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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Comm. Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Tom Williams/Pete Frisina

Preferred Meeting Date: Wednesday, July 2, 2008

Wording for the Agenda:

Consideration of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the S.R. 54 West Overlay District as presented by the Planning & Zoning Department.

Background/History/Details:

SR 54 W Overlay District, adopted 1995, 3 rezoning requests to O-I for lots in recorded residential subdivisions,1 approved (963-97) and 2 denied (994-98 and 1201-07). Staff proposing to amend SR 54 W Overlay District section of Land Use Element of Comp. Plan to clarify County's position for rezoning in recorded resid s/d. 03/05/08 BOC Wkshop, BOC instructed to review. 03/20/08 PC Wkshop, Staff - lots in platted resid. s/d oriented to and access to SR 54 W from 1 or more internal streets and any lot less than 5 acres and surrounded on side/rear by platted recorded resid. s/d not be considered for O-I. Lots 5 acres or more could be considered to O-I with additional s/backs and buffers. PC - all lots in platted resid. s/d should not be given consideration for O-I but lots surrounded on sides/rear by platted s/d should be given consideration for O-I. Staff/PC compromise - all lots in platted resid. s/d and lots surrounded fully on side/rear by platted resid. s/d should not be given consideration for O-I. 04/02/08 BOC Wkshop, BOC concurred with Staff's original amendment and instructed Staff to advertise for May Public Hearings. Tabled until June, 2008.

What action are you seeking from the Board of Commissioners?

Final Vote

THE P.C. RECOMMENDED APPROVAL TO RECOMMENDATION #1 WITH REVISIONS 4-1. THE P.C. RECOMMENDED DELETING RECOMMENDATION #2 IN ITS ENTIRETY 5-0.

If this item requires funding, please describe:

N/A

Has this issue come before the Commissioners in the past? Yes

If so, when? Wednesday, April 2, 2008

Do you need audio-visual for the presentation? Yes

Back-up Material Submitted? Yes

STAFF USE ONLY

- (●) Finance Review Complete
- (●) Purchasing Review Complete
- (●) Legal Review Complete
- (●) Administrative Staff Review Complete

Administrator's Approval Yes

Confirmed Meeting Date Wednesday, July 2, 2008

- ( ) Recognition/ Presentation
- (●) Public Hearing
- ( ) Old Business
- ( ) New Business
- ( ) Consent
- ( ) Report
- ( ) Other

D. Discussion of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the SR54 West Overlay District as presented by the Planning and Zoning Department. This item was last discussed during the March 5, 2008 Wednesday Workshop Meeting

Mr. Pete Frisina discussed the proposed amendments as requested. Some discussion followed. It was the Board's consensus that the proposed amendments should not give parcels within a platted residential subdivision consideration for O-I zoning if the subdivision is oriented to SR 54 and accesses SR 54, but should give parcels in a platted residential subdivision consideration for O-I zoning if the subdivision is not oriented to SR 54 and does not access SR 54. The Board added that it wanted the proposed amendments to address greater setbacks, buffers or other measures that would lessen the impact on adjacent residential properties. The Board then directed Mr. Frisina to make the changes as discussed to the proposed amendments and move ahead with public hearings in May. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

03/05/08 – Instructed by BOC to review Ordinance
03/20/08 – PC Wkshop
04/02/08 – BOC Wkshop
05/01/08 – PC Public Hearing (tabled)
05/15/08 – PC Wkshop
06/05/08 – PC Public Hearing
06/26/08 – BOC Public Hearing

PROPOSED AMENDMENTS TO THE FAYETTE COUNTY COMPREHENSIVE PLAN REGARDING THE S.R. 54 WEST OVERLAY DISTRICT

Transportation Corridors

Over the next twenty years, a number of state routes in Fayette County are scheduled to be widened from a two-lane highway to a four-lane divided highway. These state routes are the connecting corridors for the incorporated municipalities in Fayette County and neighboring counties. With few exceptions, in the unincorporated areas of the county, these roads traverse residential and/or agricultural land uses.

With the widening of these state routes comes the increased pressure for nonresidential development. The County is now in the position where it must balance this demand with its own growth and transportation policies. These state routes are first and foremost transportation corridors; the efficient flow of traffic must be maintained. Nonresidential land uses are indicated on the Land Use Plan Map where their location and intensity are most appropriate for the surrounding area.

In order to better facilitate the desired development along its transportation corridors, Fayette County has adopted an Overlay District on SR 54 and several Overlay Zones. The particular requirements pertaining to these transportation corridors are discussed below.

SR 54 West Overlay District: With the widening of SR 54 West, the Board of Commissioners adopted the SR 54 West Overlay District. This District identifies the county's goals and recommendations for the corridor and sets out the desired development pattern. SR 54 connects the communities of Fayetteville and Peachtree City, and serves as the only major east-west thoroughfare through the county. The following section defines the District.

Existing Development: Existing **residential development** is scattered along the SR 54 West Corridor. Residential tracts range in size from large agricultural tracts of as much as 200 acres down to minimum one (1) acre subdivisions. Large tracts are still used for agricultural purposes and may or may not contain a single-family residence. These tracts vary in size from approximately five (5) to 200 acres. The majority of the larger tracts are

located between Sandy Creek and Tyrone Roads. Single-family residential development consists of smaller lots, varying in size from one (1) to five (5) acres, fronting on SR 54 West or within subdivisions which access SR 54 West. Three single-family residential subdivisions (Newton Estates, Fayette Villa, and The Landings) are developed in this area. These subdivisions are zoned for one (1) acre minimum lots. Fayette Villa and The Landings are located between Flat Creek Trail west to Sumner Road (north) on the north side of SR 54 West. Newton Estates is located west of Huiet Drive on the south side of SR 54 West. Existing **nonresidential development** consists of two (2) commercial areas, one (1) at Tyrone Road and one at Sumner Road (south).

Future Development: SR 54 West is first and foremost a transportation corridor. The efficient flow of traffic must be maintained. High intensity nonresidential uses should be targeted to the major intersection with Tyrone Road and SR 54 West. As one moves away from this node, the intensity of nonresidential development should decrease. The **goals** of the SR 54 West Overlay District are: (1) to maintain the efficient traffic flow of SR 54 West as the County's only major east-west thoroughfare; (2) to maintain a non-urban separation between Fayetteville and Peachtree City; and (3) to protect existing and future residential areas in the SR 54 West Corridor.

If lots, which front on SR 54 West, are allowed to change from a residential use to a nonresidential use, care must be taken to protect existing or future residential property. This can be accomplished by requiring enhanced landscaping, buffers and berms to protect these residential areas.

Recommendations: The intent of the SR 54 West Overlay District is to offer existing tracts of five +/- acres the option to convert to office uses. Outside of the commercial designation at Tyrone Road and the commercial and office-institutional designation at Sumner Road (south), these parcels would be considered for the Office-Institutional Zoning District. Conditions should be placed on property at the time of rezoning to address unique situations ***such as a lot adjacent to a residential subdivision where berms and fences could be required, as well as, an increase in the buffer.***

(STAFF RECOMMENDATION)

In certain situations a change from a residential zoning to the Office-Institutional Zoning District should not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

1. ***Parcels platted and recorded in a residential subdivision where the residential subdivision is oriented to and has access to SR54 from one or more internal streets.***

2. ***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional***

setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.

(PLANNING COMMISSION RECOMMENDATION)

In certain situations a change from a residential zoning to the Office-Institutional Zoning District ~~should~~ will not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

1. ***Parcels platted and recorded in a residential subdivision where the residential subdivision ~~is oriented to and has access to~~ borders SR54 ~~from one or more internal streets.~~***

2. ~~***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.***~~

Other Transportation Corridors: Section 7-6 Transportation Corridor Overlay Zone of the Fayette County Zoning Ordinance establishes Overlay Zones on state highways that traverse Fayette County. Regardless of the underlying zoning, any new nonresidential development along these corridors must meet the requirements of the particular Overlay Zone. The Zoning Ordinance establishes Overlay Zones on SR 54 West and SR 74 South, SR 85 North, and a General State Route Overlay Zone on all other state routes.

6. **Consideration of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the S.R. 54 West Overlay District as presented by the Planning & Zoning Department.** *Instructed by BOC on 03/05/08 to begin review.*

Chairman Powell advised that the P.C. had held several Workshops to discuss the proposed amendments. He added that the proposed amendments had been discussed at a Public Hearing; however, the P.C. decided to table the vote to allow further discussion.

Pete Frisina stated that the proposed amendments had been discussed by the BOC. He confirmed that there had been three (3) rezonings of properties on S.R. 54 West in a residential platted subdivision; however, one (1) was approved and two (2) were denied. He said that Staff needed to clarify the policy since there were inconsistencies. He stated that there was discussion about rezoning lots in a platted residential subdivision and lots surrounded by platted residential subdivisions. He reported that the BOC also wanted policies that a berm, fencing, or an increased buffer could be required as a condition of zoning when a lot adjacent to a platted residential subdivision petitions to rezone to a nonresidential zoning.

The proposed amendments are as follows:

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If lots, which front on SR 54 West, are allowed to change from a residential use to a nonresidential use, care must be taken to protect existing or future residential property. This can be accomplished by requiring enhanced landscaping, buffers and berms to protect these residential areas.

Recommendations: The intent of the SR 54 West Overlay District is to offer existing tracts of five +/- acres the option to convert to office uses. Outside of the commercial designation at Tyrone Road and the commercial and office-institutional designation at Sumner Road (south), these parcels would be considered for the Office-Institutional Zoning District. Conditions should be placed on property at the time of rezoning to address unique situations ***such as a lot adjacent to a residential subdivision where berms and fences could be required, as well as, an increase in the buffer.***

In certain situations a change from a residential zoning to the Office-Institutional Zoning District should not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

1. ***Parcels platted and recorded in a residential subdivision where the residential subdivision is oriented to and has access to SR54 from one or more internal streets.***

2. ***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered, in that additional setbacks and buffers could be required as a condition of zoning, while leaving adequate area for development.***

Other Transportation Corridors: Section 7-6 Transportation Corridor Overlay Zone of the Fayette County Zoning Ordinance establishes Overlay Zones on state highways that traverse Fayette County. Regardless of the underlying zoning, any new nonresidential development along these corridors must meet the requirements of the particular Overlay Zone. The Zoning Ordinance establishes Overlay Zones on SR 54 West and SR 74 South, SR 85 North, and a General State Route Overlay Zone on all other state routes.

Chairman Powell asked if there were any comments from the public. Hearing none, he closed the floor from public comments. He confirmed that there would be separate votes on both of the recommendations. He requested that the following statement be made a part of the Minutes:

"Tonight we are being asked to consider a change to the County Comprehensive Plan. This change affects the landowners on Highway 54.

I respect my fellow Planning Commission member's thoughts concerning changing platted subdivisions. I too, feel that a land owner who purchases land in our County should not be surprised by changes that we cause to occur, after the landowner has purchased their property. So, to my fellow planning commissioners I say, I support your thoughts on the subject of maintaining the integrity of previously platted subdivisions.

My problem is we are being asked to change the comprehensive plan in a manner that is inconsistent in its treatment of the land owners we are here to represent. If approved, we will create a plan that I feel treats land owners, on the same road, and in some cases within a half mile of each other, differently. If approved, this treatment will be as inconsistent as the rulings we have previously made on petitions for rezoning Residential to Office uses within the Highway 54 corridor.

In the past, land owners have petitioned the County to rezone residential properties along Highway 54. These petitions were consistent with the intent of the Highway 54 West Overlay District, which states, *"To offer existing tracts ...the option to convert to office uses."* To my knowledge, there have been three requests to rezone Residential to O-I. The County has not made consistent rulings: Petition 963-97 was approved. Petition 994-98 was denied; and most recently, Petition 1201-07, was denied, even though it received the planning staff's recommendation to approve.

So to correct this inconsistency, we were asked to look at the ordinance. We did, and the majority agreed that we should change the existing ordinance to accurately reflect the County's vision for growth on Highway 54. The majority felt that if a residential lot was in a platted subdivision, bordering on SR54, it should NOT be allowed to be rezoned O-I. However, the ordinance before us tonight does not treat all land owners equally on this matter.

As a case in point, compare Lot #18 of the Lakeview Estates subdivision to Lots 1, 2, 3 and 4 of the Ledgewood Subdivision. These parcels are located within ½ mile of each other, on opposite sides of SR 54.

- Lakeview Estates Lot 18 is a residential lot, in a platted subdivision, bordering on SR54. Ledgewood Lots 1, 2, 3 and 4 are residential lots, in a platted subdivision, bordering on SR54.
- Lakeview Estates Lot 18 is not accessible from any internal subdivision street. It is solely accessible via SR54. Ledgewood Lots 1, 2, 3 and 4 are not accessible from any internal subdivision street. They are solely accessible via SR54.

I do not comprehend the logic of making the main road access into a platted subdivision the distinguishing criteria. The main road access to the subdivision has absolutely no impact on any of these lots. I see these residential lots as being identical; however, this proposed ordinance before us tonight will treat them differently. It will allow the four residential lots, in the Ledgewood subdivision to be rezoned to O-I and at the same time, prohibits Lot 18 in the Lakeview Estates subdivision from being rezoned.

I have to ask, if the County wants to change the current comprehensive plan to be more in line with the way it votes on landowner petitions along the Highway 54 corridor, then why does it create a plan that continues to allow it? This plan is inconsistent. It will not treat land owners in Fayette County equally. It is not fair. I cannot support it."

Chairman Powell made a motion to amend Recommendation #1 as follows:

1. ***Parcels platted and recorded in a residential subdivision where the residential subdivision ~~is oriented to and has access to~~ borders SR54. ~~from one or more internal streets.~~***

Jim Graw stated that he had previously asked for the paragraph above Recommendation #1 be amended as follows:

In certain situations a change from a residential zoning to the Office-Institutional Zoning District ~~should~~ will not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

Jim Graw seconded the motion.

Tim Thoms asked if the motion included the change in the paragraph above Recommendation #1.

Chairman Powell amended his motion to also include the change in the paragraph above Recommendation #1 and also the change to Recommendation #1 as follows:

In certain situations a change from a residential zoning to the Office-Institutional Zoning District ~~should~~ will not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

1. ***Parcels platted and recorded in a residential subdivision where the residential subdivision ~~is oriented to and has access to~~ borders SR54. ~~from one or more internal streets.~~***

Jim Graw seconded the amended motion.

Al Gilbert stated that S.R. 54 West has the strictest regulations of any area in the County. He said that Staff is trying to find a way to allow some development. He commented that he could see similarities and differences in the lots on S.R. 54 West. He remarked that this has not been an easy process.

Chairman Powell remarked that the Staff's recommendation does not achieve consistency while the P.C.'s recommendation does achieve consistency.

Hearing no further comments, Chairman Powell called for the vote. The motion passed 4-1 with Al Gilbert voting in opposition.

Chairman Powell read Recommendation #2 to the audience.

Al Gilbert said that the strict overlay requirements should handle these type situations.

Chairman Powell concurred.

Tim Thoms commented that, as proposed, it would predispose a recommendation for denial to a lot that meets the verbiage when there may be circumstances that it should be permitted even though the lot may be less than five (5) acres. He added that the overlay requirements will apply.

Tim Thoms made a motion to delete #2. in its entirety as follows:

2. ~~***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.***~~

Chairman Powell seconded the motion. He said that a rezoning decision from residential to nonresidential would be based on the Staff Analysis, Land Use Plan, the proximity of the property to residential, and the S.R. 54 West Overlay District. The motion unanimously passed 5-0.