

**THE FAYETTE COUNTY PLANNING COMMISSION** met on July 20, 2017 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Arnold Martin, III  
Jim Graw  
Al Gilbert

**STAFF PRESENT:** Pete Frisina, Director of Community Services  
Chanelle Blaine, Zoning Administrator  
Chakevia Jones, Planning and Zoning Coordinator

**Welcome and Call to Order:**

1. Election of a Temporary Chairman for the Meeting of July 20, 2017.

Al Gilbert made a motion to nominate Arnold Martin as the Temporary Chairman. Jim Graw seconded the motion. The motion passed 3-0. John Culbreth and Brian Haren were absent from the meeting.

Chairman Martin called the Planning Commission Meeting to order. Chairman Martin introduced the Commission Members and Staff.

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1. **Consideration of the Minutes of the meeting held on July 6, 2017.**

Al Gilbert made a motion to approve the minutes from the meeting held on July 6, 2017. Jim Graw seconded the motion. The motion passed 3-0. Brian Haren and John Culbreth were absent from the meeting.

**NEW BUSINESS**

2. **Discussion of amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-79. - Accessory structures and uses.**

Pete Frisina stated that John TerBeek is here and he has an application for an amendment to the zoning ordinance. He had a situation where he had a garage. There was a situation where some stairs were built so that put him in a position of having to count the upstairs which increased the square footage. He went to the ZBA, they did not approve his variance so he has removed the stairs. He has put in a request to consider amendments to the zoning ordinance considering these accessory sizes. We are in a position, with his petition being in, on a public hearing schedule, and that's what I wanted to talk to you guys about. I think we should look at it and give it some consideration. That's my opinion. Unfortunately we've got three members of the planning commission here; Arnold, it'll probably be his last meeting; and we got a new guy coming in next week. I actually talked to Brian after the ZBA meeting, but prior to you putting your application in, and said this is something we

should take a look at and see if this ordinance and these rules still achieve what we're trying to do here. He said he was going to take a look at it. I guess the situation I look at is Mr. TerBeek built this building, and the stair created an issue so he took the stairs out, but technically the building is the same size. It still looks the same. So nothing change on the exterior portion, just what happened on the interior.

Arnold Martin said so I have a clear understanding, why were the stairs the issue.

Pete Frisina said let me pass this out. I went through the ordinance and pulled some portions of the ordinance that we need to look at in consideration of this. When you put permanent stairs in, if you go to the second page under number four, then you have to count the upper level.

Al Gilbert stated that if you put attic stairs in then you don't.

Pete Frisina said so what I've done, if you see this one section here this is John's suggestion on how to change the ordinance, what would be number 'c'. In any time you do an ordinance, it's like a stack of dominos: as soon as you push one over you have to consider the other ones. In my opinion I've gone through the ordinance so far and if we're going to change on section we've got to look at the whole thing to make sure we're creating something that's consistent throughout. That's where I'll start the conversation. I haven't worked on it or anything. Just to see the consensus of you guys to see if this is something you'd want to consider looking at.

Jim Graw asked why the ZBA rejected his request.

Pete Frisina said because the ordinance said he couldn't have stairs.

Jim Graw asked if they just looked specifically at the ordinance.

Al Gilbert stated that there are just certain ordinances they're not going to grant a variance to.

John TerBeek said that he wanted them for safety.

Al Gilbert said having been in the supply business and sold a ton of attic stairs I don't like them because they're dangerous, I mean they really are. You can buy some really expensive, real nice ones, but your typical attic stairs are not very sturdy. They're to occasionally go up in the in the attic and drop a few storage items off. You know, Christmas time bring down your Christmas ornaments once a year, carry them back up and leave them.

Arnold Martin said so I have a clear understanding of where you were and where you are, were these the original stairs. And these were going to go up to the attic level?

John TerBeek said correct.

Arnold Martin said in one of my past lives I was a real estate appraiser and one of the things we looked at to determine value was, dealing with these attics or basements, if they were below grade or

they wouldn't have the same value as if they were mid-grade or above grade. An attic, however, was almost treated like a reverse basement in terms of value. My only question is is any of this based upon plans for how the home will be used for the square footage. Would it make a difference if this were finished versus non finished? My definition of finished is flooring, walls, lighting, and electrical access. That's pretty typically the way we would consider a finished basement.

Pete Frisina stated these are accessory structures.

Jim Graw said he could turn them into a house if he finished them, and that's not the intent of accessory structure.

Al Gilbert stated I think the concern is rental property.

Pete Frisina said right, but this ordinance makes no concern of finished or unfinished.

Al Gilbert stated you'd be very limited if you can't get upstairs. There's a fear of somebody doing this and all of a sudden renting the bottom and renting the top.

Arnold Martin asked if this accessory structure was a separate building from your home.

John TerBeek said yeah, it's just a garage for all my toys and stuff.

Al Gilbert asked what's the time schedule for him presenting this.

Pete Frisina said that's what I wanted to talk about. Do you think it's something you want to look at?

Al Gilbert stated that I think we should discuss it. I'm not going to say yes or no right now.

Jim Graw said it looks like you're going to finish the upstairs. Is that correct? It looks like you have studding on the second level.

John TerBeek said it's a twelve foot ceiling height so there's a landing because there's such an incline. So that's still the first floor studding you see.

Jim Graw asked what is your intent for that attic.

John TerBeek said just storage. I work on cars and motorcycles a lot.

Jim Graw asked do you intend to finish it.

John TerBeek said no, there's no plumbing in that garage and it's a monolithic slab so I couldn't run sewer pipe from the top down. And electrical wise, I don't want to insulate it. It gets hot up there.

Arnold Martin said changing this is for the broader sense. It's going to be very challenging for you. There are people who do a wink and a nod and go 'oh no, I'm not going to finish it', and you drive

by three (3) months later and there are cars and lights up there.

Jim Graw said I think you hit on a point. I can't remember why the pull down stairs was in there, but I think one of the reasons is that it might have been it's a little more difficult to get sheet rock and all the other material up there that you need to finish that attic.

Al Gilbert said that won't keep sheet rock from being put up there. They deliver sheet rock with boom trucks now. They hoist it through a window. They take a window out.

Arnold Martin asked how many square feet is your structure.

John TerBeek said on a ground level it's 1800 square feet. It's 30 by 60.

Jim Graw said my concern with this is that somebody could finish that upstairs. The other concern is that 700 of the 1800 square feet can be used as a living quarters. Could the other 1800 upstairs, since you've doubled the size, could you use 700 of the 1800 upstairs, therefore having 1400 or 3600 square feet being living area. I know that's not your intent, but that could be somebody elses.

Pete Frisina said not legally, no.

Jim Graw said that's right not legally, but once you let them put in a stair case and make it a lot easier they could finish off the upstairs. They could then use the 700 upstairs.

Pete Frisina said well let me give you another scenario: you build the garage with 1800 square feet, which is allowed, and then you build the attic with pull down stairs. You get your Certificate of Occupancy and you're good to go then right.

Jim Graw asked do you have to have one for an accessory structure.

Pete Frisina said yeah. So you get your C-O for your garage, the county clears out, you come in put your stairs in and finish the upstairs. That's as plausible as anything. After you're gone, you know,

Jim Graw said they could do anything they want.

Pete Frisina stated it's not so much catching that being done, it's how you stop that. You know, we get into this and it's like to stop what's happening on a small scale we'll make everybody not do something.

Arnold Martin stated that this is for everybody. How is this applying to our PUD?

Pete Frisina said it's not. This is not the whole portion. This is what's allowed now in residential zoning districts. The thing I'm thinking about is whether you can control what happens inside and out, which you can't always do. At the end of the day his building is no different than it was before.

Al Gilbert said over the years, Mr. Graw will vouch for this, we've probably had more discussions

on accessory buildings. It's something that's constantly come up that people are always wanting to change. At least once a year it pops up and we never seem to please anybody with what we do.

Arnold Martin said in the new age of Airbnb where people are using these accessory structures to earn an extra bit of cash it's just something to be mindful of. If you go into the City of Atlanta pretty much any property you see that has a garage apartment is fully rented out and they have almost two or three families living in their backyard. As long as it's not bothering traffic most people don't say anything because most likely the neighbors are doing the same thing. I would keep in mind the new age people who are trying to use the ordinance against us, rather than for us.

Pete Frisina stated that right now you can have a 700 square foot guest house. Do we know how those arrangements are being made? No, it's a guest house, it's not supposed to be a rental, but we can only control what we know.

Jim Graw said you have 700 square feet. You can put water, you can put electricity, you can put plumbing, and you can have a septic tank. So you can have 700 square feet of living area. If somebody, without the knowledge of the county, were to finish off the second floor they already have water, plumbing, electricity, septic, everything to put another 700 square feet upstairs. So they have 1400 square feet. And I don't care how they get the sheet rock upstairs, they're going to get it upstairs whether you put in the stairs or the drop down stairs. So they have 1400 or 3600 square feet. Accessory structures were not intended to have living quarters like that I don't think. Now, if a marshal were to go out because somebody complained about the second floor being finished and all the plumbing and everything, and you got the 700 feet finished upstairs, if the marshal were to go out there and look and say 'wait a minute, this doesn't make sense, this is not permitted under the ordinance'. What does the marshal have, in his hands, to cite that individual? Unless you have something written into the ordinance that prevents someone from finishing off that second floor and putting in the 700 square feet of living area. Do you see the point I'm trying to get to? I don't have a problem with the second floor if you restrict it to unfinished area with steps, like this gentleman wants to put in. I want to see restrictions because that's what it's intended to do.

Al Gilbert said I want to get back to the schedule.

Pete Frisina said that's what I want to talk about. Now John let me ask you a question, I have not advertised your request yet so technically we're not tied to a public hearing schedule. If we're tied to a public hearing schedule we have a very short period of time to do this. If you stick to your public hearing schedule my recommendation would be to table this until October 5<sup>th</sup>, which would be the last time you could act on it before it goes to the board.

Jim Graw said are you talking about our 100 days.

Al Gilbert said you haven't acted on it right now so technically you could act like it hadn't gone in.

Pete Frisina said well I haven't advertised and that's what I wanted to ask you about. If you want to go work with the planning commission, which it seems like they're willing to do, we have more time to work on it. We can just give you your money back and go ahead and work with these guys. If they

don't we have a very short window to do it. You have the right to apply. It's your prerogative whether or not you want to stick with that schedule or do you want to come to these meetings and see what we come up with.

Al Gilbert said I've been on this board thirty (30) years. Changing an ordinance like this, and you heard me say this has come up several times, if we don't have adequate time to discuss this, I can't say how anybody is going to vote, but the odds are not going to be real good that you're going to get this changed. Your odds are going to be a lot better if the planning commission has a chance to really discuss this, work on it real hard, have a public hearing on it, then present it to the county commission. They tend to look at our recommendations much stronger if they know we have really vented the process. I can't promise you're going to get it approved if you go through a long discussion process, but I'm saying your chances are going to be much better if we have a chance to hash it over.

Jim Graw said if we're pushed into something and we're forced to make a decision we become very conservative. If we can take our time discussing something and think things out, sometimes it takes months, as long we have time to discuss something and think about it your chances are much better, but if we're forced into something your chances aren't good.

Pete Frisina stated that based on the time line for an application they have 100 days to make a recommendation. That pushes them to really only two workshops because with the public hearing you really can't do anything. What do you feel like you want to do?

John TerBeek said I'd like to work it. I'd like to get this passed, but I don't want to waste money or time on it. I guess if we need to table it.

Pete Frisina said we'll just give you your application back and your money back. We'll just work on this through the planning commission because once I advertise it I'm stuck and tomorrows the day I have to put the ad in. I'll leave it up to you because it's your petition if you just want to work through the process. I can tell you this next item we're talking about, this zoning ordinance, we've been working on that since last summer.

John TerBeek said yeah, I've been keeping up with that.

Pete Frisina said I'd like to get it done too, but sometimes we labor and we go through everything three (3), four (4), five (5) times and we still don't get it right, but at least we go through it that many times. I think we have the consensus that everyone wants to work on it. I'll leave that up to you. I need to know by tomorrow though.

John TerBeek said alright, that sounds good. What would the cost be once I say let's notify the public?

Pete Frisina said nothing. What you've done is you put the petition so you have to pay for it. If you don't push the petition there's no charge. We'll just work on it and get it done. Now at the end of the day if the Planning Commission decides they don't want to do anything you can put the thing in and



force the card. As it is right now we can refund your money and work at our normal pace. Is that what you want to do?

John TerBeek said yeah.

Al Gilbert said I would think in a couple or three workshops we could get through this. I don't think it'll take months and months.

Pete Frisina said here's the thing, I'm out for most of next month. It'll be September before we start getting our teeth in it.

Al Gilbert said so maybe September, October, November we'll be maybe making a decision. Now I can't promise that.

Pete Frisina said well we still have to wait because we got a new guy coming in here and we have to get John and Brian's input.

Arnold Martin said until that occurs is his structure with the temporary stairs meeting.

Pete Frisina said he took the stairs down. Are you good with that John?

John TerBeek said yeah, yeah.

Pete Frisina said so we'll pull your check tomorrow and we'll pull your application. I'm not going to put it through to start that process. I like your idea and what I would be approaching it on is on a footprint level and the we can deal with the second story.

Al Gilbert said I kind of like Jim's idea to keep that 700 square feet downstairs.

Jim Graw said what I'm trying to get at is that I don't want to see someone use it and say I want to add another 700 because I have 3600 square feet.

Chanelle Blaine said we tell them when they come in they're only allowed 700 square feet.

Arnold Martin said out of clarification, when this is revisited, literally just adding three (3) or four (4) more words saying "as a total of 700 square feet".

Pete Frisina stated that's what I already says.

Arnold Martin said alright then, old business unless somebody has more new business to attend to.

**OLD BUSINESS**

**3. Discussion of amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110 149. - Planned Unit Development concerning Planned Residential and Business Development-Planned Unit Development (PRBD-PUD) zoning district.**

Pete Frisina stated this was sent back again to Planning Commission from the Board of Commissioners. At the last meeting there were some issues brought up about traffic improvements that could be mandated to the PUD. There was also talk about additional buffers and screening required for a PUD. There was quite a bit of discussion whether that was already implied in a PUD or if putting language in there saying that it is a possibility add strength to the ordinance. This statement that I made here was to say "traffic improvements such as decal-accel lanes, service drives, internal streets, turn lanes, etc. may be required to mitigate traffic impacts created by development. Additional buffers and/or screening may be required to shield views from adjacent streets and/or properties". So it's basically saying what I think we could do anyway, but it just puts anybody on notice that's getting a PUD that that is possibility. In this new subsection of the PUD where they wanted that language, to take it consistent we add that language to every section of the PUD. Every PUD and subsection could have these extra requirements made. I have not made any other changes to the ordinance. Those are the only two things that came up that night.

Arnold Martin said I'm assuming you language is structured the way it is because it may be required on a per situation basis. If you go from a track that doesn't appear to have much traffic to one that most likely would then this gives the latitude to say "hey, we let you know".

Pete Frisina said we have seven (7) subcategories for PUD and I added that language to every one of them.

Al Gilbert said what's troubling to me is that we've had that right all along about stating it. We've always been able to do that without putting specific things down, now what if we've left something out.

Arnold Martin said is it possible to put something literally at the end of each PUD that gives the planning commission the right to add any situational requirements based on the lay of the land.

Al Gilbert said maybe let Dennis or Patrick take a look at this, run that by them.

Jim Graw asked is this a response to Commissioner Brown's comments? Did they indicate they wanted specifics on this PUD about traffic or just the broad wording that you have here?

Pete Frisina said Commissioner Brown and Commissioner Ognio. They wanted language added to the ordinance that put people on notice that they could require those things.

Al Gilbert said it sounds to me like the Sandy Creek property seems to overriding anything we



do on it. In our case we've got to look at what's going on all over the county, and the commission is tuning in on that one location and those concerns can be addressed when that zoning comes up. At the meeting Pete and Dennis Davenport both were trying to get the point across that we already have the right to do all of this

Jim Graw said isn't that written someplace, because we've always been told we had to the right to say we want this, this, this, and this.

Pete Frisina said basically yeah.

Arnold Martin said could you just reiterate that same verbiage in each section.

Pete Frisina said here's the deal, the PUD has what's called the Preamble to Planned Unit Development that pretty much lays out what you can and cannot do in each subcategory. That's what we've been trying to explain. We have the ability, it's here, but they didn't feel comfortable, in my opinion, that it was implied and not implicit. It's not specific.

Al Gilbert said I don't know where there's a PUD in this county that's necessarily a bad project.

Arnold Martin stated it's clear that you have a lot of people that are afraid that by opening this up for the county that you'll just be allowing all types of industry to come in under the guise of a PUD, but really doing big booming business that's going to create traffic problems, issues with property values, etc. I would rather something like the Sandy Creek project come in versus a 40 unit subdivision that's going to create three (3) or four (4) times the traffic. You have three (3) choices. You say we don't want any development at all, you have where this is a lower density development, or settle for high density and get what you get.

Jim Graw said but you have much different traffic with this. You have the potential for trucks, what you don't have with residential. So which one do you want?

Arnold Martin said I would rather on truck a day over a thousand cars on the same tract. This is it goes back to the planning commission and Pete's office to be able to say if you have a business this way they must be likeminded businesses.

Jim Graw said how do you decide which businesses are going to be like the one we put in.

Arnold Martin said I don't know if it's down to the business, but it's more of the activity. If you say you want like types of activity then it's all congruent with all the neighbors that are living in there and working in there.

Al Gilbert stated we've got a lot of old farm land in this community and the days of farming are over. The easiest and quickest way to sell my property is residential subdivisions, but what if I could make just as much selling my property this kind of way. One of the things that came out of the comprehensive development meetings was that there was too much traffic, too much development. What better way to slow some of this down than to convert some of this property

into higher acreage situations.

Arnold Martin said it's higher acreage, lower density. In the end it's trying to protect the natural environment, but also the density. I understand your concern Jim, but I think in broader sense we have a greater opportunity to protect this county rather than rolling over and selling out to the next big developer.

Jim Graw said I think we have a responsibility to protect the people who are living in homes around that property too. I think we're not taking into consideration those people that have homes. When they bought those homes they saw that property, how it was land use and how it was zoned, and they assumed that's what's going to be there. Now we're taking 75 acres, splitting it into four lots and saying ok, you can move your business onto that lot. There are several businesses in Fayette County now that could relocate their business onto one of those lots. These businesses have trucks. I'm talking about heavy duty trucks coming in and out every day, four (4) and five (5) times a day. That's the kind of problem I don't want to see those residents in that area to face. I've said my piece I don't know how many times, and I've said it again, but we have to take those people's concerns into consideration.

Al Gilbert said do we have to go over each business that will go in that.

Pete Frisina said the way it's written is that it says they have to provide a list of businesses that are proposed for the development.

Al Gilbert said so if a business that we don't want for various reasons is going in there we can just say no, it won't go in there. I like what we got here and we control it. The developer's not controlling it, we are.

Arnold Martin stated that whether you want to call it progress or development, the only thing we can do to not stand in the way of progress in our county is to put as many buffers and filters to keep as much control as possible. Base it on activity. Somebody needs to go out and look at these businesses and see whether it matches the other businesses.

Jim Graw said the problem is that's your judgement and you can't just get into judgement when you're making decisions in a planning commission. You need to have some kind of criteria to base your judgement decision on and that is what we don't have in this whole process on this new PUD. There is nothing to give us guidance on what should be going in here. You talk about activities; well what's your definition of an activity?

Arnold Martin stated it's based upon many different factors from traffic to noise to exterior lighting. I mean the list goes on. The one key word is congruency, and having things that are congruent or incongruent based on what the original petitioner for the PUD has forward with. As opposed to being a list of businesses that can or cannot go, they have to come before this commission or in Pete's office and say we need guidance on this or have this approved. We have to start somewhere because if we don't we'll either become a non-friendly county to the very businesses we've invited in or we do not move forward in developing further.

Jim Graw stated most businesses they have in mind for that 75 acres could be placed in Kenwood Business Park and not on four (4) fifteen (15) acre lots. Those businesses could go up in the business park.

Arnold Martin said but they don't want to live in the business park.

Jim Graw said just because they want to live with their business doesn't mean they can or that we should let them. There are a lot of people that want to do a lot of things around here, but the ordinances say you can't.

Al Gilbert said because somebody's opposing something doesn't necessarily mean it's bad. Sometimes there's a worst part that can happen. I'd much rather have these fifteen acre tracts next to my home than what could potentially go there.

Arnold Martin stated it's very clear that our citizens still want low traffic, low density, and to protect the environment. That what makes it wonderful for us to live here.

John TerBeek said my garage is actually on the corner of Sandy Creek. I see the traffic from the studio and they don't stop. There are heavy duty trucks. They don't sleep either and they work on Sunday. Sandy Creek Road has taken a beating. The sad truth is if this PUD is put on Sandy Creek, or in an industrial park in Fairburn, they're still going to use Sandy Creek to get to Pinewood. I wouldn't want an industrial building next to my house, but if you guys stipulate that it has to look like a house I can't complain about that.

Tim Thoms said my mother-in-law is moving off of Sandy Creek, she can't stand the traffic. Actually she would be very interested in this accessory structure; she wants to build in my property. But like John said, the traffic is there now so it doesn't matter.

Pete Frisina stated one of the things I talked about with the traffic planning that's been going on is what I said years ago. Now that we've opened the door to Sandy Creek Road has to be improved. The hills need to be taken out, the curves need to be straightened, whatever you can do to make it better it has to be done.

Arnold Martin said I think the way we have it is good. When will this go back to the commission?

Pete Frisina said I'll touch bases with legal. In fact I can get them at the next workshop, either Patrick or Dennis.

Arnold Martin said sounds good. Any other old or new business?

Pete Frisina said the balloon test is Saturday from 9am-1pm. If it's raining it'll be Monday.

Arnold Martin said for the record I want to say thank you to all of you for allowing me to serve

with you for these last couple years, it's been an incredible pleasure. I'm going to miss being a part of this group. I've learned a lot and hopefully I've contributed. I've truly enjoyed this time, and thank you.

Al Gilbert said I appreciate you being here and it's good getting to know you. You've been a valuable source to us with good suggestions and good ideas. I'll tell you what I admire: you recognized you didn't have the time for this. A lot of times it's easier to just keep on doing it, nobody cares. That showed me you really cared.

Jim Graw said you asked a lot of questions and you made us ask a lot of questions too. You had some great insight into things.

Arnold Martin said when I can I'll still be in the audience and I'll raise questions from the cheap seats, but again, thank you.


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Jim Graw made a motion to adjourn the meeting. Al Gilbert seconded the motion. The motion passed 3-0. The meeting was adjourned at 8:04 pm.

PLANNING COMMISSION  
OF  
EAYETTE COUNTY

  
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BRIAN HAREN, CHAIRMAN

ATTEST:

  
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