

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on February 2, 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: Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Douglas Powell

MEMBERS ABSENT: Tim Thoms, Chairman

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

STAFF ABSENT: Dennis Dutton, Zoning Administrator

GUESTS PRESENT: Attorney Jennifer Blackburn
Melissa Harris
Unidentified Female

Welcome and Call to Order:

Vice-Chairman Gilbert 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 January 19, 2012.

Vice-Chairman Gilbert 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 unanimously passed 4-0. Members voting in favor of approval were: Vice-Chairman Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. Chairman Thoms was absent.

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

Pete Frisina presented the proposed amendments as follows:

ARTICLE III. DEFINITIONS

Tower, Planned. Any tower that is in the public hearing procedure, site application review process, or has been approved, but not yet constructed (see Article V.)

ARTICLE V. GENERAL PROVISIONS

Sec. 5-47. Standards for Telecommunications Antennas and Towers. (Amended 05/26/11)

- A. *Purpose and Intent.* The purpose of this ordinance is to establish minimum development standards for the regulation of commercial telecommunications transmission towers, including, but not limited to: cellular and Personal Communications Systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related equipment cabinets and/or buildings. The intent of this ordinance is: (1) to implement the provisions of the Telecommunications Act of 1996, on a local level; (2) to control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact on the community is minimal; and (3) to advocate the shared use of new and existing tower sites through co-location, thereby discouraging the proliferation of towers throughout Fayette County.
- B. *Authority.* Only the Board of Commissioners has the authority to reduce or waive the requirements under this section through the public hearing procedure.
- C. *Applicability.*
1. *District Height Limitations.* Height limits specified for each zoning district shall not apply to towers and antennas. The requirements set forth herein shall govern the height of towers and antennas.
 2. *Governmentally Owned Property.* These requirements shall not apply to any governmentally owned property, including: properties owned by the Board of Commissioners, Board of Education, or a municipality, as well as, the State or Federal government, that are used for the location of any tower facility.
 3. *Amateur Radio Antennas.* This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator.
 4. *Pre-Existing Towers and Antennas.*
 - a. Any tower or antenna which existed prior to December 10, 1998, **(may need a new date?)** that does not comply with the requirements herein shall be deemed legally nonconforming. Any enlargement of a pre-existing tower or tower facility, shall meet the requirements herein. Co-location of an antenna which does not increase the height of the tower or placement of additional equipment cabinets or buildings within the existing tower facility shall be allowed under the provisions of Site Plan Requirements.
 - b. Replacement of a pre-existing legally nonconforming tower structure is permitted provided that all of the following apply:
 - i. The replacement tower is constructed within 25 feet of the existing tower and is not greater in height than the existing tower.

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- ii. The tower being replaced is removed from site within 90 calendar days from the issuance of the Certificate of Occupancy for the replacement tower;
- iii. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height; and
- iv. A site plan indicating the location of the replacement tower shall be required.

D. General Requirements.

1. Towers and tower facilities shall be on a lot which meets the minimum ~~lot size~~ **requirements** for the zoning district in which it is located. Towers and tower facilities may be located on a lot containing another use. Towers and tower facilities may occupy a leased area being a portion of the lot.
2. Internal setbacks for towers, tower facilities, and anchors shall be measured to the boundaries of the lot, not the boundaries of the leased area. Setbacks for towers shall be measured from the base of the tower.
 - a. All towers shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower plus 10 feet.
 - b. All towers shall be set back from all adjoining properties zoned non-residential a distance of 100 feet.
 - c. All towers shall be set back from the street right-of-way (existing or required) a distance equal to the height of the tower. Street right-of-way is based on the classification of the street (see County Code, Development Regulations.)
 - d. All towers, excluding alternative tower structures, shall be set back from any off-site residence a distance equal to three (3) times the tower height or a minimum of 500 feet, whichever is greater.
 - e. Any tower facility and anchors for guyed towers shall comply with the minimum required setbacks and/or buffers of the applicable zoning district.
 - f. All towers shall be set back from all adjacent municipalities and counties a minimum distance of 1,000 feet.**
3. Towers located on the same lot as a private school or day care center shall be set back a distance equal to the height of the tower from all facilities, excluding parking areas. This provision shall not apply to an alternative tower structure which is allowed in conjunction with a Private School Conditional Use.
4. All towers, excluding alternative tower structures, shall be structurally designed to accommodate the following minimum numbers of carriers based on height of the tower:
 - a. up to 70 feet : one (1) carrier;
 - b. greater than 70 up to 120 feet : two (2) carriers;
 - c. greater than 120 feet up to 150 feet : three (3) carriers;
 - d. greater than 150 feet up to 180 feet : four (4) carriers;
 - e. greater than 180 feet up to 250 feet : five (5) carriers; and
 - f. greater than 250 feet: six (6) carriers.
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 slat inserts for screening. Access to the telecommunication 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.

6. A landscaped strip 10 feet in width surrounding the perimeter of the tower facility shall be required. Landscaping shall be staggered double rows of evergreen trees a minimum of six (6) feet in height when planted and spaced every 10 feet on center. Landscaping shall be installed on the outside of the required security fence. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Zoning Administrator may determine that natural growth around the property perimeter may be sufficient in lieu of the required landscaping. If existing vegetation is to remain and requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan. These requirements shall not apply to a tower facility associated with an alternative tower structure.
7. Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower, including any antenna. If minimal grading (elevation of one [1] to two [2] feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the County Engineer.
8. No signage shall be placed on a tower structure or antenna.
9. ~~*Inventory of Existing or Planned Tower Sites.*~~ No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the County that no existing tower or any planned towers can accommodate the applicant's proposed antenna. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All of the following shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna:
 - a. ~~Each applicant for a new tower and antenna shall contact the owners of all existing and planned tower sites, including those located within the zoning jurisdictions of municipalities and/or other counties, that are within the search area of the applicant's proposed tower or antenna location, and provide the Planning and Zoning Department with an inventory of said tower sites at the time of application submittal.~~

The inventory shall include the following information:

 - i. ~~All tower owners and the number of carriers for each tower site;~~
 - ii. ~~The site location, total height, and design type of each tower;~~
 - iii. ~~Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant's engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;~~
 - iv. ~~Other limiting factors that render existing towers and structures unsuitable; and~~
 - v. ~~Letters of rejection for requests to co-locate on all existing and planned~~

~~towers within the service area of the proposed tower.~~

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- ~~b. The Planning and Zoning Department may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.~~
 - ~~e. If it is determined that the applicant cannot feasibly locate an antenna on an existing tower or planned tower, the applicant shall demonstrate that the proposed new tower is designed to accommodate the required number of carriers.~~
10. *Aesthetics and Lighting Requirements.* The following compatibility standards shall govern the aesthetics and lighting of any tower facility, including the installation of antennas on towers.
- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and equipment cabinets shall be architecturally compatible with, the color and texture of the supporting structure. Roof mounted equipment cabinets shall be screened so as to make the equipment visually unobtrusive.
 - c. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- ~~11. *Federal Requirements.* All towers shall meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antenna, including modulation studies on frequency usage, to avoid interference with existing systems in operation.~~
- ~~12. *Building Codes and Safety Standard Requirements.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards or that such tower constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 60 days to bring such tower into compliance.~~
13. *Removal of Abandoned Antennas and Towers.* Prior to the abandonment of any tower or antenna, a copy of the notice of Intent to Abandon required by the FCC shall also be submitted to the Fayette County Planning and Zoning Department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of

such abandonment. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

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14. *Performance Bond Required.* Prior to the issuance of a Certificate of Occupancy for a new tower structure, every applicant shall be required to deposit a performance bond with Fayette County. The amount of the bond shall be equal to 10 percent of the total construction cost or a minimum of \$5,000, whichever is greater. Such bond shall be required upon compliance with all aspects of this section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any Certificate of Zoning Compliance issued by the Planning and Zoning Department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The approved format of the bond is available in the Planning and Zoning Department.
- E. *Supplemental Requirements.* In addition to the General Requirements above, the following Supplemental Requirements shall apply as specified below.
 1. *Highway Corridor.* Locating towers along the following highway corridors is permitted as an overlay zone provided all the following requirements are met:
 - a. The State and County Highways included within the Highway Corridor are S.R. 54, S.R. 85, S.R. 92, S.R. 74, S.R. 314, S.R. 279, S.R. 138, and 85 Connector.
 - b. The Highway Corridor tower overlay zone permits towers in any zoning district when located within 1,000 feet of the right-of-way on either side of the aforementioned roads in unincorporated areas of Fayette County.
 - c. Towers in excess of 250 feet in height in the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - d. All new towers, excluding alternative tower structures, located within the Highway Corridor that are 70 feet or greater in height shall not be located within one (1) statute mile from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing governmentally-owned towers where co-location is not permitted or from alternative tower structures.
 2. *Outside of the Highway Corridor.*
 - a. Outside of the Highway Corridor, a tower may be located only in the following zoning districts:
Manufacturing and Heavy Industrial District (M-2);
Light Industrial District (M-1);
Highway Commercial District (C-H);
Community Commercial District (C-C);
Agricultural Residential (A-R); and
R-70 Single-Family Residential District.
 - b. Towers in excess of 180 feet in height outside of the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
 - c. All new towers, excluding alternative tower structures, located outside of the Highway Corridor that are 70 feet or greater in height shall not be located within one

and one-half (1.50) statute miles from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum

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distance requirement shall not apply from existing government-owned towers where co-location is not permitted or from alternative tower structures.

3. *Alternative Tower Structures.*
 - a. The purpose of an alternative tower structure is to diminish, camouflage, or conceal the appearance of towers and antennas to reduce the visual impact on surrounding properties and streets. Depending on the nature of the site, the proposed alternative tower structure shall be appropriate and in character with its surroundings. For example, the use of a monopine is more fitting on a site with stands of mature trees; whereas, the use of a flag pole or light pole alternative tower structure is more suitable for the developed portion of a site.
 - b. Alternative tower structures shall comply with the General Requirements herein with the exception of the setback requirements from off-site residences, security fencing requirements, landscape requirements, and tower separation requirements of both the Highway Corridor and outside of the Highway Corridor. Alternative tower structures shall be allowed in the Highway Corridor, outside of the Highway Corridor in the zoning districts listed herein, and in conjunction with the following existing Conditional Uses:
 - i. Church or Other Place of Worship;
 - ii. Developed Residential Recreational/Amenity Areas;
 - iii. Private School; and
 - iv. Telephone, Electric, or Gas Sub-Station or Other Public Utility Facilities.
 - c. Alternative tower structures, in conjunction with the above listed Conditional Uses, shall meet the setbacks established in the General Requirements or the Conditional Use setbacks, whichever is greater.
 - d. An alternative tower in excess of 120 feet in height shall require public hearings before the Planning Commission and Board of Commissioners.
 - e. A maximum of one (1) alternative tower structure shall be allowed per lot.
 - f. The alternative tower structure shall match the visual simulation depiction and engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site.
 - g. *Design Review and Approval Process:* Alternative tower structures shall go through a Design Review and Approval Process before the Planning Commission. The purpose of this Design Review and Approval Process is to determine that the alternative tower structure type is appropriate for the site and surrounding area and set requirements for the alternative tower structure type, placement on the site, equipment structures, fencing and landscaping. The Design Review and Approval Process application shall include the following:
 - i. An analysis of the nature and character of the site and how the alternative tower structure is appropriate in context to the site and the view from surrounding properties and streets;

- ii. A visual simulation consisting of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a

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minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets; and

- iii. Engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site which shall indicate all applicable requirements herein.

h. *Monopine Towers.*

- i. Monopine towers shall maintain the natural conical appearance of a loblolly pine tree. Antennas shall be placed a minimum of five (5) feet below the top of the tower, as measured from the highest point of the antenna to maintain said appearance.

- ii. Foliage shall be green in color and the tower shall be brown in color. The antennas shall be green to blend with the foliage and the foliage shall extend a minimum of one (1) foot beyond the antennas. The foliage shall be UV resistant to reduce degradation and fading and constructed to withstand winds of 110 MPH, certification of such shall be supplied with the application. Foliage shall be placed on the tower down to the height of the foliage of surrounding trees. The structure shall have sufficient limbs at the time of initial installation so that there is no gap between the existing canopy and the lower most limbs of the monopine.

- iii. The installation of the foliage on the monopine shall be installed prior to final inspections. Foliage on the monopine shall be maintained and/or replaced to the specifications established by the engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site to retain the screening of the antennas. Upon notice from the County that the foliage is in need of maintenance and/or replacement, the tower owner shall have 90 days to make such repairs.

- i. Flag pole and light pole alternative tower structures shall utilize internal antennas and slick stick design. Flag poles utilized as an alternative tower structure shall be exempt from Article V. *General Provisions, Structures Permitted above the Height Limit.*

F. *Public Hearings Required to Reduce or Waive Requirements.*

- 1. Public hearings before the Planning Commission and Board of Commissioners are necessary to reduce or waive requirements for a proposed tower, antenna, or equipment cabinet or building that cannot comply with the General Requirements, and/or Supplemental Requirements. The procedure for said public hearings shall follow the procedure for rezoning (see Article XI.) Applicants shall apply for public hearings through the Planning and Zoning Department. The application with deadline submittal and public hearing dates is available in the Planning and Zoning Department. The application shall include the

following:

- a. A scaled Concept Plan, drawn on the signed/sealed survey, graphically indicating the lot and leased area, total tower height including antennas, type and design of the

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tower structure, the boundary of the tower facility, all applicable setbacks (both on and off-site), ingress/egress, landscaping areas, and zoning of the subject property and adjacent property;

- b. ~~An Inventory of Existing or Planned Tower Sites per the standards listed under Supplemental Requirements~~ *Inventory of Existing or Planned Tower Sites. When a proposed tower cannot meet the separation requirements between towers, an Inventory of Existing or Planned Tower Sites shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna. Each applicant for a new tower shall contact the owners of all existing and planned tower sites, including those located within all adjacent municipalities and counties, that are within the search area of the applicant=s proposed tower location. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. The inventory shall include the following information:*

- i. All tower owners and the number of carriers for each tower site;*
- ii. The site location, total height, and design type of each tower;*
- iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant=s engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;*
- iv. Other limiting factors that render existing towers and structures unsuitable; and*
- v. Letters of rejection for requests to co-locate on all existing and planned towers within the service area of the proposed tower.*

The County will engage an independent expert review of the Inventory of Existing and Planned Towers. If the actual cost to the county for independent expert review of the document is greater than the application fee, the applicant shall be billed for the difference and payment shall be made prior to the hearing before the Board of Commissioners.

The Inventories of Existing or Planned Tower Sites are available as an information source to assist other applicants applying for approval under this ordinance, provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

Pete Frisina advised this paragraph has been rewritten to eliminate the “may” vs. “will” dilemma. He pointed out the purpose of this section was to eliminate the county from being held liable for information provided by the Planning and Zoning Department.

- c. A balloon test shall be conducted prior to the public hearings. The balloon shall be flown for a minimum of four (4) daylight hours from the location of the proposed tower, at the requested height. The application shall include the date and time of the

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balloon test and an alternative date, in case of inclement weather. The initial balloon test shall be held on a Saturday and the alternative date may be held on any day of the week. A sign announcing the dates of the balloon test shall be posted on the property by the County a minimum of five (5) calendar days prior to the initial balloon test; and

- d. The applicant shall submit a visual simulation, based on the balloon test, a minimum of seven (7) calendar days prior to the Planning Commission public hearing. Failure to meet this deadline will postpone the tower application to the next scheduled cycle of public hearings. The visual simulation shall consist of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets. An Affidavit certifying that the correct location and height of the tower were utilized in the balloon test shall be submitted with the visual simulation photographs.
2. *Factors Considered in Public Hearing Applications.* The following factors shall be considered when evaluating a tower application:
- a. Height of the proposed tower;
 - b. Distance of the tower to residential structures and residential zoning district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Topography of the site and its effect on the efficiency of the tower in terms of coverage;
 - e. Surrounding tree coverage and foliage and its effect on the efficiency of the tower in terms of coverage, as well as, its effect on the visual impact of the tower on surrounding properties and streets;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress; and
 - h. The degree of the tower's compliance with the one (1) statute mile separation (inside the Highway Corridor) or one and one-half (1.5) statute mile separation (outside the Highway Corridor.)

In granting its approval to waive or reduce requirements, the County, through the Board of Commissioners or its designee, may impose conditions that are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property. A site application shall be submitted within 60 days of the date of approval by the Board of Commissioners or the proposed tower will no longer be deemed a planned tower.

- G. *Site Application Requirements.* All applicants for new tower construction shall include the following:
 - a. completed application forms signed and notarized;
 - b. proof of ownership of the parent tract (latest recorded Warranty Deed);

- c. site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia;
- d. landscape plans (see General Requirements);

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- e. provide number of carriers based on maximum height of tower;
- f. ~~provide inventory of Existing or Planned Tower Sites (see General Requirements);~~
- g. ~~a report including all tower specifications and a description of the tower with technical reasons for its design;~~
- h. ~~documentation establishing the structural integrity for the tower-s proposed uses;~~
- i. ~~the general capacity of the tower and information necessary to assure that ANSI standards are met;~~
- j. a statement of intent on whether excess space will be leased; **a lease agreement with a minimum of one (1) carrier.**
- k. a copy of the Determination of No Hazard to Air Navigation from the FAA; and
- l. a copy of the Carrier's FCC license **or license application** (as applicable for an antenna).

Pete Frisina advised he had added "or license application" as suggested by Attorney Jennifer Blackburn.

Attorney Jennifer Blackburn advised the requirement should read: a copy of the FCC license or application.

Site Plan Requirements. All tower applicants for new towers shall be required to submit a scaled site plan which complies with all applicable requirements of the Development Regulations (see County Code.) Additional information indicated on the site plan shall include:

- a. a signed/sealed survey by a land surveyor registered in the State of Georgia of the parent tract, leased area, and ingress/egress easement, indicating the metes and bounds for each;
- b. total tower height including antennas;
- c. type and design of any tower facility, including location of equipment buildings or cabinets;
- d. distance from nearest off-site residences;
- e. fencing and gate details;
- f. all applicable setbacks for the tower, tower facility, and anchors for guyed tower, as applicable;
- g. distance between towers;
- h. zoning and acreage of parent tract;
- i. zoning of adjacent property; and
- j. other information necessary to assess compliance with this ordinance.

Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.

? **Installing an Antenna on an Existing Structure or Co-location of an Antenna on an Existing Tower.** The following scenarios shall not require submittal of a **site application or** site plan:

- a. Installing an antenna on an existing structure, so long as said installation adds no more than 20 feet to the height of said existing structure (including buildings, light/utility poles, water towers, or other free standing non-residential structures excluding signs and towers.)

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- b. Co-locating an antenna on any existing tower, so long as, said installation does not increase the height of the tower and/or exceed the maximum height of administrative tower approval for that location and complies with all applicable conditions of approval associated with the tower site.

Pete Frisina advised he had added “increase of the height of the tower” to this section which would require Site Plan approval.

- c. Enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site which does not require an enlargement of the existing tower facility.

Prior to the placement or co-location of any antenna on an existing tower, enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the Zoning Administrator. The notice shall include a depiction of the location, size, and configuration of such antenna on the existing tower and equipment location within the existing tower facility in reference to an existing site plan and a copy of the FCC license or license application. ~~a certification from a licensed professional engineer verifying that the antenna will comply with wind load requirements and weight limits for the structure or tower as designed and installed.~~ A Certificate of Zoning Compliance Form shall be issued by the Zoning Administrator upon satisfaction of the above requirements, and any applicable building permits/inspections shall be required.

Pete Frisina advised he had added “or license application” as suggested by Attorney Jennifer Blackburn.

Attorney Jennifer Blackburn advised the requirement should read: a copy of the FCC license or application.

- H. *Site Application Timeframes.* The County shall act on applications for co-locations within 90 days, and all other applications within 150 days. An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed), and site plan prepared (sealed and signed) by an Engineer, Architect, or Landscape Architect registered by the State of Georgia. The Zoning Administrator has 30 days to determine if an application is complete. If the Zoning Administrator requests additional information within the 30 day review period, the time it takes the applicant to respond will not count towards the 90 or 150 day time limits. Upon notice that an application is incomplete, the applicant has 30 days to submit all information necessary to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application

shall not be submitted for the same property for 60 days.

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H. *Site Application Timeframes. An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed) and site plan prepared (sealed and signed) by an Engineer, Architect or Landscape Architect registered by the state of Georgia. The Zoning Administrator has 30 days to determine if an application is complete. Upon notice that an application is incomplete, the applicant has 30 days to submit all necessary information to complete the application. Failure to complete the application in this time frame shall result in an automatic withdrawal of the application and the proposed tower will no longer be deemed a planned tower and a site application shall not be submitted for the same property for 60 days.*

The County shall act on applications for co-locations within 90 days and all other applications within 150 days. If the Zoning Administrator requests additional information within the 30 day review period as mentioned above, the time it takes the applicant to respond will not count towards the 90 or 150 day time limits.

Pete Frisina advised H., shown above in italics, is a rearrangement of the current H. submitted by Jim Graw.

? **FAA Determination. Prior to the approval and issuance of the certificate of Zoning Compliance, a copy of a FAA Determination including “Does Not Exceed, “Exceeds But Okay”, or “Determination of No Hazard” must be submitted within the 90 or 150 day time limits, as applicable. Failure to submit the determination in these timeframes shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days.**

Pete Frisina advised he had added the requirement that the FAA has to be submitted within the 90 or 150 day time frame.

I. *Tower Approval Expiration. Approval of a site application by the applicable departments for a tower shall expire 12 months from the date of approval and will no longer be deemed a planned tower, unless a Certificate of Occupancy has been issued for the tower or the building permit remains active.*

Pete Frisina advised there are private airports/heliports registered with the FAA; however, the FAA does not address the private airfields in the Determination of Hazard. He reported he had spoken with Dale Smith of Site Safe, who prepares their analysis for towers in relation to airfields, and he recommended a two (2) mile radius for a tower from an airfield. He presented maps indicating a one (1) mile radius and a two (2) mile radius with airfields indicated, which are on the FAA register. He pointed out two (2) of the airfields are heliports; one (1) being at the hospital and one (1) in the

vicinity of Westbridge Road.

Bill Beckwith stated the one (1) mile radius should be sufficient.

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Jim Graw asked Bill Beckwith what is the purpose of the analysis.

Bill Beckwith replied the airfield traffic pattern is reviewed and a determination is made if the tower will create a hazard or conflict with the traffic pattern. He said his intent is to identify the areas and advise the tower applicant about the private airfield.

Pete Frisina stated the issue to be addressed is whether the county requires a one (1) mile radius or a two (2) mile radius. He said the county would put the tower applicant on notice that the tower is proposed within a certain distance of a private airfield then the county would need an analysis to show that the proposed tower would not cause a conflict with the private airfield. He asked if the county should engage someone to do the analysis for the county and have the fee charged for the analysis added to the tower application fee. Because in the case of the Inventory of Planned or Existing Towers, the County is considering hiring a third party to evaluate the findings.

Bill Beckwith said then the County may get into a situation where the County's consultant says it is not a problem and then it turns out to be a problem then the County may be held liable. My point is to identify these airfields and let the tower applicant know that there is an airfield and let them do their due diligence and bring their findings back to us.

Jim Graw questioned what the County would do if there is a conflict with an airfield? Would the County not allow the tower to be built?

Bill Beckwith stated that his point was to put the tower on notice that there could be a problem.

Vice-Chairman Gilbert remarked whether the county or the tower applicant hires a professional to prepare the analysis, if the tower application is approved by the county and there is a problem, then the county is going to be held liable.

Jim Graw commented if there is a hazard or conflict, the county should deny the construction of the tower.

Pete Frisina agreed if there is a hazard or conflict the county should deny the construction of the tower, this requirement should be included in the proposed amendments. He added if the tower company does not agree with the analysis, the county may want to consider requiring public hearings. He also asked how much input do we give the airfield owner?

Doug Powell thought the airfield owner should be notified and advised two (2) miles is a long distance for small aircraft; however, the final approach path changes depending on the wind.

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Attorney Jennifer Blackburn suggested requiring a No Hazard FAA study which determines the tower proposes no hazard and if the tower company is not issued a No Hazard letter then the tower cannot be constructed. She added the No Hazard letter would indicate the maximum allowable height and the tower company could adjust the height of the tower.

Pete Frisina stated that the County would still need to notify the airfield owner.

Attorney Jennifer Blackburn cautioned that giving the airfield owner too much input that affects the use of the surrounding properties could be a property rights issue.

Pete Frisina presented Bill Beckwith's recommendation for these type private airfields below:

There are three (3) categories of airfields in the county.

- A. Publicly owned, open to public use: Falcon Field.
- B. Privately owned, open to public use: Rust.
- C. Privately owned, private (restricted) use: the others.

The FAA knows about the open to the public facilities and has specific information regarding them so airspace obstruction analyses can be made regarding tower locations on their vicinity. The other private restricted use strips are not the concern of the FAA due to limited manpower and other restrictions.

Identification / Notification Procedures

I (Bill Beckwith) suggest that some method of identifying potential air traffic zones around the strips be established. The purpose would be twofold.

- A. To let potential tower developers know of the locations of the strips; and
- B. To let airstrip owners know of the possibility of a tower being built that may affect flight operations.

I suggest the following method be used.

- * Establish a circular area centered on the geographic coordinates of the center of the strip of a certain radius, say 1.0 mile (Pete - I changed my mind.) This would be called an Airspace Advisory Zone. (Some of the private/restricted airfields don't have specific runway directions

listed on their Airport Master Record (FAA Form 5010) so trying to place a rectangular traffic-pattern type box on the strip may not be accurate.)

- * Prepare a county map with these zones noted.
- * When a tower request is received, plot the potential tower location on the above map.
- * If the tower location is within an Airspace Advisory Zone (within the 1.0 mile radius of an airfield), advise the applicant of the proximity and require the tower company to perform due diligence by having a conflict analysis made and reporting the results to the Planning and Zoning staff.
- * If the tower location is not within an Airspace Advisory Zone notify the applicant; no additional report is necessary (advisory only.)
- * Notify the airfield owner in either case (County's due diligence responsibility.)

Pete Frisina advised he would revise the proposed amendments for further discussion at the Public Meeting/Workshop scheduled for February 16, 2012.

* * * * *

3. Discussion of proposed amendments to the Fayette County Comprehensive Plan and the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: the SR74 South, SR 85 South, and Padgett Road intersection.

Pete Frisina presented a Google earth map indicating the new alignment of Padgett Road with SR 74 South. He pointed out which lots are vacant and which are occupied. He also pointed out a portion of the property located along the old and new alignment of Padgett Road was owned by State and/or County. He said the State would turn ownership of the new portion of Padgett Road over to the County who would then abandon the old road bed of Padgett Road to the adjacent property owners. He advised the BOC had requested an analysis of this intersection be performed including amendments to the Land Use designation and the possible development of an Overlay Zone. He reminded the PC we had told property owners in the area that we would review the Land Use designation for this area once the widening of SR 74 South was complete. He reported public water is not available at the intersection and nonresidential development would require extending the existing water line and also providing fire hydrants. He added that to get water at the intersection of

SR 85 South and Padgett Road, the water line would have to be run under SR 85 South which will be costly.

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Doug Powell stated there was a For Sale sign posted on the property west of SR 74 South at the subject intersection.

Melissa Harris advised she is the broker representing the five (5) residential properties west of SR 74 South at the subject intersection. She said she had been contacted by a convenience store with gasoline sales which also wanted an attached food establishment, like Dunkin Donuts or Krystal. She reported the traffic count for this intersection is approximately 20,000 and the area is no longer suitable for residential use.

Jim Graw remarked a low impact commercial zoning like the L-C zoning may be suitable for some of the intersection properties.

Several of the PC members expressed concern about proposing a commercial Land Use designation in the vicinity of the residential lots along Padgett Road.

Pete Frisina commented the property on both sides of SR 74 South currently being utilized as New Hope Baptist Church South Campus may be a good barrier for the proposed Land Use designation.

Vice-Chairman Gilbert remarked due to the close proximity of Starr's Mill that architectural standards were very important and the construction should maintain a rural appearance, like an old country store.

Jim Graw concurred.

Melissa Harris stated she dealt with architectural standards with the development of the building located between the Animal Control Shelter and Redwine Road. She said she was in favor of establishing, enhancing, and protecting the area for appropriate development.

Jim Graw commented in was not in favor of a shopping center being located at said intersection and only one (1) convenience store with gasoline sales.

Melissa Harris concurred and added the development needs to be pleasing for the community.

Pete Frisina reported all the commercial zoning districts allow a convenience store with gasoline sales.

Jim Graw said perhaps only one (1) corner could be designated L-C and the other three (3) corners could be designated O-I. He added the L-C zoning district may need to be amended to increase the number of gasoline pumps.

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Melissa Harris remarked a convenience store with gasoline sales could be on one (1) corner with food establishments on the others. She stated any convenience store with gasoline sales wants beer and wine sales; however, they may not be able to comply with the distance requirements from a church or single-family residence. She presented an aerial and pointed out the existing convenience stores with gasoline sales which are not in close proximity to the subject intersection. She asked if there were any convenience stores with gasoline sales that do not sell beer and/or wine.

Robyn Wilson replied the Village Food Mart (previously Ernest's Meat Market) close to the intersection of Tyrone Road and Flat Creek Trail does not sell beer and/or wine.

Melissa Harris asked what the distance requirement was for packaged beer and/or wine sales to a church or single-family residence.

Pete Frisina replied 300 feet.

Melissa Harris said the distance requirement may create a problem with the development of a convenience store.

Pete Frisina stated he would present data at the February 16, 2012, Public Meeting/Workshop for further discussion.

* * * * *

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

Pete Frisina 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.)

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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. That the applicant is a bona-fide purchaser in good faith of said illegal nonconforming lot.
2. The illegal nonconforming lot contains a habitable single-family residence in the case of a residentially zoned lot or a building code compliant structure that can be occupied in the case of a non-residentially zoned lot.

Pete Frisina remarked there was discussion at the last Public Meeting/Workshop to only give consideration to those lots that were developed with habitable structures as opposed to vacant lots.

Doug Powell stated it should be “buyer beware” if the lot is vacant.

Vice-Chairman Gilbert said if a building permit was issued, the county should “bite the bullet.” He added he did not totally want to rule out a vacant lot.

Jim Graw and Vice-Chairman Gilbert concurred.

3. The issuance of building permit(s) for any structure(s).

Pete Frisina advised all building permits records, prior to 1982, were destroyed in the Courthouse fire; however, the tax records may be helpful.

Where the dimensional requirements of the zoning district cannot be met in terms of the placement of improvements, a variance authorized by the Zoning Board of Appeals shall be required.

Pete Frisina advised the history of the subject property in terms of date of the nonconformity, the chain of ownership, and relationship to abutting properties would be addressed in the Staff Analysis.

Development status of the property (vacant or existing structures.)

Pete Frisina stated this was replaced with 2. above.

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All initiatives taken by the applicant to remedy the nonconformance including, legal action against the seller and/or acquisition of adjacent property.

Pete Frisina said the discussion at the last Public Meeting/Workshop questioned to what extent the buyer would have to pursue these avenues and what kind of documentation would the County need for verification. He added the County Attorney was not in favor of considering initiatives taken by the applicant.

Vice-Chairman Gilbert, Doug Powell, and Jim Graw concurred.

Pete Frisina advised he would delete this requirement in its entirety.

Vice-Chairman Gilbert remarked the applicant could provide this information with the rezoning petitions if they wanted to, but it should not be required.

Jim Graw concurred.

Bill Beckwith asked how the applicant would know to submit the information.

Robyn Wilson replied it would be similar to the Variance Summary on the ZBA application.

Pete Frisina presented the following scenarios:

Illegal Non-Conforming Lot Scenarios

Lot 1 Scenario

A legal nonconforming A-R lot of 3.6 acres as of November 13, 1980, – lot also does not meet the required 250 feet of lot width.

Lot is subdivided in 1981, by selling off one (1) acre leaving 2.6 acres and making in an illegal nonconforming lot.

Building permit issued in 1982, for a residence based on a deed for 2.6 acres and a separate deed for an adjacent 2.5 acre lot which equal 5.1 acres and meets the dimensional requirements of A-R including lot width, but lots were never combined.

In 1983, the 2.5 acre lot is sold leaving the illegal nonconforming 2.6 acre lot with a residence.

In 2007, a building permit is issued in error for an addition to the residence.

After the property has changed ownership five (5) times it is discovered by the County that it is an

illegal nonconforming lot in 2011.

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Vice-Chairman Gilbert remarked the county “messed up” with the issuance of the building permit in 2007.

The PC concurred this is a fairly decent candidate.

Lot 2 Scenario

A legal conforming 12.79 acre A-R lot in 1991.

The 12.79 acres is subdivided in 1994, into a five (5) acre lot, a 6.79 acre lot, and a one (1) acre lot - at the time a Final Plat was not required for the five (5) acre lot or the 6.79 acre lot, but was required for the one (1) acre lot and no Final Plat was approved for the one (1) acre lot.

The one (1) acre lot is an illegal nonconforming lot that does not meet the minimum five (5) acres or the 250 foot requirement for lot width.

The five (5) acre lot and one (1) acre lot are both still owned by the same person; however, these two (2) lots are separated by the 6.79 acre lot.

The lot is vacant of any structure and the County has not issued any building permits.

The PC concurred this is not a decent candidate.

Lot 3 Scenario

A legal conforming A-R lot of 6.42 acres containing a residence built in 1974, per tax records (Note: there are no building permit records prior to 1982, as they were all destroyed in the Courthouse fire.)

A building permit was issued in error for a second residence in 1987, as the plat did indicate the presence of an existing residence and a building permit was issued for a detached garage in 1991.

In 1992, the lot was subdivided into two (2) illegal nonconforming lots each containing a residence. Each property has changed ownership two (2) times.

Vice-Chairman Gilbert said the Building Department should not have allowed two (2) houses to be built on one (1) lot.

Robyn Wilson commented the building permit was issued on falsified information because the existing house was not indicated on the lot when a building permit was applied for the second house.

Pete Frisina added the county did not have as many research resources in 1987, as they have now. He advised all existing structures should be indicated on the plat when applying for a building permit; however, the existing house was not shown.

The PC concurred this is a fairly decent candidate since the ownership has changed.

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Lot 4 Scenario

A 14 acre legal nonconforming A-R lot as of November 13, 1980, – lot does not meet the required 250 foot lot width.

In 1989, lot subdivided into a five (5) acre lot and a nine (9) acre lot creating two (2) illegal nonconforming lots – the five (5) acre lot still does not meet the 250 foot requirement for lot width and the nine (9) acre lot does not meet the 250 foot requirement for lot width and is also now landlocked - at the time a Final Plat was not required.

The nine (9) acre lot was combined with a four (4) acre lot but still remains landlocked and does not meet the 250 foot requirement for lot width.

The five acre lot contained a residence that was replaced with a new residence in 1995 – building permit contains a deed that seems to recombine the property – about five months later a deed was filed splitting the lots again into a five acre lot and 13 acre lot.

The lots have changed ownership within the family.

Pete Frisina pointed out both are illegal nonconforming lots; therefore, no building permits may be issued.

Vice-Chairman Gilbert asked what would happen if the existing house burned down.

Pete Frisina replied the house could not be rebuilt unless the lot was put back into its original configuration of 14 acres or purchased additional property to be able to legally subdivide the property.

Jim Graw asked if the back landlocked property could be accessed by an easement if the property were rezoned to A-R LNS.

Pete Frisina and Robyn Wilson held a discussion and stated Article V. General Provisions regarding landlocked property which may also have to be amended because it states if the property was landlocked prior to November 13, 1980, it can be accessed by a 20 foot easement.

Jim Graw said he would prefer to allow the rezoning of the front lot which contains a house but not the vacant rear lot.

Doug Powell suggested leaving both lots as illegal nonconforming and if the house burns the two (2) lots would be required to be combined which would change the status to a legal nonconforming lot.

The PC could not reach a consensus.

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Pete Frisina asked the PC to think about what would happen if the county issued a building permit on a legal lot and later the lot was altered and was made into an illegal lot. He said this situation also exists currently; however, it was altered before the current property owner purchased the lot. He reported the Disclosure Form for Georgia states: Are you aware of any zoning or building code noncompliance in relationship to the structure. He noted there is nothing on the Disclosure Form regarding whether or not the lot is a legal lot or an illegal lot. He remarked he had spoken with a Real Estate Agent who stated they did not know if a lot is legal or illegal and very seldom do they check on it because the buyer needs to do their due diligence. He added a Closing Attorney stated if it is not in public record then they will not know about it. He reported on one occasion the county had filed a Disclosure Affidavit on an illegal nonconforming lot; however, staff has been advised by the County Attorney not to file a Disclosure Affidavit on an illegal nonconforming lot.

Vice-Chairman Gilbert commented a Closing Attorney is making sure there are no liens on the property and it is not his responsibility to verify the zoning.

Pete Frisina advised staff informs an owner that the lot is an illegal nonconforming when the owner makes the inquiry and what the stipulations are; however, if nothing is recorded, the Closing Attorney will not know when he performs a Title Search. He also advised the PC that all of the building permits records prior to 1982, were burned in the Courthouse fire and staff may not be able to totally research a property; however, staff can research the tax records which may be of some assistance.

Jim Graw asked if there are any legal problems if the county does not issue a building permit on an illegal nonconforming lot that the owner did not know was an illegal nonconforming lot when it was purchased.

Pete Frisina replied the property owner can apply for a rezoning; however, if the rezoning is denied based on the land use designation, then the county may have a situation where there is a legal challenge.

Vice-Chairman Gilbert asked how far away the proposed amendment was from completion.

Pete Frisina replied staff would continue to review the proposed amendments for discussion at the next Public Meeting/Workshop.

* * * * *

Vice-Chairman Gilbert asked if there was any further business.

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Pete Frisina advised there was a Public Meeting/Workshop scheduled for Thursday, February 16, 2012.

Robyn Wilson advised no public hearing applications were received for March, 2012.

Hearing no further business, Doug Powell made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 4-0. Members voting in favor of adjournment were: Vice-Chairman Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. Chairman Thoms was absent. The Public Meeting/Workshop adjourned at 9:15 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

AL GILBERT
VICE-CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY