douglas Powell

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Community Development
Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Sgt. Travis Caldwell

GUESTS: 13 guests

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 Public Meeting/Workshop Minutes held on February 2, 2012.

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Al Gilbert made the motion to approve the Public Meeting/Workshop Minutes. Jim Graw seconded the motion. The motion unanimously passed 5-0. Members voting in favor of approval were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell.

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2. Consideration of the Public Meeting/Workshop Minutes held on February 16, 2012.

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

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3. Discussion of proposed amendments to the Fayette County Comprehensive Plan Land Use Element and the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: the SR 74 South, SR 85 South, and Padgett Road intersection.

Pete Frisina remarked a number of years ago, the PC was approached by some of the property owners at this intersection asking the county to consider amending the land use. He said the PC and staff advised they did not want to amend the land use plan until the completion of the SR 74 South widening. He commented the widening is now complete. He noted the BOC had given permission for staff to begin amending the land use plan for small scale convenience commercial mixed with lighter uses. He presented a map indicating the four (4) corners.

Pete Frisina reported GDOT owns property at Corner 4 and it is unknown what is going to happen with this property. He said there may be no decisions made about Corner 4 at this time. He pointed out a strip of property along SR 85 South at Corner 3 which is also owned by GDOT. He commented the initial plans for widening SR 85 South indicate the improvements running along the south side of the highway; however, he is unaware of any specific dates to begin the project.

Doug Powell said the PC would like to plan the entire intersection due to the close proximity of Starr's Mill, the church, and the area being residential in nature. He added in terms of packaged beer and wine sales, the distance requirement from a single-family dwelling and a church is 300 feet. He remarked there might be a need for L-C which will help people traveling to and from work, whether it is laundry, dry cleaning, or getting a cup of coffee.

Jim Graw pointed out a mile north on SR 74 South are several acres zoned for commercial use and across the street is an existing shopping center located in the city limits of Peachtree City. He also pointed out a convenience store with gasoline sales located at SR 85 South and Bernhard Road and another one located on SR 85 South and SR 16. He added he did not see the need for a big convenience store with gasoline sales at this intersection.

Pete Frisina presented copies of the SR 74 North - East Side Special Development District, SR 74 North Overlay District, the BTP Business Technology Park District, and the Planned Small Business Center Special development District as examples of mechanisms the County is presently utilizing to specifically regulate at a particular location.

Doug Powell read some of the goals of the SR 74 North Overlay District which could also apply to the subject intersection: to maintain the efficient traffic flow; to enhance and maintain the aesthetic qualities of the corridor; and to protect existing and future residential areas. He added he would like to see a plan which accomplishes these goals.

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Chairman Thoms concurred. He added there is no current nonresidential land use or zoning districts at this intersection.

An unidentified man remarked there are existing turning lanes and the traffic flow is controlled by the signalization.

Al Gilbert said from a traffic safety point of view, one (1) convenience store with gasoline sales may create traffic problems.

Bill Beckwith pointed out several years ago there was a rezoning application for SR 85 South and 85 Connector for a convenience store with gasoline sales and the neighbors were absolutely opposed to the rezoning. He asked if a convenience store with gasoline sales was necessary at the subject intersection.

Several of the guests replied, "Yes."

An unidentified man located at Corner 4 expressed concern because he did not know the boundaries of his property anymore. He said eventually all four (4) corners were going to be located on a four-lane highway and commercial is expected because no one will want to build a house at the subject intersection.

Doug Powell said the zoning should transition from perhaps A-R to O-I to commercial. He added Starr's Mill is historical and he does not want to damage the looks of it.

Pete Frisina stated the county must decide what it wants developed at the intersection and the land use designation for the intersection. He pointed out, for example, SR 74 North Development District which is very specific and there is no flexibility.

An unidentified man representing New Hope Baptist Church South Campus asked how far up the highway would the land use designation be amended because this could influence the church property located north of Corner 2 which is currently being used for Sunday School classes. He added they also own the old parsonage building.

Pete Frisina replied a distance has not been established; however, the corners are the focal points and it gets questionable how far down the road the land use designation will be amended. He reiterated the BOC did not foresee the subject intersection as a major commercial area.

An unidentified man said he had looked at other major intersections in the county and he did not want to be slighted; however, he does not want the intersection to look like Riverdale.

Doug Powell pointed out there is absolutely nothing located at the intersection of SR 279 and SR 314 because the citizens did not want commercial development nor is it land used for commercial.

Elaine Powers said she owns the triangular shaped property at Corner 1 and she lost the tenants when the road construction began and the house was vandalized. She remarked she had anticipated an office building or doctor's office or bank being constructed for the corner.

Tim Powers asked if a traffic study had been performed. He added the corner was very, very noisy and busy. He said it was just a matter of time before this area becomes a four-lane interchange.

Doug Powell replied the report was presented at the last Public Meeting/Workshop.

Chairman Thoms asked if a special development district could be created to list the types of uses for each corner.

Pete Frisina replied in a special development district that is exactly what you can do. He pointed out the L-C has a small amount of light commercial mixed with office type uses and it has a limit on the size of a building or a convenience store and also limits the number of gas pumps.

An unidentified man at Corner 3 stated he owns property on both sides of the power line, approximately 8-10 acres. He said he would like to rezone the entire tract because once the front of the property is rezoned, no one is going to want to build a house. He said the property past the power line extends for approximately 400 feet down Padgett Road.

Doug Powell commented the PC had not discussed development past the power line.

An unidentified man said he owns nine (9) acres at Corner 4 and he would like to be able to sell his property. He asked if a church would be permitted on his property.

Pete Frisina replied a church is a Conditional Use and there are conditions which shall be met in order for a church to be constructed.

An unidentified man said the county is getting too much O-I.

Doug Powell summarized the subject intersection as follows:

Corner 1 (west side of SR 74 South) - Should have less intense uses.

Corner 2 (east side of SR 74 South) - Should have the least intense uses due to church and Starr's Mill.

Corner 3 (west of new portion of Padgett Road) – Should have the most intense uses, but have not discussed property past the power line.

Corner 4 (east of new portion of Padgett Road) - Should have no changes at the current time.

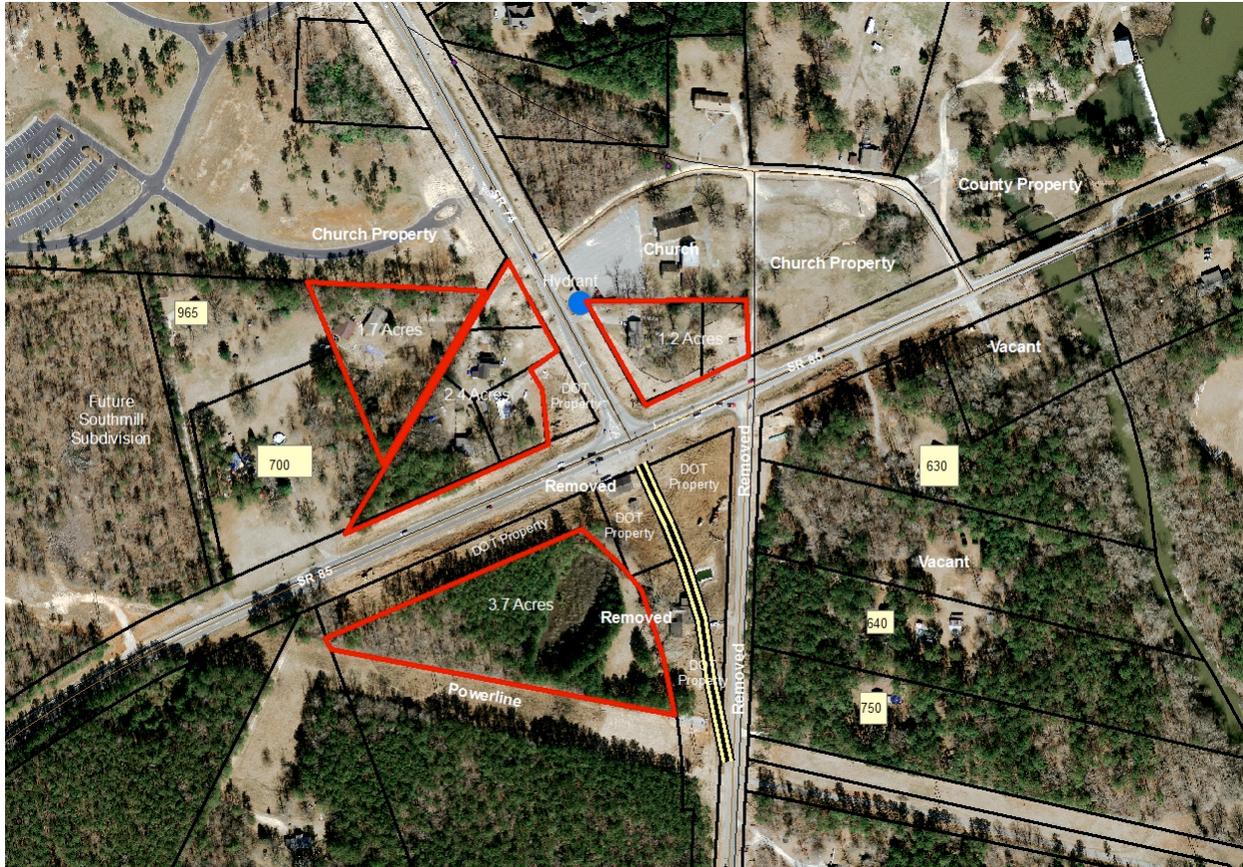
Chairman Thoms asked if information could be attained from GDOT regarding Corner 4.

Pete Frisina replied the Public Works Department is requesting information from GDOT regarding the property at Corner 4.

An unidentified man at Corner 3 said there was an old pond located on the property and the tax records indicate this area is wetlands; however, it is not and he has documentation from the Army Corp of Engineers. He added it does not hold water.

An unidentified man representing New Hope Baptist Church South Campus said due to the widening of the highway, it is no longer desirable as residential and has probably decreased in value for resale residential purposes. He stated the church may want to rezone the SR 74 South section of the property. He remarked it was difficult and dangerous to leave the South Campus and travel to the property across SR 74 South, a divided highway. He said the property may no longer be used for church functions and the options would be to sell the property. He requested consideration for amending the land use for the church property north of Corner 2. He remarked the property was previously offered for sell to the county to be utilized as a county park; however, the church never saw a check from the county.

Chairman Thoms thanked the guests for their good input. He advised the subject intersection would be discussed at future Public Meetings/Workshops.



At 8:10 pm, Chairman Thoms called for a break to allow the room to clear. He reconvened the Public Meeting/Workshop at 8:14 pm.

4. **Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Telecommunication Antennas and Towers.**

Pete Frisina advised he had contacted the GDOT Aviation Department for assistance on this topic and he is waiting on information from them.

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ARTICLE V. GENERAL PROVISIONS

Sec. 5-47. Standards for Telecommunications Antennas and Towers.

Private Airport or Heliport Zone. A one (1) statute mile zone is established around any private airport or heliport that is registered with the FAA to prevent a hazard to aviation operations. Since the FAA does not make a determination for a private airport or heliport through the Part 77/Form 7460 study, a supplemental analysis and a No Hazard letter prepared by a (qualifications?) is required for a tower that is proposed within this zone. Any tower that creates a hazard for a private airport or heliport shall be denied.

Jim Graw commented he had spoken with Jim Savage, former Falcon Field Airport Manager, and he suggested the following: 1) professional engineer with civil engineering background specifically with aviation experience or 2) engineering consultant that is prequalified in airport master planning and is currently listed with the Georgia DOT.

Doug Powell remarked he like the second option.

Pete Frisina advised the proposed amendments would be discussed at future Public Meetings/ Workshops.

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5. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Illegal Nonconforming Lots.

Pete Frisina reminded the PC this is not a zoning issue, but a land use issue. He said the land use plan should not be compromised by approving a rezoning for an illegal nonconforming lot which does not comply with the land use designation. He advised each of the applicable zoning districts would also have to be amended to include the LNS sub-category designation. He presented the proposed amendments as follows:

ARTICLE III. DEFINITIONS

Bona-fide purchaser in good faith. A person who acquires a property in good faith, without the knowledge of any illegal non-conformances.

**ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES,
TRANSPORTATION CORRIDOR OVERLAY ZONE, AND
COMMERCIAL DEVELOPMENT STANDARDS**

Sec. 7-2. Nonconformances.

A. *Nonconforming Lots.* (Place as last paragraph under A.)

Consideration for the Rezoning of Illegal Nonconforming Lots. An illegal nonconforming lot may be considered for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district. For the purposes of this section, an illegal nonconforming lot is a lot which does not comply with the minimum lot area (acreage), minimum lot width at the building line, and/or the minimum required road frontage; whereas, a variance cannot be granted for said deficiencies by the Zoning Board of Appeals (see Article IX.) After approval of the rezoning, any existing illegal nonconforming structure(s) which are to remain will need a variance authorized by the Zoning Board of Appeals (see Article IX.) An illegal nonconforming use is prohibited. The petition for rezoning to a LNS sub-category of the same zoning district shall be evaluated per the following factors, in addition to those listed under Article XI. Policies, Procedures and Standards Governing Amendment:

1. Whether the applicant is a bona-fide purchaser in good faith of said illegal nonconforming lot.
2. Whether the County issued any building permit(s) for any structure(s) on the illegal nonconforming lot.
3. Whether the non-conformance was self-induced.
4. Whether the subject property is developed or vacant.

Where the dimensional requirements of the zoning district cannot be met in terms of the placement of new improvements, a variance authorized by the Zoning Board of Appeals shall be required. In the event that a landlocked Illegal Nonconforming Lot is rezoned to a Legal Nonconforming Status, a 20 foot easement to a public street that has been duly recorded and made a part of the property deed shall be required prior to the issuance of building permits.

Pete Frisina pointed out the other factors listed below shall also be considered in a rezoning.

Sec. 11-11. Standards for Map Amendment (Rezoning) Evaluation.

All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. The Zoning Administrator shall prepare a report for each proposed map amendment which shall recommend a course of action including recommended conditions, if any. The following factors shall be considered by the Zoning Administrator, the Planning Commission and the Board of Commissioners when reviewing a request for rezoning:

- A. Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

- C. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- D. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Pete Frisina presented the proposed amendments to the Land Use Element as follows:

LAND USE ELEMENT

Agricultural Residential: This category identifies areas with a residential density of one dwelling unit per five acres or more. The Estate Residential Zoning District is appropriate for this area. The area has a general lack of public water service, the presence of unpaved and/or unimproved roads, and a long-standing characteristic of large lot residential development, often in conjunction with an agricultural activity. These factors, along with environmental constraints due to the presence of numerous streams and associated poor soils, dictate large lot development. Agricultural Residential land use is shown as occurring in the southern portion of the county where the aforementioned factors exist to the greatest degree in Fayette County. *Illegal nonconforming lots may be given consideration for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district under Articles VII. and XI. of the Zoning Ordinance.*

Rural Residential: These are areas which allow a low intensity residential density of one dwelling unit per two to three acres. County water is available in some areas; the Conservation Subdivision (C-S) Zoning District is appropriate in this area. This category offers larger lot development of a residential, rather than agricultural, nature. The Land Use Plan Map generally identifies the Whitewater Creek Drainage Basin and the area between Low Density Residential to the north and Agricultural Residential to the south as appropriate for this land use category. *Illegal nonconforming lots may be given consideration for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district under Articles VII. and XI. of the Zoning Ordinance.*

Low Density Residential: This category identifies areas of intended residential subdivision development in a density range of one dwelling unit per one to two acres. County water is generally available; the Conservation Subdivision (C-S) Zoning District is appropriate for this area. Low Density Residential land uses are located in the northern portion of the county and in areas adjacent to the cities of Fayetteville and Tyrone. These areas represent the most urbanized areas of the unincorporated county and offer the greatest number of public services (water, access). *Illegal nonconforming lots may be given consideration for*

rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district under Articles VII. and XI. of the Zoning Ordinance.

The PC concurred with the proposed amendments to the Land Use Element.

Jim Graw presented the following proposed amendments which he had prepared from comments made at previous Public Meetings/Workshops:

Illegal Nonconforming Lot with a Structure(s)

Reason for rezoning an illegal nonconforming lot with a structure(s) to legal nonconforming status (LNS). To provide the current land owner the opportunity and vehicle to rebuild the structure(s) if such structure(s) are partially or completely destroyed by fire, flood, and/or other “Acts of God” provided:

Jim Graw suggested deleting “partially or completely.”

Doug Powell suggested inserting “in the current footprint” prior to “if such structure(s).”

1. The current landowner did not create the illegal nonconforming lot by any of his/her actions, and
2. The county issued building permit(s) for any of the partially or completely destroyed structures on the lot, and

Doug Powell suggested inserting “prior” before “building permit(s)” and deleting “for any of the partially or completely destroyed structures on the lot.”

3. The land owner has attempted to bring the illegal non-conforming lot to a legal status. The land owner must provide the county copies of all documentation detailing such attempt(s) and the detailed result of such attempt(s), and
4. The landowner must execute and sign an Affidavit affirming all of the above are true and correct.

Illegal Nonconforming Lot without a Structure(s)

Reason for rezoning an illegal nonconforming lot without a structure(s) to legal nonconforming status (LNS). To provide the purchaser of the lot the opportunity to build a primary residence on the legal nonconforming lot provided the purchaser:

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Al Gilbert suggested adding a cut-off date for vacant illegal nonconforming lots.

Pete Frisina suggested deleting “purchaser” in the last sentence and inserting “creation of the lot was prior to (insert the effective date) and in addition, the purchaser.”

1. Has or had no personal or familial affiliation or relationship with the current owner of the lot, and

Chairman Thoms and Jim Graw expressed concern regarding “no personal or familial affiliation or relationship with the current owner of the lot.”

2. Had no past or present personal involvement in the lot becoming an illegal nonconforming lot, and
3. Is a bona fide purchaser in good faith of said illegal nonconforming lot, and
4. Purchased the property with the sole intent of constructing a primary residence on the lot, and
5. Prior to and during the purchase of the property had no knowledge or was not aware of the illegal nonconforming status of the lot, and
6. Provides the county with copies of all legal documents prior to the rezoning hearing showing the purchase of said illegal nonconforming lot was completed on a non-contingent basis, and
7. Executes and signs an affidavit affirming all of the above are true and correct.

Chairman Thoms asked how a business on an illegal nonconforming lot would be governed.

Pete Frisina replied the proposed amendments govern any structure located on any type zoned lot.

The PC asked Pete Frisina to send the proposed amendments to Attorney Scott Bennett for his review and feedback.

Kenny Ison said he owns a landlocked illegal nonconforming vacant 13 acre lot on Grant Road and he would like to build a house in order to take care of his disabled brother; however, all he is doing now is paying taxes. He said his brother has agreed to grant him an ingress/egress easement to his property. He pointed out his disabled brother owns the front five (5) acre lot abutting Grant Road which contains a house. He noted the lot width of the properties is only 208 feet wide and is zoned A-R. During his research, he discovered there was a 3.99 acre tract abutting the Flint River on a map, but not a recorded deed, which was originally considered to be in Henry County back in the 1800’s. He said he did not have the option of acquiring more land because one (1) of the property owners won’t sell and the other property owner only has 20 feet of road frontage. He presented a copy of his plat for review by the PC. He added Grant Road was named after his family and he had

found a deed where his grandfather had purchased the property, approximately 150 acres, from his great grandmother in 1928.

Dennis Dutton confirmed the research has been narrowed between 1973 and 1983.

Bill Beckwith suggested Mr. Ison perform research in Henry County.

Al Gilbert suggested Mr. Ison contact the Tax Commissioner's Office about his taxes.

Chairman Thoms pointed out criteria #1 which states, "Has or had no personal or familial affiliation or relationship with the current owner of the lot", may affect his rezoning application.

Doug Powell suggested Pete Frisina highlight number 1 under *Illegal Nonconforming Lot without a Structure(s)* when it is sent to Attorney Scott Bennett.

Kenny Ison asked if there were any other options.

Robyn Wilson suggested combing the lots into one (1) lot and constructing a guesthouse.

Pete Frisina advised the proposed amendments would be discussed at future Public Meetings/Workshops.

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Chairman Thoms asked if there was any further business.

Pete Frisina advised a Public Meeting/Workshop was scheduled for Thursday, March 15, 2012, at 7:00 pm in the Board of Commissioners' Conference Room.

Hearing no further comments, Al Gilbert made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 5-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. The Public Meeting/Workshop adjourned at 9:08 pm.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**TIM THOMS
CHAIRMAN**

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