

THE FAYETTE COUNTY PLANNING COMMISSION held a **Workshop** on July 21, 2005 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: Jim Graw, Chairman
Douglas Powell, Vice-Chairman
Bill Beckwith
Tim Thoms

MEMBERS ABSENT: Al Gilbert

STAFF PRESENT: Aaron Wheeler, Zoning Administrator
Miguel Abi-hassan, Director of Animal Control
Commissioner Peter Pfiefer (Arrived 8:40 PM, Departed 9:20 PM)
Dennis Davenport, Assistant County Attorney
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

Welcome and Call to Order:

Chairman Graw called the meeting to order and introduced the Board Members and Staff.

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- 1. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article III. Definitions, Section 3-60. Kennel (amend), Section 3-62. Livestock (amend), Section 3-6. Animal (add in its entirety), Section 3-7. Animal, Exotic (add in its entirety), and renumber Article III. as required as presented by the Zoning Department.**

Section 3-6. Animal

Aaron Wheeler advised that the definition of Animal had been revised since the last Workshop and now included is the scientific name for a domestic dog and domestic cat.

Doug Powell asked if the scientific names are necessary.

Mr. Wheeler replied that adding the scientific name was discussed at the previous Workshop and was also recommended by Miguel Abi-hassan, the Director of Animal Control.

Mr. Powell expressed concern about increasing the number of animals from three (3) to four (4). He explained that his property line is joined by six (6) property lines and he could possibly be subjected to a total of 24 animals which is excessive. He added that should he choose to also have four (4) animals that this would make a total of 28 animals.

Mr. Wheeler noted that the proposed ordinance would allow someone to own three (3) dogs and also one (1) cat.

Tim Thoms stated that he did not like the limitation of the animals at all, however the P.C. had reached a compromise.

Mr. Powell asked where the animals could be kept.

Mr. Wheeler replied kept referred to on a lot.

Mr. Thoms asked why does the definition state a limit.

Mr. Wheeler replied that it is appropriate to keep the limit in the same location as it is currently since there have been no problems administering the ordinance up to this point.

Section 3-7. Animal, Exotic

Mr. Wheeler referenced Animal, Exotic and stated that the definition had been revised since the previous Workshop. He pointed out that the definition referenced the list of animals on record with the Georgia Department of Natural Resources (DNR) as being exotic or wild.

Chairman Graw asked if the website for DNR is upgraded is the definition automatically upgraded.

Attorney Dennis Davenport suggested to include the following: “as presently stated and as hereafter amended” to the definition. He cautioned that the word “animal” was either a domestic cat or domestic dog so wherever the word “animal” is used it means domestic cat or domestic dog. He suggested adding “exotic” before the “animals listed by the Georgia Department of Natural Resources (DNR)” and also before “wild animal listed in Code Section 27-5-5.” He also suggested changing the words “Code Section” to read “O.C.G.A.”

Section 3-60. Kennel

Mr. Wheeler advised that he and Attorney Davenport had met prior to the Workshop tonight. He stated that Attorney Davenport had recommended some changes to the proposed definition. Mr. Wheeler read the proposed amendment as follows: Any location where any combination of animals are kept in excess of four (4) shall be deemed to be a kennel. However, if any location houses more than three (3) domestic dogs, it too shall be deemed a kennel. This definition does not include litter of animals of not more than six (6) months of age.

Section 3-62. Livestock

Mr. Wheeler advised that the proposed definition had been revised since the last Workshop to include more animals.

Mr. Powell asked if llamas should be added to the definition.

Mr. Wheeler replied that he would add llamas to the definition.

Bill Beckwith asked what was agricultural profit.

Mr. Wheeler replied that it meant raising the animal specifically for profit.

Mr. Powell suggested deleting the word “agricultural”.

Mr. Wheeler replied that he would delete “agricultural”.

Chairman Graw asked what was meant by the term animals kept or raised for use.

Mr. Wheeler replied that there are other animals used to pull and draw things like a horse so if you raise any of these animals for something other than for sale or for food they would be kept for use.

Chairman Graw recognized an unidentified lady.

The unidentified lady asked if someone could have forty (40) snakes in their house.

Mr. Wheeler replied yes, however, it depends on the type of snake, which might be listed as an exotic animal.

Miguel Abi-hassan clarified that DNR is more concerned about the spread of disease.

Hearing no further comments, Chairman Graw instructed Robyn Wilson to advertise the proposed amendments for the August Public Hearing.

Mr. Wheeler advised that he would make the changes as discussed tonight and e-mail them to the P.C. prior to the public hearing.

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2. Discussion of proposed amendments to the Fayette County Sign Ordinance (revised in its entirety) as presented by the Zoning Department.

Aaron Wheeler pointed out that the Table of Contents follows the new section numbers and the pages as currently written. He went on to explain that the Zoning Department had received several sign permit applications for billboards, which were denied. He added that the County was then sued, however the Court had stated that the Sign Ordinance needed to be revamped and Staff and Attorney Dennis Davenport had been working on the revisions over the past several months.

Attorney Davenport reported that there had been two (2) different law suits, one (1) in Federal Court and one (1) in State Court. He said that the Federal Court Case District Court Judge ruled in favor of the County last May at the 11th Circuit Court of Appeals under appeal by the advertising company and they have reversed the trial court and sent it back down to the trial court in June of this year. He stated that the County has since applied for it to be heard by the 11th Circuit, an eleven (11) judge panel as opposed to a three (3) judge panel, however they have not responded as to whether they will allow the County to do this. He reported that the suit was regarding not allowing billboards which they are saying is illegal. He commented that when a company sues the County they do not say that it is unconstitutional because you don't allow billboards, they attack multiple aspects of the ordinance to knock out as many portions as they can.

Attorney Davenport further explained that there is also litigation before the Superior Court in Fayette County before Judge English which has been to the Supreme Court one (1) time and back down to Judge English a second time and he issued a ruling yesterday consisting of a 30 page order which has not been completely reviewed yet.

Attorney Davenport reported that it is normal to give an overview of the various ordinances on a regular basis and it has been some time since the Sign Ordinance had been looked over and sign ordinances change rapidly over time. He explained that as the revised Sign Ordinance is reviewed that the P.C. ask themselves if the goals of traffic safety and aesthetics have been achieved. He commented that the goals of traffic safety is not have too distracting of a sign or having signs in the right-of-way which could impede visibility or aesthetics which is the clutter of signs or too big or too small signs. He remarked that the current ordinance is complex and the proposed ordinance should be easier to use and should flow better. He stated that an overriding concern was do you care what the message has to say on the sign and if the answer is yes, then that is a bad answer. He confirmed that the message must be content neutral because if a judge rules that the Sign Ordinance is not content neutral then the Sign Ordinance goes out immediately. He asked the P.C. to keep in mind when they are reviewing the revised Sign Ordinance, do I need to know what the message says in order to apply the regulation and if the answer is yes, we have a problem.

Doug Powell verified that there is an obscenity clause.

Attorney Davenport replied that objective criteria are required to define obscenity.

Mr. Powell asked if there was a time line for adoption of the revised Sign Ordinance.

Attorney Davenport replied that the revised Sign Ordinance is not driven by the litigation but by a need to perform an overview of the Sign Ordinance. He said that he would rather have a good ordinance in 90 days rather than a slip-shod ordinance in 30 days.

The P.C. reviewed the revised Sign Ordinance and made the following suggestions:

Page 1 Third line of Purpose and intent, delete the word “the” before Fayette County.

Attorney Davenport reminded the P.C. that whenever the definition of the sign goes toward the content of the sign, the general rule is to delete the definition. He cautioned the P.C. on thinking about what the current ordinance requires because there are items which we should not be regulating.

Page 3 Under Kiosk, delete “used to display advertising or to identify or index a business or businesses”.

Mr. Wheeler explained that the definition was changed from “one or more” to “more than two (2) surfaces” to establish how a kiosk is regulated.

Chairman Graw stated that a kiosk had been discussed in the past but it was decided that they should be prohibited because of potential problems.

Page 3 Under the definition of Marquee, marquee sign, add “(Prohibited)” at the end.

Page 4 Under Out-of-store marketing device, delete “facility” and replace with “sign”.

Page 4 Under Permanent sign, delete “monument”.

Attorney Davenport explained that this change was necessary to make a difference between Permanent sign and Monument sign.

Page 4 Under Portable sign, change “sandwich” to “Sandwich”.

Page 4 Under Principal building, delete “zone” and “Zone”.

Page 4 Under Public Sign, delete “such as” and replace with “including but not limited to” and delete the comma after identifying.

Page 5 Retain “Prohibited” at the end of Roof sign.

Page 5 Add Snipe sign under the list of Prohibited Signs.

Page 6 Under Zone Lot, delete “Zone” and label as “Lot” and relocate under Definitions in alphabetical order.

Page 6 Delete the “A” under Section 1-4.

Mr. Powell stated that the “A” was not required since there was not a “B”.

Page 6 Delete any reference to what is on a window sign to make content neutral.

Page 8 Section 2-2.,E. to be written by Attorney Davenport.

Attorney Davenport replied that there are two (2) ways to appeal, either by direct appeal to Superior Court which should be filed within 30 days or certiorari appeal which also goes before the Superior Court, however the certiorari appeal utilizes the County’s record for the appealing judge to look at which is more beneficial to the governing authority.

Page 9 Under B)3), which states: Numeral displayed for the purpose identifying property location not to exceed eight (8) inches in height.

Mr. Powell stated that eight (8) inches is not large enough to be seen from the street which impedes safe traffic flow. He suggested the size be increased to twelve (12) inches since the street numbers is a safety issue.

Mr. Wheeler advised that he contacted the Fire Department and there is not a provision for the minimum size of address numbering.

Attorney Davenport advised that requiring street numbers in regards to vehicle safety should be located in the Zoning Ordinance or Code of Ordinances. He explained that numeral displayed for identifying property location which do not exceed eight (8) inches in height will not count toward signage, however if the numerals are larger than eight (8) inches it will count toward the signage.

Page 9 Under B.2), delete in its entirety.

Attorney Davenport pointed out that window signs are also addressed under B)10) also.

Page 9 Under B)5), delete in its entirety and label "Flags".

Chairman Graw pointed out that there is not size limitation regarding the size of a flag.

Attorney Davenport explained that under the current ordinance one could say that a flag is prohibited so the language has been amended. He asked the P.C. to be thinking about the number and/or size of flags and also the number of flagpoles permitted. He also suggested to separate the guidelines for residential and nonresidential flags and flagpoles since the criteria will probably be different. He also suggested to add Flags under Section 5-21.,A. (Residential Districts) and also under Section 5-31.,A. (Non-Residential Districts).

Page 11 Add under 3., Portable or trailer display signs add "in no way impinges on a person's right to carry a sign in protest or support".

Attorney Davenport explained that signs either in the bed of a pickup truck or painted on the pickup truck were permitted, however should a pickup truck be parked on the side of the road with sign draped all over it, it would be illegal because the pickup truck is rendered unuseable.

Page 11 Under 10., place a comma after "devices", delete "no" before balloons and replace with included but not limited to", delete "etc" and add "not" after shall.

Page 12 Under 12., delete "In general," and "no" and replace with "No".

Page 12 Under 15., add "All signs attached to light poles, power poles, trees, etc.

Page 13 Under E., Attorney Davenport is checking the amount of jail time.

Mr. Wheeler advised that the jail time may change from 12 months to 60 days.

Page 15 Under 4-4.,B., delete "Sign" and replace with "Signs".

Chairman Graw called for a break at 9:16 P.M. and reconvened the Workshop at 9:20 P.M.

Attorney Davenport advised the P.C. that page 16 began the separation between restrictions based on location.

Page 17 Under 5-21.,A., add "7. Flags" and amend Section number.

Page 17 Under 5-21.,A., delete "not" on the last sentence.

Attorney Davenport asked the P.C. to think about what the total number of permanent residential signs should be which is probably one (1) and determine the number of temporary residential signs. He advised the P.C. that he was only aware of a case heard by the 4th Circuit Court of Appeals which stated that two (2) yard signs was not enough because a property owner could not support multiple candidates. He asked the P.C. to think about the number and/or square footage of signs permitted for residential properties and maybe consider the road frontage or size of the lot. He reminded the P.C. that the number and/or the square footage of signs would include home occupation signs.

Page 18 Change Section 5-28. to Section 5-27.

Page 18 Add "Section 5-28. Flags".

Page 19 Under Section 5-31.,A., add "6. Flags".

Attorney Davenport asked the P.C. to look at what they would like to see and put into practice in the County and not what was addressed in the current ordinance and be ready to discuss their input at the August Workshop.

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Chairman Graw asked if there was any further business. Hearing none, the Workshop adjourned at 9:43 P.M.

PLANNING COMMISSION
OF
FAYETTE COUNTY

ATTEST:

JIM GRAW
CHAIRMAN

ROBYN S. WILSON
P.C. SECRETARY