

THE FAYETTE COUNTY PLANNING COMMISSION met on July 7, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Tim Thoms, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Douglas Powell

MEMBERS ABSENT: None

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

Welcome and Call to Order:

Chairman Thoms called the Public Meeting to order and led the Pledge of Allegiance. Doug Powell gave the Invocation. Chairman Thoms introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Planning Commission Public Hearing Minutes dated May 5, 2011.

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

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2. Consideration of the Planning Commission Public Meeting/Workshop Minutes dated May 19, 2011.

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

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**July 7, 2011
PC Public Hearing**

Dennis Dutton read the procedures that would be followed including the fifteen (15) minute time limitation for presentation and opposition for petitions.

THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON JULY 7, 2011, AND BY THE BOARD OF COMMISSIONERS ON JULY 28, 2011.

3. Consideration of the proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article III Definitions, Article V General Provisions, and Article VI District Use Requirements regarding beekeeping.

Chairman Thoms explained there are two (2) options under consideration. He clarified the PC would make a recommendation which would be forwarded to the BOC who would make the final decision on July 28, 2011.

The proposed amendments were presented as follows:

**04/07/11 – PC Wkshop
04/21/11 – PC Wkshop
05/04/11 – BOC Wkshop
05/19/11 – PC Wkshop
06/01/11 – BOC Wkshop
07/07/11 – PC Public Hearing**

Option 1

**BEEKEEPING IN RESIDENTIAL ZONING DISTRICTS
OPTION 1 –Beekeepers Recommendation**

(This Option would not require any restrictions.)

ARTICLE III. DEFINITIONS

Apiary. A place where honeybees and beehives are kept.

Beehive. A structure intended for the housing of bees.

PC Public Hearing

ARTICLE VI. DISTRICT USE REQUIREMENTS

Amend the A-R, C-S, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, and PUD-PRD zoning districts by adding “beekeeping” as a *Permitted Use*. Below is one (1) example.

Sec. 6-13. R-40 Single-Family Residential District.

- A. *Description of District.* This district is composed of certain lands and structures in the County, having a low density single-family residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- B. *Permitted Uses.* The following Permitted Uses shall be allowed in the R-40 Zoning District:
 - 1. Single-family dwelling;
 - 2. Accessory structures and uses (see Article V.); ~~and~~
 - 3. Growing crops, ~~and~~ gardens; and Beekeeping and the on-premise sale of honey. A Home Occupation shall not be required.

Bill Beckwith suggested amending the last sentence to read as follows: Approval of a Home Occupation shall not be required.

OR AMEND ARTICLE V. GENERAL PROVISIONS BELOW WHICH WOULD ACCOMPLISH THE SAME WITH ONE (1) AMENDMENT TO THE ZONING ORDINANCE INSTEAD OF 15 AMENDMENTS TO THE ZONING ORDINANCE

ARTICLE V. GENERAL PROVISIONS

5-26.1. Beekeeping. Beekeeping shall be allowed on any lot for which single-family residence is a Permitted Use (C-S, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, and PUD-PRD.) The on-premise sale of honey shall be allowed. A Home Occupation shall not be required.

Bill Beckwith suggested amending the last sentence to read as follows: Approval of a Home Occupation shall not be required.

Chairman Thoms pointed out Robyn Wilson had suggested amending Article V. instead of amending Article VI. which would require approximately 15 amendments to the Zoning Ordinance and be more costly than amending Article V. and the results would be the same.

Option 2

Jim Graw pointed out Option 2 reflects guidance from the BOC.

BEEKEEPING IN RESIDENTIAL ZONING DISTRICTS OPTION 2 – Planning Commission and Staff Recommendation

Proposed ordinance reflects guidance from the BOC Workshop held 06/01/11.

ARTICLE III. DEFINITIONS

Apiary. A place where honeybees and beehives are kept.

Beehive. A structure intended for the housing of bees.

ARTICLE V. GENERAL PROVISIONS

5-26.1. Beekeeping. Beekeeping shall be allowed on any lot for which single-family residence is a Permitted Use (C-S, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, and PUD-PRD) under the following conditions:

PC recommendation:

- A. Eight (8) beehives per acre with a maximum of 16 beehives for two (2) acres or more, except when the following condition is met:

When the minimum dimensional requirements (lot size and lot width) of the A-R Zoning District are met, there shall be no limit on the number of beehives. In addition, beehives shall be regulated in compliance with those regulations pertaining to apiaries in the A-R zoning district in this circumstance.

Staff recommendation (see chart below):

~~A.~~

Hive-Density	Lot Size
2	Up to ¼ acre
4	Between ¼ and ½ acre
6	Between ½ and 1 acre
8-maximum	1 acre or more

When the minimum dimensional requirements (lot size and lot width) of the A-R Zoning District are met, there shall be no limit on the number of beehives. In addition, beehives shall be regulated in compliance with those regulations pertaining to apiaries in the A-R zoning district in this circumstance.

PC recommendation:

- B. ~~In each instance of a beehive situated within 25 feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point of the beehive to the property line, the beekeeper shall establish and maintain a minimum six (6) feet in height evergreen vegetative screen, at the time of planting, or a solid wall/fence constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast stone, wood, or other architecturally engineered facades which match these materials, or combination thereof, that is parallel to the property line and extends 10 feet beyond the beehive(s) in each direction. The Zoning Administrator may determine that the existing natural vegetation may be sufficient in lieu of the required wall, fence, or vegetation, or a combination of existing vegetation and a required wall, fence, or supplemental vegetation.~~
- B. All beehives shall meet the setbacks for the applicable zoning district.

PC recommendation:

- C. ~~All beehives shall be located in the side and/or rear yard only. Hive entrance shall be faced in the direction which will provide the least offensive flyway pattern to surrounding neighbors.~~

- D. The beekeeper shall provide and maintain a convenient and adequate supply

of water for the bees at all times.

- E. Proper storage of beekeeping equipment, honey supers, or hive debris shall comply with International Property Maintenance Code.
- F. The beekeeper shall have 30 days from the time of a complaint to bring the beehive(s) into compliance.

Staff recommendation (see G. below):

- G. ~~The on-premise sale of honey shall be allowed as a Home Occupation per Article VII. CONDITIONAL USES, NONCONFORMANCES, TRANSPORTATION CORRIDOR OVERLAY ZONE, AND COMMERCIAL DEVELOPMENT STANDARDS.~~
- G. The on-premise sale of honey shall be allowed. A Home Occupation shall not be required.

Bill Beckwith suggested amending the last sentence to read as follows: Approval of a Home Occupation shall not be required.

ARTICLE VI. DISTRICT USE REQUIREMENTS

Sec. 6-1. A-R Agricultural - Residential District.

- A. *Description of District.* This district is composed of certain lands and structures having a very low density single-family residential and agricultural character and designed to protect against the depreciating effects of small lot, residential development and those uses which are incompatible with such a residential and agricultural environment.
- B. *Permitted Uses.* The following Permitted Uses shall be allowed in the A-R Zoning District:
 - 1. Single-family dwelling;
 - 2. Accessory structures and uses (see Article V.);
 - 3. Growing of crops and the on-premise sale of produce and agricultural products, provided 50 percent of the produce/products sold shall be grown on-premise;
 - 4. Plant nurseries and greenhouses (no sales of related garden supplies); and

Page 7
July 7, 2011
PC Public Hearing

- 5. Raising of livestock; aquaculture, including pay fishing; *apiary (all beehives shall comply with the required setbacks)*; and the sale thereof.

Chairman Thoms asked if there was anyone to speak in favor of the proposed amendments.

Attorney Mike Maxwell of 125 Northwind Trail said he was in favor of both options; however, he preferred Option #1 with no restrictions. He confirmed he was cited by the Marshal's Office and had to move his hives because a neighbor's pool contained bees. He explained he had spoke with the neighbor yesterday and advised him beekeeping was probably going to be allowed and the ordinance amended. He remarked the neighbor stated he did not have a problem with the bees but there were a lot of bees in his pool. He commented the process had been long with a lot of changes; however, the final document is very good. He requested both Options be forwarded to the BOC for final determination. He said he appreciated the PC's support and complimented staff.

Jerry Edward of 135 Grande Court and President of the Coweta County Beekeepers' Association said he was in favor of both options; however, he preferred Option #1 with no restrictions. He stated he would be presenting the proposed ordinance at four (4) different beekeeping associations. He remarked he hoped to fill the chambers at the BOC public hearing. He pointed out there was not a beekeeping association in Fayette County. He thanked the PC for working with the beekeepers.

Bo Mullins of 120 Brierwood Court said in the interest of saving the County some money, he would be in favor of Option 1, Article V.

Chairman Thoms asked if there was anyone to speak in opposition of the proposed amendments. Hearing none, he closed the floor from public comments. He thanked the beekeepers for their input.

Al Gilbert advised the BOC would be receiving both options for their consideration.

Doug Powell asked, "How many complaints has the county received about problem honey bees?"

Dennis Dutton replied approximately two (2) complaints.

Doug Powell asked, "How many of these complaints have resulted in any form of damages to property and do you know to what extent?"

Dennis Dutton replied the honeybees were basically a nuisance.

Page 8
July 7, 2011
PC Public Hearing

Doug Powell submitted the following in writing:

In May, a neighbor discovered 60,000 wild honey bees living between the first and second floor joist in his up stairs closet. Based on the size of the hive, it was estimated the bees had been residents for about 3 years. During this time, no one was hurt. In fact no one even knew they were there.

A local bee keeper was called to assist with the removal. It took him nine hours and he removed the bees and the queen along with 14 frames and five 1-gallon buckets of honey comb.

I suspect there were more damages caused by the wild bees than have been reported to Fayette County due to domesticated bees.

Doug Powell presented the article from The Citizen and requested it be placed into the record. He then submitted the following in writing and also read aloud:

A month or so ago, I was asked to submit a statement regarding my position to the Board of Commissioners. Please bear with me while I read the statement into the record.

Honey bees were introduced in America early in the 17th century. Two hundred years later, in 1821, Fayette County was created. In the past 190 years, Fayette County citizens and honey bees have peacefully co-existed without the need for government intervention. Now in 2011, the alarm is sounding, "Control the honey bees." It is really necessary?

I do not feel sufficient justification exists to warrant an ordinance. I ask: How many honey bee complaints have been registered in Fayette County? And how many of these complaints have resulted in damage to any individual or property? Did the County investigate to ascertain if the honey bees were from a personnel hive or whether they were wild bees? If so, how was this determined? These questions compel me to weigh these isolated cases against various facts.

First and foremost is **Georgia Code: 2-14-41.1: Prohibition against restriction of honeybee production or maintenance.** It states: No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This Code section shall not be construed to restrict the zoning authority of county or municipal governments.

Page 9
July 7, 2011
PC Public Hearing

While the County can legally zone in this matter, I believe the intent of the Georgia ordinance is both clear and important: Don't restrict Honeybees because they are good for Georgians.

Second: Why did State of Georgia feel compelled to legislate on this matter? The answer can be found at the State level. *“In 1975, Georgia acknowledged the honeybee's contribution to our state's economy through honey production and aiding pollination of more than 50 Georgia crops. Georgia felt so strong about this issue they designated the Honey bee as the **State insect**. Effective bee pollination results in more crops and a lower cost to the consumer.”*

Third: During workshops held in April and May, the Planning Commission received tremendous assistance from the Bee Keeping community. We were briefed by members of the American Beekeeping Federation, the Georgia Bee Keepers Association, the Atlanta Bee Keepers Association and numerous local bee keeping enthusiasts. I am grateful for their hard work and sage advice. These experts educated us on:

- ☐ The importance of honey bee pollination on crop production,
- ☐ The decline of the honey bee population, and
- ☐ The impact European honey bees have on preventing Africanized bees entering the County.

The Planning Commission studied Ordinances from various municipalities including Norcross, Georgia. In most cases, experts recommend two hives per quarter acre or up to 8 hives per acre. An exception is the City of Norcross, Georgia where they have no restrictions on the number of hives. From our briefings and readings, I learned that bee keeping is being promoted in densely populated, urban environments such as New York City and Tampa, Florida. Honey bees contribute significantly to the health of our citizens by pollinating the crops we eat.

Finally, I asked myself, if the proposed ordinance (Option 2) were enacted, would its provisions prevent future occurrences of honey bees watering in someone else's swimming pool? It does not. The bees cannot read and they will do what they will do.

I have concluded that we are attempting to fix a problem that does not exist by restricting an element of nature that needs to be promoted, not restricted. I cannot support a position that restricts our honey bees.

Page 10
July 7, 2011
PC Public Hearing

For these reasons, I recommend the option that simply adds two words, “Bee Keeping” to our existing ordinance:

- B. *Permitted Uses.* The following Permitted Uses shall be allowed:
1. Single-family dwelling;
 2. Accessory structures and uses (see Article V.); and

3. Growing crops, gardens, and beekeeping;

Doug Powell made a motion to approve Option 1, Article V. as amended. Chairman Thoms read Option 1 aloud and then seconded the motion for discussion.

Chairman Thoms said the issue is not regulating honeybees but the general welfare of the entire county. He remarked as the county changes, accommodations have to be made. He commented the PC has tried to keep the county operating in the best interest of all of the citizens. He stated he had noticed beehives sitting in the front yard of homes as he was riding around the county. He pointed out he did not want to make beekeepers operate illegally; however, Option 2 may tend to do that. He noted since homes are close to each other, Option 2 should work to accommodate everyone.

Doug Powell said the clover is blooming and full of bees at Lake Horton Park. He stated the public could be disturbed by bees which will not fall under Option 2.

Chairman Thoms called for the vote on Option 1. The motion failed 1-4. Member voting in favor was: Doug Powell. Members voting in opposition were: Chairman Thoms, Al Gilbert, Bill Beckwith, and Jim Graw.

Chairman Thoms read aloud Option 2.

Bill Beckwith made a motion to approve Option 2 as amended. Jim Graw seconded the motion.

Bill Beckwith said Option 2 was a combination of government and citizens who were interested working together; although, the process was time consuming, it was worth the time to end up with a good product.

Al Gilbert stated the earlier proposed amendments were much stricter than Option 2 because of the beekeepers input. He said the people affected are the only ones to participate; however, the PC is trying to do what is best for everybody in the county. He thanked the beekeepers for their time and input.

Chairman Thoms asked if the on-premise sale of honey was allowed for honey not produced on the premises.

Page 11

July 7, 2011

PC Public Hearing

Dennis Dutton replied the A-R zoning district allows 50% of produce not grown on the site to be sold.

Pete Frisina suggested to linking the on-premise sale of honey with having beehives on-premise.

Doug Powell said the intent was to allow the beekeeper to sell the honey he has produced.

Bill Beckwith withdrew his motion. Jim Graw withdrew his second.

Chairman Thoms suggested the following: The on-premise sale of honey produced on the premises shall be allowed.

Bill Beckwith made a motion to approve Option 2 with amendments as discussed to Home Occupation and the on-premise sale of honey. Jim Graw seconded the motion.

Jim Graw requested Robyn Wilson repeat the amendment.

Chairman Thoms called for the vote. The motion passed 4-1. Members voting in favor of Option 2 were: Chairman Thoms, Al Gilbert, Bill Beckwith, and Jim Graw. Member voting in opposition was: Doug Powell.

Chairman Thoms reminded the audience the proposed amendments would be considered by the BOC on July 28, 2011.

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Chairman Thoms called for a break at 7:48 PM. He reconvened the public hearing at 7:54 PM.

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**THE FOLLOWING ITEMS WILL BE DISCUSSED BY THE PLANNING COMMISSION
ON JULY 7, 2011.**

**4. Discussion of proposed amendments to the Fayette County Code of Ordinances,
Chapter 20. Zoning Ordinance, in its entirety.**

Pete Frisina advised staff had begun on the second round of preliminary amendments to the Zoning Ordinance, in its entirety. He presented the following proposed amendments:

**Page 12
July 7, 2011
PC Public Hearing**

ARTICLE III. DEFINITIONS

~~Day~~ **Child** Care Facility. An agency, organization, or individual providing ~~daytime~~ care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult. (~~see also, Nursery School.~~)

Day Spa. An establishment offering massage therapy performed by a licensed massage therapist pursuant to OCGA 43-24A-1, et seq, that in addition may also offer beauty care, body treatments, and the retail sales of related products.

Dwelling Unit. ~~One (1) or more rooms within a structure forming a separate, independent housekeeping establishment with provisions for cooking, eating, sleeping, sanitation, and which is physically set apart from any other rooms or dwelling units in the same building.~~ **Any building which contains living facilities, including provisions for sleeping, eating, and sanitation for not more than one (1) family.**

Facility. **The area established to serve a particular use or purpose.**

Habitable Space. ~~A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.~~

Home Occupation. An occupation ~~conducted~~ **operated** within a dwelling by residents of the dwelling.

Nursery School. ~~An agency, organization, or individual providing daytime care of four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult (see Day Care Facility.)~~

School, Private. An elementary (**Pre-K only or** kindergarten thru sixth grade and can include Pre-K), middle or high school, supported with private funds, providing a curriculum that meets State Board of Education requirements, including schools serving school age children with special needs.

Al Gilbert stated Pre-K or Pre-School in a church may not provide curriculum approved by the State Board of Education requirements; however, the local schools are semi-involved by providing training sessions during the year.

Pete Frisina advised he had gotten this verbiage from a contact with the Board of Education. He added this definition helped to make a distinction between a child care facility and a private school.

Jim Graw suggested adding “Pre-School.”

Pete Frisina replied there is no curriculum for pre-school children whose age ranges from two (2) to three (3) years; therefore, a pre-school would be considered a child care facility. He said he would get back in touch with his contact with the Board of Education for clarification.

Page 13

July 7, 2011

PC Public Hearing

Vehicle, Recreation. A self-propelled or towed vehicle used as a temporary dwelling for travel and recreational purposes. Recreation vehicles shall include camping trailers and travel trailers in addition to self-propelled vehicles ~~and shall~~ **which do** not exceed eight and one-half (8.5) feet in width and 45 feet in length **when in travel mode.**

Bill Beckwith asked if the measurement included the vehicle towing the recreation vehicle such as a dually.

Pete Frisina replied the length requirement did not include the tow vehicle.

Doug Powell suggested relocating “when in travel mode” after “eight and one-half (8.5) feet in width.”

ARTICLE V. GENERAL PROVISIONS

Sec. 5-9. ~~Landlocked Property.~~ *Open.*

~~In the event property is landlocked, as of the effective date of November 13, 1980, the property owner shall be entitled to one (1) building permit, provided:~~

- ~~A. No other principal building exists or is being constructed on said property;~~
- ~~B. No other valid building permit has been issued prior to the effective date of November 13, 1980, and is currently valid;~~
- ~~C. The property owner has acquired a 20 foot easement to a County maintained street, and said easement has been duly recorded and made a part of the property deed; and~~
- ~~D. In the event said property is divided into two (2) or more lots, no further building permits shall be issued until such time as there exists a street meeting all of the requirements as specified in the Fayette County Subdivision Regulations.~~

(Note: Moved to Article VII. Nonconforming Lots)

Sec. 5-10. Encroachment on Public Rights-of-Way.

No building, structure (including prohibited mailbox supports as described in Article V.), wall or fence, service area or required off-street parking and loading facilities, except driveways and associated headwalls, shall be permitted to encroach on public rights-of-ways.

Sec. 5-14. Yard not to be Encroached Upon.

No yard shall be encroached upon or reduced in any manner except in conformity with the setback, off-street parking spaces, and such other regulations required for the zoning district in which such building is located. Landscaping, driveways, vehicle parking areas, multi-use paths, walkways and associated steps, retaining walls, walls and fences, curbs, and planted buffer strips shall not be construed to be encroachments.

Sec. 5-19. Additions to a Single Family Structure.

- A. All additions to a single-family dwelling shall be attached to the primary structure, via either a heated corridor that shall be attached to the primary residence at a location that is currently heated and that has minimum interior dimensions of six (6) feet in width and eight (8) feet in height, or by a direct access common wall. ~~Said corridor shall be attached to the primary residence at a location that is currently heated.~~

Page 14

July 7, 2011

PC Public Hearing

Bill Beckwith asked why air conditioning was not required.

Pete Frisina explained air conditioning is not required per the Building Code.

- C. *Number and Size.* The number and size of accessory structures shall conform to the requirements described herein.
 - 1. *Accessory structures shall be limited to one (1) of the following options:*

- a. Two (2) accessory structures, per individual lot, ~~with each accessory structure not to exceed 900~~ **shall not exceed a combined total of 1,800** square feet of floor area **(see Total Square Footage.) The square footage of the largest accessory structure shall not exceed the total square footage of the principal structure.** One (1) of these accessory structures may include up to 700 square feet of heated and finished floor area to be utilized as a guest house. An accessory structure combined with a guest house, under this option, shall be deemed as one (1) accessory structure; or
- b. One (1) accessory structure, per individual lot, not to exceed 1,800 square feet of floor area **(see Total Square Footage)**, or the total square footage of the principal structure, whichever is less. This accessory structure may include up to 700 square feet of heated and finished floor area to be utilized as a guest house. An accessory structure combined with a guest house, under this option, shall be deemed as one (1) accessory structure; ~~or.~~
- e. ~~Two (2) accessory structures per individual lot consisting of a freestanding guest house (not to exceed 700 square feet of heated and finished floor area) and an accessory structure which may not exceed 1,100 square feet of floor area.~~

Pete Frisina explained rather than having three (3) options and a restriction of 900 square feet, the proposed amendments provided for one (1) 1,800 square foot accessory structure but can't exceed the square footage of the single-family dwelling or two (2) accessory structures which shall not exceed a combined total of 1,800 square feet. He added there would be more amendments regarding farm outbuildings.

- 3. A well/pump house, dog house, or playhouse consisting of 70 square feet or less, dog pen/run consisting of 200 square feet or less, swimming pool, recreational court, aircraft hangar (see Article VII.), farm outbuilding (see Article VII.), commercial greenhouse (see Article VII.), ground/pole mounted solar panel consisting of less than 200 square feet, and ground-mounted wind turbine/windmill, uncovered outdoor kitchen and/or fireplace, **hot tub** shall not be included in determining the number of accessory structures provided herein.

Doug Powell suggested adding "beehives."

Pete Frisina suggested relocating "hot tub" behind "swimming pool."

Page 15
July 7, 2011
PC Public Hearing

- D. *Location on Lot.* Accessory structures shall conform to the dimensional requirements within each zoning district. No structure shall be located in the front yard except: a detached garage (see 1. and 2. below for requirements); well/pump house consisting of 70 square feet or less; or farm outbuildings and commercial greenhouses located in an A-R Zoning District, where the lot consists of five (5) acres or more. A well/pump house of 70 square feet or less may be located within the setbacks. On a single frontage lot, the area between the street and the front building line shall be treated as a front yard with regard to the location of accessory

structures. On a corner lot, the area between both of the streets and both of the front building lines shall be treated as a primary front yard and a secondary front yard with regard to the location of accessory structures. On a through lot, the area between the street from which the lot is accessed and the front building line shall be treated as a front yard with regard to the location of accessory structures.

3. *Architectural Standards for a Detached Garage located in all Front Yards.* The garage shall maintain a residential character. Elevation drawings denoting compliance with the following requirements shall be submitted as part of the building permit application:

- e. ~~A separate electrical meter is not permitted, unless otherwise required by the power company providing service to the property.~~ (to comply with bldg code)

Al Gilbert asked what the code states regarding a separate electrical meter. He said this was a control mechanism to prevent renting an accessory structure.

Pete Frisina replied he would get clarification from the Permits and Inspections Department and added there may be a distance requirement.

Sec. 5-23. Architectural Yard Features.

Architectural yard features shall not be located within the right-of-way, shall not be required to comply with the setback requirements, and shall include, but not be limited to: 1) landscaping features such as planters, arbors, and trellises; 2) water features shall include, but not be limited to: fountains, waterfalls, and decorative man-made ponds such as koi ponds; and/or 3) sculptures. *All mechanical and electrical equipment shall be screened with vegetation or housed in an equipment cabinet not to exceed 70 square feet.* Landscaping features, such as arbors or trellises, shall not exceed 10 feet in height as measured at the highest point. Landscaping planters shall not exceed four (4) feet in height at the highest point. Sculptures shall not exceed 20 feet in height or the highest point of the roof of the principle structure, whichever is less. (**Note:** Check with the Building Permits and Inspections Department for any permitting requirements.)

Sec. 5-25. Access to Major Thoroughfares.

Lots *containing non-residential uses* having driveway access to arterial and collector streets shall be provided with a convenient vehicle turn-around which shall be of adequate design to permit vehicles to enter such arterial or collector streets in a forward manner.

Page 16

July 7, 2011

PC Public Hearing

Sec. 5-34.1 Property Exempt from Zoning Buffer Requirements.

Any property which abuts property owned by the Board of Commissioners, Board of Education, or municipality, as well as, the State or Federal Government shall be exempt from the zoning buffer requirements.

Doug Powell asked Pete Frisina to explain the proposed amendment.

Pete Frisina replied if there is a nonresidential zoning which abuts a residential zoning, the nonresidential zoning shall provide a buffer; however, a County park, County maintenance facility, or County recreational fields are not being utilized for single-family dwellings.

Robyn Wilson added a buffer is regulated by the zoning district not the use of the property.

Pete Frisina clarified the buffer would be exempt along the common property line abutting property owned by a governmental entity.

Sec 5-40. Screening Standards.

Walls and fences or combinations thereof shall achieve 100 percent screening prior to the issuance of any applicable Planning and Zoning Department approval and/or Certificate of Occupancy. Walls and fences required for screening purposes shall be limited to wood, brick, stone, concrete or concrete block (with architectural treatment), or any such wall or fence combined with vegetative screening materials which shall be compatible with or enhance the appearance of adjoining properties. Chain link fences with slat inserts may be utilized to establish a screen in the M-1 and M-2 Zoning Districts.

Sec. 5-42. Outside Display Exempt from Screening.

Outside display of vehicles, for lease or sale, including, but not limited to: motorcycles, boats, recreational vehicles, farm equipment, utility trailers, heavy equipment, manufactured homes, and landscape planting materials shall be exempt from the setback and screening requirements of this ordinance, subject to the minimum landscape and buffer requirements. Merchandise which is moved inside on a daily basis shall be exempt from the setback and screening requirements; however, such display shall comply with all minimum landscape and buffer requirements. Outside sales display shall be exempt from screening; however, the outside sales display shall comply with the required setbacks, buffers, and landscape requirements. The outside installation and display of products shall be limited to those items generally utilized outside, including, but not limited to: swimming pools, spas/hot tubs, patios and patio accessories, ~~plant materials,~~ and/or children's play equipment.

Chairman Thoms suggested amending the first sentence to state: "and landscape plants" and delete "planting materials."

Sec. 5-43. Office Trailer.

The temporary use of a trailer ~~use of~~ for an office trailer during a development and/or construction period shall require a permit to be issued by the Zoning Administrator prior to locating the trailer on a site. Said

Page 17

July 7, 2011

PC Public Hearing

permit shall require a fee as established by the Board of Commissioners of Fayette County and shall specify the precise location of the trailer meeting all applicable setbacks. Said permit shall be issued for a six (6) month period. Renewals of additional six (6) month periods are available, so long as, ~~the applicant possesses~~ there is a current Land Disturbance Permit, Preliminary Plat, Final Plat, Site Plan, or building permit for the property ~~within the development~~.

Sec. 5-45. Administrative Variances.

The Zoning Administrator shall have the authority to approve administrative variances regarding setbacks for an existing structure as long as the structure meets all other applicable requirements. Said administrative variance shall not exceed 10 percent of the minimum setback requirements up to a maximum of two (2) feet. This shall not include setbacks required for Conditional Uses (see Article VII.)

Sec. 5-46. Manufactured Home.

The placement of a manufactured home in a zoning district which allows a single-family dwelling as a Permitted or Conditional Use, other than MHP, shall comply with the following:

1. The manufactured home shall comply with all applicable zoning requirements, including, but not limited to: minimum heated square footage.
2. The manufactured home shall be placed on a permanent foundation.
3. The ~~middle support chassis~~ axle, tongue, and wheels shall be removed.
4. All applicable requirements shall be met within 90 calendar days and prior to the issuance of a Certificate of Occupancy.

ARTICLE VI. DISTRICT USE REQUIREMENTS

A. Sec. 6-2. C-S, Conservation

- B. *Rezoning Requirements.* The following is required for a rezoning ~~request~~ petition for the Conservation Subdivision Zoning District in addition to what is normally required for a rezoning ~~request~~ petition:

1. A ~~request~~ petition for the Conservation Subdivision Zoning District will require a Yield Plan. The number of lots allowed in a Conservation Subdivision will be determined by a Yield Plan which is a conventional subdivision design based on the dimensional requirements of the R-70 Zoning District. This concept is referred to as Neutral Density. The Yield Plan shall contain the check list requirements available in the office of the Zoning Administrator. ~~Staff analysis of the Yield Plan will add an additional month to the normal rezoning schedule.~~ The rezoning petition shall not be filed with the Planning and Zoning Department until the Yield Plan has been approved by the applicable departments.
2. A Development Plan shall be required for the rezoning petition. The Development Plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved Development Plan, which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved

Page 18
July 7, 2011
PC Public Hearing

by the Board of Commissioners upon the recommendation of the Planning Commission. A ~~request~~ petition for a revision of the Development Plan shall be supported by a written statement as to why the revisions are necessary.

Sec. 6-3. EST, Estate Residential

- B. *Rezoning Requirements.* The following is required for a rezoning ~~request~~ petition for the Estate Residential Zoning District in addition to what is normally required for a rezoning ~~request~~ petition:

1. A request *petition* for the Estate Residential Zoning District will require a Yield Plan. The number of lots allowed in a Estate Residential Zoning District will be determined by a Yield Plan which is a conventional subdivision design based on the dimensional requirements of the A-R Zoning District. This concept is referred to as Neutral Density. The Yield Plan shall contain the check list requirements available in the office of the Zoning Administrator. *The rezoning petition shall not be filed with the Planning and Zoning Department until the Yield Plan has been approved by the applicable departments.*
2. A Development Plan shall be required for the rezoning petition. The Development Plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved Development Plan, which affects the intent and character of the development, the density or land use pattern, *the location or dimensions of streets,* or similar substantial changes, shall be reviewed and approved by the Board of Commissioners upon the recommendation of the Planning Commission. A request *petition* for a revision of the Development Plan shall be supported by a written statement as to why the revisions are necessary. *Each EST Subdivision shall consists of two (2) areas: the residential area and the conservation area. The conservation area will consist of the environmentally sensitive areas, including waterways, water bodies, watershed protection areas, floodplains, wetlands, riparian buffers and woodlands, as well as, agricultural areas existing agricultural structures and historical structures. The EST area will remain in a natural and undisturbed state with minimal improvements and will be regulated in a manner consistent with the Georgia Greenspace Program requirements to the greatest degree possible.* In addition to what is normally required on the Development Plan, the Development Plan shall include the following:
 - a. *A delineation of the attributes (see Purpose) of the site which will be preserved;*

Doug Powell suggested deleting “and will be regulated in a manner consistent with the Georgia Greenspace Program requirements to the greatest degree possible.”

Pete Frisina stated the same change needs to be made in the C-S zoning district.

Page 19
July 7, 2011
PC Public Hearing

- C. *Rezoning Requirements.* The following is required for a rezoning request *petition* for the Conservation Subdivision Zoning District in addition to what is normally required for a rezoning request *petition*:
 3. A request *petition* for the Conservation Subdivision Zoning District will require a Yield Plan. The number of lots allowed in a Conservation Subdivision will be determined by a Yield Plan which is a conventional subdivision design based on the dimensional requirements of the R-70 Zoning District. This concept is referred to as Neutral Density. The Yield Plan shall contain the check list requirements available

in the office of the Zoning Administrator. Staff analysis of the Yield Plan will add an additional month to the normal rezoning schedule. **The rezoning petition shall not be filed with the Planning and Zoning Department until the Yield Plan has been approved by the applicable departments.**

4. A Development Plan shall be required for the rezoning petition. The Development Plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved Development Plan, which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the Board of Commissioners upon the recommendation of the Planning Commission. A ~~request~~ **petition** for a revision of the Development Plan shall be supported by a written statement as to why the revisions are necessary.

Sec. 6-18. O-I, Office-Institutional District.

B. *Permitted Principal Uses and Structures.* The following Permitted Uses shall be allowed in the O-I Zoning District:

1. Office;
2. Art gallery;
3. Bank and/or financial institution;
- ~~4. Clinic (human treatment);~~
4. College and/or university, including classrooms and/or administration only;
5. Educational/instructional/tutorial facilities, including, but not limited to: academic, art, computer, dance, driving and/or DUI, martial arts, music, professional/business/trade, and similar facilities;
6. Health club and/or fitness center;
7. Insurance carrier, agent, and/or broker;
8. Laboratory, medical, and/or dental;
9. Legal services;
10. Massage therapy (see also County Code);
11. **Medical/dental office (human treatment);**

Sec 6-19. C-C, Community Commercial District.

B. *Permitted Uses.* The following uses shall be permitted in the C-C Zoning District:

1. Amusement or recreational facility, indoor or outdoor (see County Code);
2. Appliance sales and incidental repair;

Page 20

July 7, 2011

PC Public Hearing

3. Art studio;
4. Auto parts and/or tire sales and installation;
5. Bakery;
6. Bank and/or financial institution;
7. Banquet hall;
8. Catering service;
9. Church and/or other Place of Worship, excluding outdoor recreation, parsonage, and cemetery or mausoleum;

10. College and/or university, including classrooms and/or administration only;
11. Copy shop;
12. Cultural facility;
13. Day spa;
14. ~~Dental office~~;
14. Department store, variety store, and/or clothing store;
15. Drug store;
16. Educational/instructional/tutoring facilities, including, but not limited to: academic, art, computer, dance, driving and/or DUI school, martial arts, music, professional/business/trade, and similar facilities;
17. Electronic sales and incidental repair;
18. Emission testing facility (inside only);
19. Firearm sales and/or gunsmith (see County Code);
20. Florist;
21. Gift shop;
22. Grocery store;
23. Hardware store;
24. Health club and/or fitness center;
25. Jewelry shop;
26. Laboratory serving professional requirements, (e.g. medical, dental, etc.);
27. Library;
28. Medical/dental office (human treatment);

Sec 6-20. C-H Highway Commercial District.

B. *Permitted Uses.* The following uses shall be permitted in the C-H Zoning District:

1. Ambulance service, including non-emergency medical transport service;
2. Amusement or recreational facility, indoor or outdoor (see County Code);
3. Appliance sales and/or repair;
4. Armories, for meetings and training military organizations;
5. Art studio;
6. Auto parts, tire store/installation, brake installation, muffler repair, oil change, tune-up, and emission testing facilities. All service, repairs, and diagnostics shall be conducted within an enclosed building;
7. Bakery;
8. Bank and/or financial institution;

Page 21
July 7, 2011
PC Public Hearing

9. Banquet hall;
10. Bookbinding;
11. Building, contracting and related activities, (e.g. sales and storage of building supplies and materials);
12. Bus passenger station (pick-up and drop-off only);
13. Cabinet manufacturing, sales, repair and/or installation;
14. Car wash and/or detailing facility;
15. Catering service;

16. Church and/or other place of worship excluding outdoor recreation, parsonage, and cemetery or mausoleum;
17. Clothing store and/or variety store;
18. College and/or university, including classrooms and/or administration only;
19. Copy shop;
20. Cultural facility;
21. Day spa;
- ~~22. Dental office;~~
22. Department store;
23. Drug store;
24. Educational/instructional/tutoring facilities, including, but not limited to: academic; art; computer; dance; driving and/or DUI; music; professional/business/trade; martial arts; and similar facilities;
25. Electronic sales and/or repair;
26. Emission testing facility (inside only);
27. Engraving;
28. Firearm sales and/or gunsmith (see County Code);
29. Flea market, indoor (see County Code);
30. Florist shop;
31. Freezer locker service, ice storage;
32. Freight express office;
33. Funeral home;
34. Gift shop;
35. Glass sales;
36. Grocery store;
37. Hardware store;
38. Health club and/or fitness center;
39. Hotel and/or bed and breakfast;
40. Jewelry shop;
41. Laboratory serving professional requirements, (e.g. medical, dental, etc.);
42. Library;
43. Magazine publication and/or distribution;
44. Manufactured home and/or building sales;
45. Medical/dental office (human treatment);

Page 22
July 7, 2011
PC Public Hearing

Sec. 6-21. L-C Limited-Commercial District.

- B. *Permitted Principal Uses.* The following Permitted Principal Uses shall be allowed in the L-C Zoning District:
1. Antique shop;
 2. Art and/or crafts studio;
 3. Bakery;
 4. Bank and/or financial institution;
 5. Barber and/or beauty shop;

6. Book, stationery, and/or card shop;
7. Clothing and accessories;
8. Dance school and/or studio;
9. ~~Dental office~~;
9. Florist shop;
10. Gift shop;
11. Home furnishings and accessories;
12. Jewelry shop;
13. Laundry and/or dry clean pickup station;
14. Medical/dental office (human treatment);

Sec. 6-24. BTP Business Technology Park District

- F. *Rezoning Requirements.* The following is required for a rezoning ~~request~~ petition for the BTP Zoning District in addition to what is normally required for a rezoning ~~request~~ petition:
 1. A Development Plan is required for the rezoning petition and will take the place of the required Concept Plan. The Development Plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved Development Plan, which affects the intent and character of the development, the land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the Board of Commissioners upon the recommendation of the Planning Commission. A ~~request~~ petition for a revision of the Development Plan shall be supported by a written statement as to why the revisions are necessary.

Sec. 6-25. Planned Unit Development.

- B. *Development standards.* Each Planned Unit Development shall meet the following standards in addition to any other as hereinafter set forth:
 1. The development shall utilize creative and flexible design including, but not limited to: varied lot sizes, amenities, mixed uses, etc.;
 2. The development shall be compatible with surrounding uses and with the Land Use Plan of Fayette County;
 3. *Paving of roads.* Developers of approved Planned Unit Developments shall be required to pave all new subdivision streets contained within said development in conformance with the rules and regulations of the Development Regulations of

Page 23
July 7, 2011
PC Public Hearing

Fayette County (see County Code.) Improvements to existing County-maintained roads or planned County roads which pass through a Planned Unit Development will be handled conditionally at the time of rezoning or at the time of a revision to a development plan. However, in any Planned Retreat or Lodge (PRL), the developer shall be required to provide for all-weather roads, as approved by Public Works, suitable for the passage of emergency vehicles.

- C. *Relation to zoning districts.* An approved Planned Unit Development shall be considered to

be a separate zoning district in which the development plan, as approved, establishes the uses, restrictions and regulations according to which development shall occur. Upon approval, the zoning map shall be changed to indicate the area as a Planned Unit Development.

Procedures. The following procedures shall be followed in the establishment of each and every Planned Unit Development:

1. *Pre-Application Conference.* **The deadline to submit copies of the Development Plan and Letter of Intent shall be the first of the month by noon.** Prior to filing a rezoning petition for a Planned Unit Development, the applicant shall meet with the ~~Zoning Administrator~~ **Technical Review Committee (TRC)** in order to review the general character of the proposed development, including, but not limited to: its scope, nature and location. At this time, the applicant shall be fully advised of the approval procedures contained herein and the various information, studies, etc., which the applicant may need in order to continue with the said procedures.
4. *Development Plan.* The following information shall be submitted as the Development Plan:
 - f. ~~Perspective drawings~~ **Pictorial representations** of representative building types for all non-residential structures which indicate the proposed general architectural style and appearance; and

Al Gilbert asked for clarification of pictorial representations.

Pete Frisina replied pictorial representations could be graphic representations, CAD, or photo-shopped.

Al Gilbert suggested adding “ie” and list some acceptable examples.

Pete Frisina stated he would continue to propose changes to this amendment.

7. *Subdivision Approval.*
 - c. Site development regulations, specifications, and procedures governing the platting of a Planned Unit Development and plat approval shall be in accordance with the Fayette County Subdivision Regulations and Development Regulations **(see County Code.)**
10. *Revision of Development Plan.* Any change in the approved Development Plan, which affects the intent and character of the development, the density or land use pattern, the approved uses, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the Board of Commissioners upon the

Page 24
July 7, 2011
PC Public Hearing

recommendation of the Zoning Administrator and Planning Commission. A ~~request~~ **petition** for a revision of the Development Plan shall be supported by a written statement as to why the revisions are necessary or desirable.

F. Planned Retreat or Lodge.

1. *Purpose.* The intent of a Planned Retreat or Lodge (PRL) is to provide a development exclusively designed to accommodate the assembly of a groups or organizationss for **the purpose of association, education, or instruction through conferences, seminars, and/or camps.** whereby ~~Food~~, and lodging may be furnished for a definite and temporary period.
2. *Permitted Uses.* **The following uses may be proposed in a PRL:**
 - a. **Assembly/meeting facilities (indoor and outdoor);**
 - b. **Dining facilities;**
 - c. **Lodges, dormitories, cabins, and/or tent campsites for temporary occupancy;**
 - d. **Recreational facilities, including but not limited to: recreational courts/fields, playgrounds, picnic pavilions, swimming pools; and**
 - e. **Caretaker residence.**

In addition, only those uses (Permitted and Conditional) allowed in the A-R Zoning District ~~shall~~ **may** be proposed for a PRL. Only those uses approved through the rezoning process will be allowed in the PRL.
3. ~~*Conditional Uses.* The following Conditional Uses shall be allowed in the PUD-PRL Zoning District provided that all conditions specified in Article VII. Conditional Uses, Nonconformances, Transportation Corridor Overlay Zone, and Commercial Development Standards are met:~~
 - a. ~~Home Occupation; and~~
 - b. ~~Telephone, Electric or Gas Sub Station or other Public Utility Facilities.~~
4. *Minimum Dimensional and Other Requirements.* The minimum requirements for a PRL shall be as follows:
 - a. *Location:* A-R Zoning District
 - b. *Development size:* 50 contiguous acres
 - c. *Maximum density:* One (1) **single-family** unit for each 10 **net** acres of the development.
 - d. **The proposed site shall be permitted only on a lot which fronts on and accesses a Major Thoroughfare, as specified by the Fayette County Thoroughfare Plan.**

Chairman Thoms asked why a PRL should front and access a major thoroughfare.

Pete Frisina replied a major thoroughfare was required due to traffic which falls under the same guidelines as a church.

Page 25
July 7, 2011
PC Public Hearing

- e. **A Site Plan will be required prior to the construction of structures and/or recreational facilities, as applicable, per the Development Regulations (see County Code.)**
- f. Each structure whose principal purpose is to provide housing **lodging** shall have **paved** access to a **public** street maintained by the County. Said paved access shall **meet the requirements of the Development Regulations (see**

- ~~County Code.) have a minimum width of 60 feet.~~
- g. No structure shall be permitted within 150 feet of the right-of-way of any abutting external public street ~~maintained by the County.~~
- h. A buffer zone of 150 feet shall be provided around the periphery of the development.
- g. *Height limit:* 35 feet

Pete Frisina explained the last time the PRL zoning district was used was in 1978. He reported he was presenting this to the BOC on July 14, 2011, because there is a proposed rezoning for this zoning district. He said the current ordinance does not even address allowing a retreat or lodge because it refers to uses in the A-R zoning district only. He added he was requesting permission to advertise the proposed amendments for the PRL for the August public hearings before the PC and the BOC.

Al Gilbert asked if PRL would permit an amphitheater.

Pete Frisina replied an amphitheater could fall under assembly/meeting facility (indoor and outdoor) would not be allowed to be open to the public and the size could be regulated by the use.

Chairman Thoms asked if the PRL zoning district accommodate recreational fields/sports complex.

Pete Frisina replied it would have to go through the process.

G. **Planned Entertainment Farming.**

- 4. *Minimum Dimensional and Other Requirements.* The minimum requirements for PEF shall be as follows:
 - a. *Location:* A-R Zoning District
 - b. *Development size:* 100 contiguous acres
 - c. Single-family dwellings and those accessory uses and structures associated with the single-family dwelling shall meet those requirements established within the A-R Zoning District.
 - d. *All other non-residential structures shall meet the following setbacks:*
 - i. *Front yard:* 200 feet
 - ii. *Rear yard:* 100 feet
 - iii. *Side yard:* 100 feet
 - e. A Site Plan is required indicating the location of all structures/activities *per the Development Regulations (see County Code.)*

Page 26
July 7, 2011
PC Public Hearing

- f. All parking and access areas shall be paved and landscaped per the Development Regulations *(see County Code.)*

H. **Planned Outdoor Recreation.**

- f. Landscaping and buffer areas shall be planted in accordance with the Development Regulations *(see County Code.)*

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

Sec. 7-1. Conditional Use Approval. Conditional Uses include certain uses which are allowed in a particular zoning district provided that all conditions specified under the Zoning Ordinance are met. The Zoning Administrator shall issue a Conditional Use Permit for each use listed below upon compliance with all specified conditions and approvals by the appropriate County officials.

B. Conditional Uses Allowed:

1. *Adult Day Care Facility.* (Allowed in the C-C, C-H, and O-I Zoning Districts and Church or other Place of Worship (see Article VII.)
 - a. The facility shall comply with all applicable licensing requirements of the State of Georgia.

13. *Church and/or other Place of Worship.* (Allowed in O-I, A-R, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, and DR-15 Zoning Districts)
 - e. Uses and/or structures incidental to a church shall be limited to: a private school, parsonage, gymnasium, playground, tot lot, athletic field, ~~day~~ child care facility, adult day care facility, administration, human cemetery (provided that all requirements for a Cemetery herein are met), broadcast facility, including a tower (see Article V. General Provisions), and seasonal sales (see Article VII. Seasonal Sales as Outdoor Displays) shall be allowed provided all buildings and use areas meet the minimum setback and buffer requirements. Outdoor lighting for recreation purposes shall be prohibited.
 - f. ~~Day~~ Child care facilities shall be allowed provided that all requirements for ~~day~~ child care facilities herein are met (see Article VII. Day Child Care Facility (Nursery School.))

17. ~~Day~~ Child Care Facility (~~Nursery School.~~) (Allowed in C-C, C-H, O-I, A-R, and MHP Zoning Districts, and Church and/or other Place of Worship (see Article VII.)
 - a. The facility shall comply with all applicable licensing requirements of the State of Georgia. ~~A day care facility may be approved as long as it maintains active certification from the Georgia Department of Human~~

**Page 27
July 7, 2011
PC Public Hearing**

~~Resources. Should the state certification lapse or be revoked, the Conditional Use permit shall be null and void.~~

- ~~b. A preliminary license report from the Georgia Department of Human Resources shall accompany the application for a Conditional Use Permit.~~
- b. Outdoor play areas shall be located to the side or rear of the principal building.
- c. At least 100 square feet of outdoor play area shall be provided for each

- child during the period of maximum attendance.
- d. A fence measuring at least four (4) feet in height shall enclose the entire play area.
 - e. If the side or rear yard abuts a residential or A-R Zoning District, a minimum 50 foot buffer shall be provided adjacent to the lot line. The side yard setback shall be 50 feet. The rear yard setback shall be 75 feet. The setback shall be measured from the buffer. **Said requirements shall apply to all structures and outdoor play areas.**
 - f. If adjoining a residential or A-R Zoning District, the hours of operation shall be limited to: Monday through Saturday from 6:00 a.m. to 7:00 p.m., except that all exterior activities shall only occur from 9:30 a.m. to 4:00 p.m.
 - g. A convenient vehicle drop-off area shall be provided, permitting vehicles to re-enter the public street in a forward manner.
 - h. **Such uses shall be permitted only on a lot which fronts on and accesses a Major Thoroughfare or within a nonresidential development which fronts on and accesses a Major Thoroughfare as specified by the Fayette County Thoroughfare Plan.**
18. *Developed Residential Recreational/Amenity Areas.* (Allowed in subdivisions in the A-R, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, DR-15, and C-S zoning districts, with Final Plat approval.)
- a. Lot area: Per zoning district
 - b. Said area shall be shown on the Preliminary and Final Plats and labeled as follows: "Not a residential building lot, for recreational purposes only."
 - c. Landscape ~~and buffer~~ areas shall be **required and** planted in accordance with the Development Regulations (see County Code.)
 - d. In addition to the required landscape areas, a six (6) foot landscape ~~or buffer area~~ shall be required along the rear property line where adjacent to an A-R or residential zoning district **and planted in accordance with the Development Regulations (see County Code.)**
 - e. Paved parking area is required per the Development Regulations (see County Code.)
 - f. No activity and lighting permitted after 10:00 p.m.
 - g. The construction of one (1) open air pavilion up to 900 square feet utilized for picnics and social gatherings **shall be allowed.**

Page 28
 July 7, 2011
 PC Public Hearing

36. *Private School, including, but not limited to: classrooms, administration, playground, housing, athletic fields, gymnasium, and/or stadium.* (Allowed in A-R, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, DR-15, O-I, C-C, and C-H Zoning Districts)
- a. Minimum lot size: five (5) acres
 - b. **Such uses shall be permitted only on a lot which fronts on and accesses a**

Major Thoroughfare or within a nonresidential development which fronts on and accesses a Major Thoroughfare as specified by the Fayette County Thoroughfare Plan.

- c. If the side or rear yard abuts a residential or A-R Zoning District, a minimum 50 foot buffer shall be provided adjacent to the lot line. The side yard setback shall be 50 feet. The rear yard setback shall be 75 feet. The setback shall be measured from the buffer. **Said requirements shall apply to all structures, outdoor playground areas, and/or athletic fields.**
- h. The construction of one (1) open air pavilion ~~over 900 square feet~~ utilized for picnics/social gatherings only is allowed under the following conditions:
 - i. The pavilion shall be constructed following the construction of the main school building;
 - ii. The floor area cannot exceed 40 percent of the square footage of the main school building; and
 - iii. The pavilion may not be lighted or used after 10:00 p.m.If the open air pavilion is built in conjunction with an attached storage building, the overall square footage shall not exceed 40 percent of the main school building square footage.

Sec. 7-2. Nonconformances.

The Zoning Board of Appeals may impose or require conditions, as may be necessary, to protect the health and safety of workers and residents in the community; to protect the value and use of property in the general neighborhoods; and provided that wherever the Board shall find, in the case of any approval granted pursuant to the provisions of these regulations, that any of the conditions upon which such approval was granted are not being complied with, said Zoning Board of Appeals shall rescind and revoke such approval after giving due notice to all parties concerned and granting full opportunity for a hearing.

A. Nonconforming Lots.

A legally existing lot of record which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a rezoning, or a variance, shall be considered a legal nonconforming lot and may be utilized for the establishment of uses or the placement of structures and improvements, as long as, all applicable regulations can be met. Where the dimensional requirements of the zoning district cannot be met in terms of the placement of structures and improvements, a variance authorized by the Zoning Board of Appeals shall be required. Any reduction in the land area of a legal nonconforming lot other than an acquisition for a public purpose which serves to make the lot more nonconforming shall result in a loss of the legal nonconforming lot status. However, any addition of property to a legal

**Page 29
July 7, 2011
PC Public Hearing**

nonconforming lot which serves to make the lot more conforming shall not result in the loss of the legal nonconforming lot status.

Landlocked Property. In the event property is landlocked, as of the effective date of November 13, 1980, the property owner shall be entitled to building permits, provided the property owner has acquired a 20 foot easement to a County maintained street, and said easement has been duly

recorded and made a part of the property deed. In the event said property is divided into two (2) or more lots, no further building permits shall be issued until each lot complies with the requirements of Street Frontage for Access.

B. *Nonconforming Uses.*

Nonconforming Open Uses of Land. Any legally existing open uses of land which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a County initiated rezoning, or a variance, shall be considered a legal nonconforming open use of land. Said uses consist of storage yards, ~~used as~~ **vehicle and trailer sale** lots, auto wrecking, junk yards, golf driving ranges, miniature golf, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot, and where such use of the land is not permitted to be established herein, shall be governed by the following restrictions in addition to other requirements herein.

Request for Extension or Enlargement of the Legal Nonconforming Use of a Structure. The Zoning Board of Appeals may authorize upon appeal in specific cases an extension or enlargement of an existing legal nonconforming use which the Board is specifically authorized to consider under the terms herein. Said extensions may be granted in an individual case upon a finding by the Board that:

1. The use is a legal nonconforming use as defined in these regulations;
2. The legal nonconforming use is in full compliance with all requirements of these regulations applicable to nonconformances; and
3. The extension of said legal nonconforming use will not further injure a permitted use on adjacent property ~~in the same zoning district.~~

C. *Nonconforming Structures.*

Maintenance or Repair of Legal Nonconforming Structures. The normal maintenance and repair of a legal nonconforming structure, as is required to keep it in a safe and sound condition, may be made. However, if the structure falls into a state of disrepair where the cost of the maintenance and/or repair is 75 percent or greater of the current fair market value of the structure for tax purposes, the structure must be removed and/or brought into compliance. Reconstruction costs shall include labor, materials, appliances, devices, and fixtures required for the issuance of a Certificate of Occupancy (per applicable International Residential Code and International Building Code.)

A property that is improved with ~~an~~ **a legally** existing structure, which would become nonconforming in terms of the setbacks only within the zoning district for which a rezoning is being sought, may be considered for rezoning, except as otherwise provided in Article VI. O-I. and Article VII. Transportation Corridor Overlay Zone. Upon approval of the rezoning request, **a variance granted by the Zoning Board of Appeals shall be necessary for the** ~~said structure shall be considered as a legal nonconforming structure and allowed to remain within the setback.~~ Any enlargement, expansion, or extension of said structure which serves to increase nonconformance, either vertical and/or horizontal, shall only be made with the authorization of the Zoning Board of Appeals. Any new structure shall comply with the dimensional minimum requirements herein.

Page 30

July 7, 2011

PC Public Hearing

A property that is improved with ~~an~~ **a legally** existing structure, which would become nonconforming in terms of the architectural requirements within the Zoning Ordinance, may be considered for rezoning. Upon approval of the rezoning request, said structure shall be considered as a legal nonconforming structure in terms of architectural requirements and be allowed to remain in its architectural character, except as is required in a Transportation Corridor Overlay Zone regarding

enlargement of an existing nonconforming structure.

A property that is improved with ~~an~~ a legally existing structure, which would become nonconforming in terms of the maximum height limits within the Zoning Ordinance, may be considered for rezoning. Upon approval of the rezoning request, said structure shall be considered as a legal nonconforming structure in terms of height limits and be allowed to remain at said height.

A property that is improved with ~~an~~ a legally existing residential structure, which would become nonconforming in terms of the minimum square footage requirements within the zoning district for which a rezoning is being sought, may be considered for rezoning. Any actions necessary to achieve compliance will be handled through conditions of rezoning approval.

A property that is improved with legally existing accessory structures, which would become nonconforming in terms of the accessory structure requirements within the Zoning Ordinance, may be considered for rezoning. Any actions necessary to achieve compliance will be handled through conditions of rezoning approval, except as otherwise provided herein.

Sec. 7-5. Transportation Corridor Overlay Zone

For the purposes of Section 7-5., a development shall be defined as the land where the construction of improvements to support nonresidential uses is proposed, including: a petition to rezone the land, the subdivision of property through a preliminary, final, and/or minor subdivision plat, and/or the submittal of a site plan.

A. *SR 54 West Overlay Zone.* All property and/or development which have road frontage and/or access on SR 54 West with nonresidential use or zoning shall be subject to the following regulations, in addition to the zoning district requirements, and other development regulations which apply. The intent of the overlay is to set standards specifically to Hwy 54 from Fayetteville to Peachtree City.

3. *Dimensional Requirements.*

a. All ~~impervious surfaces, other than approved access drives,~~ parking areas shall be located at least 50 feet from the any State Route right-of-way.

9. *Special Locational and Spatial Requirements.*

c. All roof-top heating, ventilation, and air conditioning (HVAC) equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.

B. *SR 85 North Overlay Zone.* All property and/or development within 1,000 feet of the right-of-way of SR 85 North with nonresidential use or zoning shall be subject to the requirements of the SR 85 North Overlay Zone. The intent of the overlay is to set

Page 31

July 7, 2011

PC Public Hearing

standards specific to SR 85 North from the city limits of the City of Fayetteville north to the Fayette-Clayton county line.

3. *Dimensional Requirements*

a. All ~~impervious surfaces, other than approved access,~~ parking areas shall be located at least 50 feet from the any State Route right-of-way of SR 85 North, and a minimum of 10 feet from the side property lines

8. *Special Locational and Spatial Requirements.*
 - b. All roof-top heating, ventilation, and air conditioning (HVAC) equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened
- C. *General State Route Overlay Zone.* All property and/or development which have road frontage and/or access on State routes with nonresidential use or zoning shall be subject to the following regulations, in addition to the zoning district requirements and other development regulations which apply. This Overlay Zone specifically excludes SR 54 West, SR 85 North, and SR 74 North for which other Overlay Zones have been established herein. The Architectural Standards of this Overlay Zone Specifically excludes the L-C zoning district, for which other architectural standards have been established.
 3. *Dimensional Requirements.*
 - a. All ~~impervious surfaces, other than approved access drives,~~ parking areas shall be located at least 50 feet from the any State Route right-of-way.
9. *Special Locational and Spatial Requirements.*
 - c. All roof-top heating, ventilation, and air conditioning (HVAC) equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
- D. *S.R. 74 North Overlay Zone.* All property and/or development which have frontage on and/or access to SR 74 North with nonresidential use or zoning shall be subject to the requirements of the SR 74 North Overlay Zone. The intent of the overlay is to set standards specific to SR 74 North from Sandy Creek Road to the Fulton County line to achieve the goals of the SR 74 North Overlay District contained in the Fayette County Comprehensive Plan.
 3. *Dimensional Requirements.*
 - a. All ~~impervious surfaces, other than approved access,~~ parking areas shall be located at least 50 feet from the any State Route right-of-way.
 7. *Additional Requirements.*
 - a. All refuse areas and equipment shall be allowed in the side or rear yards only and shall be screened.
 - b. All roof-top heating, ventilation, and air conditioning equipment and satellite/~~communications~~ ~~dish antennas~~ equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.

Page 32
 July 7, 2011
 PC Public Hearing

ARTICLE IX. ZONING BOARD OF APPEALS

Sec. 9-2. Rules and Procedures.

The Zoning Board of Appeals shall elect one (1) of its members as Chairman and another as Vice-Chairman, each serving for one (1) year, or until re-elected, or a successor is elected. The Vice-Chairman shall have the authority to act as Chairman in the Chairman's absence. The Zoning Board of Appeals shall appoint a

Secretary who shall be an employee of Fayette County. The Zoning Board of Appeals shall have authority to adopt Rules of Procedure. (*Note only: Rules of Procedure adopted by the ZBA on June 27, 2011.*) Meetings of the Zoning Board of Appeals may be held at the call of the Chairman. The Chairman may administer oaths and compel the attendance of witnesses by subpoena. The Zoning Board of Appeals shall keep Minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Planning and Zoning Department office of the Zoning Board of Appeals and shall be public record. The decisions of the Zoning Board of Appeals shall contain a statement of the subject matter being considered by the Zoning Board of Appeals, the decisions of the Zoning Board of Appeals, and the grounds for its decision reduced to written form. The full text shall be sent to the appellant. An application which seeks the same relief in regard to the same property shall not be accepted for a period of ~~12~~ six (6) months following the date of the written decision from said application, ~~except that this limitation shall not affect the right of the Zoning Board of Appeals to grant a rehearing as provided in the rules of procedure as may be adopted by the Zoning Board of Appeals.~~

Sec. 9-4. Public Hearing.

A. Place, Time, and Date. The public hearings shall be conducted as follows:

1. Place: Fayette County Administrative Complex

2. Time and Date: Fourth Monday, 7:00 p.m.

Any changes from the standard schedule for public hearings will be published in the newspaper which carries legal advertisements for the County in compliance with the requirements for public notification as provided herein.

Sec. 9-5. Powers and Duties.

B. Request for a Variance. The Zoning Board of Appeals may authorize, upon appeal in specific cases, a variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. However, a variance shall not be granted for a reduction in lot size, lot width, road frontage, or any requirements of a Conditional Use with the exception of a legal nonconforming Conditional Use (see Article VII.), or a use of land, building, or structure that is prohibited in the zoning district at issue, except as otherwise provided herein. A variance may be granted in an individual case upon a finding by the Zoning Board of Appeals that the following exists:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and

Page 33

July 7, 2011

PC Public Hearing

2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and

3. Such conditions are peculiar to the particular piece of property involved; and

4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein; and

5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed; and
6. ~~Provided that~~ The Zoning Board of Appeals may impose or require ~~such additional restrictions, conditions, and standards,~~ as may be necessary, to protect the health and safety of workers and residents in the community; ~~and~~ to protect the value and use of property in the general neighborhoods; and provided that wherever the Board shall find, in the case of any ~~permit~~ approval granted pursuant to the provisions of these regulations, that any of the ~~restrictions, conditions, and standards~~ upon which such ~~permit~~ approval was granted are not being complied with, said Zoning Board of Appeals shall rescind and revoke such ~~permit~~ approval after giving due notice to all parties concerned and granting full opportunity for a hearing.
7. In exercising the above powers, the Zoning Board of Appeals shall not consider any nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts as grounds for the issuance of a variance.

ARTICLE XI. POLICIES, PROCEDURES AND STANDARDS GOVERNING AMENDMENTS

Sec. 11-2. Technical Evaluation and Qualification of Properties.

- C. Any lot(s) affected by proposed rezonings which are initiated by a party other than the Board of Commissioners of Fayette County shall each be of sufficient size and shape to meet all requirements of this Ordinance except as otherwise provided in Article VII. Combination or division of lots, in accordance with County regulations, shall be accomplished as a condition of approval prior to the approval of any permits or applications.
- D. A property which is improved with existing structures and which would become nonconforming within the zoning district for which the rezoning is sought may be considered for rezoning (see Article VII.) ~~however, the concept plan shall illustrate an attempt by the applicant to meet, to the extent possible, all requirements herein. Any new construction or improvements, including expansion of any existing structure, shall comply with the minimum requirements herein.~~

Sec. 11-5. Limitation on Re-applying and Withdrawal.

If the zoning decision of the Board of Commissioners is to deny a rezoning of property, then an application for the same property may not be re-submitted for rezoning until the expiration of at least six (6) months, immediately following the date of denial, ~~unless approved for consideration by a four-fifths vote of the Board~~

Page 34
July 7, 2011
PC Public Hearing

~~of Commissioners.~~ An application for a map amendment shall not be withdrawn by the applicant after the legal advertising as required herein, except as provided herein.

* * * * *

Chairman Thoms asked if there was any further business.

Pete Frisina reminded the P.C. of the Public Meeting/Workshop scheduled for Thursday, July 21, 2011, in the Board of Commissioners Conference Room, First Floor at 7:00 P.M.

Doug Powell asked if there were any petitions for the August Public Hearing.

Robyn Wilson advised there were no public hearing applications submitted for the August Public Hearing; however, there would be a public hearing held to consider the proposed amendments regarding the PUD-PRL zoning district.

There being no further business, Doug Powell made the motion to adjourn the Public Hearing. Al Gilbert seconded the motion. The motion for adjournment unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. The Public Hearing adjourned at 9:00 P.M.

PLANNING COMMISSION

OF

FAYETTE COUNTY

ATTEST:

TIM THOMS
CHAIRMAN

ROBYN S. WILSON
SECRETARY