AGENDA
FAYETTE COUNTY PLANNING COMMISSION MEETING
140 STONEWALL AVENUE WEST
December 1, 2016
7:00 pm

*Please turn off or turn to mute all electronic devices during the Planning Commission Meetings

1. Consideration of the Minutes of the meeting held on November 17, 2016.

NEW BUSINESS

2. Consideration of a Minor Subdivision Plat within the Final Plat for Woodbridge Farms Subdivision for Lots 6A and 6B. The property is located in Land Lots 133 and 156 of the 4th District.

3. Consideration of a Variance from the Fayette County Subdivision Regulations, Sec. 104-598. - Minimum requirements, (k) Utilities, to allow the approval of the Final Plat for Elysian Fields Subdivision prior to installation of utilities.

PUBLIC HEARING

4. Consideration of Petition TA-001-16 to amend Article V, Section 110-169, d, Animal hospital, kennel, and/or veterinary clinic to reduce the 300 foot setback for all structures, pens, runs, or enclosures from any A-R or residential zoning district to 100 feet.
To: Fayette County Planning Commission

From: Dennis. Dutton, Zoning Administrator

Date: November 22, 2016

Subject: Minor Subdivision Plat to be considered on December 1, 2016

MINOR SUBDIVISION PLAT
Lot 6A and Lot 6B Woodbridge Farms at
Matthews Plantation Phase One

OWNER/APPLICANT
George Cooles

Recommend APPROVAL of the Final Plat received 10/20/2016.
To: Planning Commission

From: Pete Frisina

Date: November 22, 2016

Subject: Elysian Fields Subdivision Variance Request (VA 013-16)

Fland Land, LLC, Owner, requests a Variance from the Fayette County Subdivision Regulations, Sec. 104-598. - Minimum requirements, (k) Utilities, as needed to approve a Final Subdivision Plat (see attached application). Sec. 104-598. - Minimum requirements, (k) Utilities, of the Fayette County Subdivision Regulations states:

(k) Utilities. The subdivider shall provide all applicable utilities to the subdivision in accordance with all applicable county requirements. The utilities shall be located as specified by the development regulations. Power and water utilities must be installed, if available in the area, prior to final plat approval. All of the minimum improvements listed in this section of the article must be completed and inspected prior to final plat approval with the exceptions of the installation of utilities in nonresidential subdivisions.

The Planning Commission may grant a Variance from requirements of the Subdivision Regulations. Section 8-510 of the Fayette County Subdivision Regulations states:

Variance or Appeal. In cases of undue hardship under this Ordinance, the property owner may petition the Planning Commission for a Variance or an Appeal from the decision of any of the aforementioned appropriate departments with regard to interpretation, administration, and enforcement. If the Planning Commission does not grant the variance or appeal, the property owner may then appeal to the Board of Commissioners.

The subject property is zoned C-S, approved on April 23, 2015. Elysian Fields Preliminary Plat was approved on September 3, 2015. The applicant indicates that Coweta Fayette EMC is the power company.

The applicant provides the following support for approval of the variance:

• We anticipate completion of the power installation in approximately 8 weeks.
• The final plat is well into the final review process with only a few items remaining. (a specific list of any remaining items can be provided at the time of the hearing.)
• Home construction can begin without power, but cannot get near a certificate of occupancy without it, so there is no risk of having a homeowner without power.
• We have over $4 million dollars invested in land and development costs.
• Until the plat is recorded, we cannot begin to recoup our costs through lot sales.
• Having a completed, approved subdivision sitting waiting for power installation costs over $900 per day.
• If the plat is not recorded by the end of the year, next year’s tax collection will be based on raw land value, rather than finished lot value - a loss for the County.
APPLICATION OF UNDUE HARDSHIP UNDER
THE FAYETTE COUNTY SUBDIVISION REGULATIONS

Sec. 8-510. Legal status.

(b) **Variance or Appeal.** In cases of undue hardship under this Ordinance, the property owner may petition the Planning Commission for a Variance or an Appeal from the decision of any of the aforementioned appropriate departments with regard to interpretation, administration, and enforcement. If the Planning Commission does not grant the variance or appeal, the property owner may then appeal to the Board of Commissioners.

Petition No.: ______________________

Name of Petitioner: ____Fland Land, LLC________________________

Address: ____270 North Jeff Davis Drive________________________

City, State, Zip Code: ____Fayetteville, GA 30214________

Telephone Number: ____(770) 461-0478________________________

Subdivision Name: ____Elysian Fields________________________

Fronts on: ____Lee’s Lake Rd________________________

Land Lot(s): ____49, 79, 80 ____________________

District(s): ______7th________________________

Zoning District: ____CS – Conservation Subdivision________

Date Preliminary Plat Approved by P.C.: ____9-3-15________________________

Signature: _______________________

Title: ____Land Manager for Fland Land, LLC________________________

Planning Commission Hearing Date: ____Dec 2, 2016________________________

Request: We respectfully request a variance to Development Regulation Sec. 104-598 requiring the installation of power prior to the recording of the final plat:

"Sec. 104-598. Minimum requirements.

(k) **Utilities.** The subdivider shall provide all applicable utilities to the subdivision in accordance with all applicable county requirements. The utilities shall be located as
• The final plat is well into the final review process with only a few items remaining. (a specific list of any remaining items can be provided at the time of the hearing.)
• We have over $4 million dollars invested in land and development costs.
• Until the plat is recorded, we cannot begin to recoup our costs through lot sales.
• Having a completed, approved subdivision sitting waiting for power installation costs over $900 per day.
• Home construction can begin without power, but cannot get near a certificate of occupancy without it, so there is no risk of having a homeowner without power.
• We anticipate completion of the power installation in approximately 8 weeks.
• If the plat is not recorded by the end of the year, next year’s tax collection will be based on raw land value, rather than finished lot value – a loss for the County.

Thanks you for your consideration of this request.

Donna Black
Fland Land, LLC
PETITION NO: TA-001-16

REQUESTED ACTION: To amend Article V, Section 110-169, d, Animal hospital, kennel, and/or veterinary clinic to reduce the 300 foot setback for all structures, pens, runs, or enclosures from any A-R or residential zoning district to 100 feet.

PETITIONER: Rebecca Tate

PLANNING COMMISSION PUBLIC HEARING: Thursday, December 1, 2016

BOARD OF COMMISSIONERS PUBLIC HEARING: Thursday, January 12, 2016

PETITIONER’S REQUEST

A citizen may petition to amend the text of the Zoning ordinance per the following section:

Sec. 110-296. - Application for amendment.

Any citizen filing an application to amend the text or the official zoning map may obtain an application from the planning and zoning department, applications to amend the text or the official zoning map shall be submitted on forms, as applicable, provided by the planning and zoning department.

Currently, Article V, Section 110-169, d, reads as follows:

Animal hospital, kennel, and/or veterinary clinic. Allowed in A-R, C-C, C-H, and M-1 zoning districts. All structures, pens, runs, or enclosures shall not be located closer than 300 feet from any A-R or residential zoning district.

The petitioner has proposed the following text amendment to Article V, Section 110-169, d, to read as follows:

Animal Hospital, kennel and/or veterinary clinic. Allowed in A-R, C-C, C-H, and M-1 zoning districts. In all cases where any animal hospital, kennel and/or veterinary clinic is constructed in any of the aforementioned zoning districts on less than twelve (12) acres of property, all structures, pens, runs, or enclosures shall not be located within 300 feet from any A-R or residential zoning district.

In cases that any Animal Hospital, kennel and/or veterinary clinic is constructed on greater than twelve (12) acres of property and the property is classified as agricultural, all structures, pens, runs, or enclosures shall not be located within 100 feet from any residential zoning district.
The petitioner has also submitted the following:

Reason for seeking Amendment:

With the current wording of the ordinance being a 300 foot setback on all sides of the property lines, this makes a great deal of the property unusable for the property owner and places the property owner under a hardship based upon the lay out of the property. With the current wording of the ordinance and the 300 foot setback, the property owner is losing a total of 90,000 square feet of land. With one acre of land being 43,560 square feet, the property owner loses a total of 2.06 acres of land based on the current wording of the ordinance. When people typically talk about footage, they do not think about 300 feet as being that much, but to put 300 feet in perspective, that is the total length of a football field and is a great distance. I do understand why the current wording of the ordinance was set at three hundred feet with the current subdivisions that are being built on no more than one to two acres of land and not wanting this type of business right next door so to speak however; I do not think that the three hundred foot setback should apply in all cases. If a property owner is on twelve acres or more and the land is classified as agricultural then typically all land owners adjacent to the property own ten plus acres and is classified as agricultural as well therefore; no property owners residence is as close in proximity to the property lines as in your typical subdivision. For example in my case with the 100 foot setback from the property line, no areas used for the business would be within approximately 700 feet of the next closest residence. With the proposed rewording of the ordinance the property owner would only lose a total of 10,000 square feet of property, making more of the property usable for the property owner. With the 100 foot setback and the acreage requirement there would be more than ample room for safety and nuisance concerns and the business would still fall within any noise or nuisance ordinances that are currently established by the county.

With our current situation, we have over 15 acres of property in which we are trying to fit a business with the stipulation of the 300 foot setback from all property lines. On the north side of the property we have approximately 400 feet of setback from the property line. On the Southside of the property we have approximately 330 feet of setback from the property line. On the west side of the property we have approximately 600 feet of setback from the property line. On the east side of the property we have approximately 102 feet of setback from the property line. Also on the east side of the property where we have the 100 feet of setback, the closest residence to our property on this side is approximately 700 feet from the property line.

I have done some research of other ordinances in areas similar to Brooks and Fayette County Georgia and have found that the current ordinance containing the 300 foot setback from the property lines is a much greater distance than is required in other areas. Below are the results I found from my research in regards to the other county's or cities.
Coweta County has the 300 foot setback rule, with an exclusion for properties that are 10 acres or greater. If a property has 10 acres or greater than the property is considered under the Rural Home Occupations and list the setback from the property lines as 100 feet unless the home occupation is a towing company. If the home occupation is a towing company than no tow vehicles are allowed to be parked with 300 feet of the property lines. All other businesses including Kennels are required to have the 100 foot setback from the property lines.

Fulton County has specific regulations for home occupations in the agricultural district that states specifically in regards to kennels, veterinary hospital, veterinary clinic, provided buildings housing animals are fully enclosed shall be at least 100 feet from all property lines.

Clayton County states specifically, it shall be unlawful for any private kennel to be located nearer than 100 feet to the nearest property line.

Henry County does not state any requirements for a setback from the property lines and does allow private kennels as a home occupation.

The City of Johns Creek has specific regulations for home occupations in the agricultural district that states specifically in regards to kennels, veterinary hospital, veterinary clinic, provided buildings housing animals are fully enclosed shall be at least 100 feet from all property lines.

**STAFF ANALYSIS**

The petitioner is currently running a pet boarding/pet sitting facility (Royal Bed & Biscuit) at 311 Friendship Church Road. The petitioner is also involved in pet rescue. The Zoning Ordinance defines a kennels as follows:

Kennel means an establishment for the boarding, breeding and/or sale of animals for commercial gain that may in addition provide grooming and/or training services, and a pet rescue operation where the animals are primarily housed or kept outside of the principal residence in accessory structures, pens, or enclosures. A hobby breeder, as defined herein, shall not be considered a kennel.

The petitioner’s property is zoned A-R and consists of approximately 15.36 acres. The County became aware of this situation through citizen complaints of noise and increased traffic and at that time the Zoning Administrator requested that the petitioner have the property surveyed to determine compliance of the kennel. The dogs are frequently kept in a fenced area behind the residence (Labeled Pool Area on attached survey). This area and the residence are less than 300 feet from the rear property line and the western property line which does not comply with the current zoning requirements. Per the submitted survey, it also appears that a small portion of the fenced area does not meet the requested 100 foot setback.
Based on the submitted survey there is an area between the residence and pond that meets the 300 foot setback from all of the property lines. However a major portion of this area is within the watershed setback and buffer. The petitioner could apply for a variance from the watershed regulations per, ARTICLE VII. - WATERSHED PROTECTION, Sec. 104-185. - Variance procedures to construct a kennel facility in this area. If a variance is not approved, another option is to lower the elevation of the pond to reduce the watershed setback and buffer. In either case, a survey would be required to verify that all regulations are met.

**STAFF RECOMMENDATION**

Conditional Uses as a whole were adopted into the Zoning Ordinance in the early 1990’s. This would be the time the 300 foot setback for an animal hospital, kennel and/or veterinary clinic was established. The purpose of the 300 foot setback is to mitigate the potential noise a facility can create as noise dissipates over distance. The petitioner has researched ordinances from other jurisdictions with a 100 foot setback (see above) and some of these stated regulations require a full enclosed building. Fayette County does not require a fully enclosed building but does require the 300 foot setback whether the facility is enclosed or open. Staff feels the current regulations are reasonable and recommends that petition TA-001-16 to amend the Zoning Ordinance text be **DENIED**.
Pete,

No objections to proposed amending of the zoning ordinance.

FYI, Our department has an open trash and debris complaint at this address and we have been trying to contact the owner without success. Currently awaiting response to certified letter mailed to address in question.

Robert F. Kurbes  
Environmental Health County Manager  
Fayette County Health Department  
We Inform, We Prevent, We Protect  
140 Stonewall Avenue, West  
Suite 200  
Fayetteville, GA 30214  
770-305-5147  
Robert.Kurbes@dph.ga.gov  
Follow us on Twitter http://www.twitter.com/D4publichealth  
and Facebook http://www.facebook.com/District4Health  
Visit our website http://www.district4health.org

From: Pete Frisina  
Sent: Tuesday, November 15, 2016 12:44:37 PM  
To: Vanessa Birrell; Robert Kurbes; Rani Rathburn; Steve Tafoya; Jimmy Hall  
Subject: Zoning Ordinance Amendment

All,

Sorry for the late e-mail, but we have a citizen who has petitioned to amend the Zoning Ordinance (see attached) to reduce the setback for a kennel from 300 feet to 100 feet. If you have any comments about the amendment or kennels in general please forward those to me by 11/22/16. If you have any questions please contact me.

Thanks,

Peter Frisina, AICP  
Fayette County Division of Community Services  
140 Stonewall Avenue West  
Fayetteville, GA 30214  
(770) 305-5160
TO AMEND THE TEXT OF THE ZONING ORDINANCE OF FAYETTE COUNTY, GA

APPLICANT: Rebecca Tate

MAILING ADDRESS: 311 Friendship Church Road, Brooks, GA. 30205

PHONE: 770-856-9962 FAX: None

E-MAIL: rltinfo@bellsouth.net

Notary Public

APPLICANT'S SIGNATURE

THIS AREA TO BE COMPLETED BY STAFF

PETITION NUMBER: TA-001-16

[ ] Application Insufficient due to lack of:

by Staff: ___________________________ Date: Nov. 1, 2016

[✓] Application and all required supporting documentation is Sufficient and Complete

by Staff: ___________________________ Date: Nov. 1, 2016

DATE OF PLANNING COMMISSION HEARING: Dec. 1, 2016

DATE OF COUNTY COMMISSIONERS HEARING: Jan. 12, 2017

Received from Mrs. Rebecca Tate a check in the amount of $________ for application filing fee.

Date Paid: ________________________ Receipt Number: ________________________

THE BUREAU OF FIRE PREVENTION WILL NEITHER APPROVE NOR DENY REQUESTS THAT FALL OUTSIDE THE SCOPE OF I.S.O REQUIREMENTS.

11/15/16

TEXT AMENDMENT APPLICATION, FAYETTE COUNTY, GA
From: MARION HINDMAN <dochind@bellsouth.net>
Sent: Sunday, November 20, 2016 4:18 PM
To: Pete Frisina
Subject: kennel on Friendship Church Road in Brooks

Dear Sir,

We are senior citizens and have lived on Friendship Church Road in Brooks for over forty years. In those forty years we have never complained about or been concerned about any of our neighbors, and spend a lot of our retirement time helping people in our neighborhood. We are very concerned about the kennel that is operating on our road. The traffic has probably tripled on the dirt road, and the cars and buses carrying dogs to the kennel almost always run the stop sign and speeding is rampant. We called and complained about the speeding and the deputies came out and talked to the people running the kennel and that has improved slightly....they still drive to fast for the road conditions. We don't think this kennel should be operating in a neighborhood like ours. The speeding and amount of traffic is a huge concern, as well as the barking of dogs twenty four hours a day, and the foul smelling garbage piled up on the edge of the road. We respectfully ask your consideration in this matter.

Marion and Lana Hindman
254 Friendship Church Road
Brooks, Georgia 30205
TO AMEND THE TEXT OF THE ZONING ORDINANCE OF FAYETTE COUNTY, GA

APPLICANT: Rebecca Tate

MAILING ADDRESS: 311 Friendship Church Road, Brooks, GA. 30205

PHONE: 770-856-9962 FAX: None

E-MAIL: rlinfo@bellsouth.net

[Signature] [Signature]

NOTARY PUBLIC APPLICANT'S SIGNATURE

(THIS AREA TO BE COMPLETED BY STAFF) PETITION NUMBER: TA-001-16

[ ] Application Insufficient due to lack of:

by Staff: Date: Nov. 1, 2016

[✓] Application and all required supporting documentation is Sufficient and Complete

by Staff: Date: Nov. 1, 2016

DATE OF PLANNING COMMISSION HEARING: Dec. 5, 2016

DATE OF COUNTY COMMISSIONERS HEARING: Jan. 12, 2017

Received from Mrs. Rebecca Tate a check in the amount of $ for application filing fee.

Date Paid: Receipt Number: 

WILL BE BILLED FOR LEGAL AD.
CURRENT TEXT PROVISION: (Please type and attach additional sheets if necessary)

To amend Article __________, Section(s) ______________________

See Attachment

PROPOSED WORDING OF TEXT AMENDMENT: (Please type and attach additional sheets if necessary)

To amend Article __________, Section(s) ______________________

See Attachment

REASON FOR SEEKING AMENDMENT: (Please type and attach additional sheets if necessary)

See Attachment

3
TEXT AMENDMENT APPLICATION, FAYETTE COUNTY, GA
To Amend Article: V
Section: 110-169 d

Current Text Provision

Animal Hospital, kennel and/or veterinary clinic. Allowed in A-R, C-C, C-H, and M-1 Zoning districts. All structures, pens, runs, or enclosures shall not be located within 300 feet from any A-R or residential zoning district.
To Amend Article: V

Section: 110-169 d

Proposed Wording of Text Amendment

Animal Hospital, kennel and/or veterinary clinic. Allowed in A-R, C-C, C-H, and M-1 Zoning districts. In all cases where any animal hospital, kennel and/or veterinary clinic is constructed in any of the aforementioned zoning districts on less than twelve (12) acres of property, all structures, pens, runs, or enclosures shall not be located within 300 feet from any A-R or residential zoning district.

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Reason for seeking Amendment:

With the current wording of the ordinance being a 300 foot setback on all sides of the property lines, this makes a great deal of the property unusable for the property owner and places the property owner under a hardship based upon the lay out of the property. With the current wording of the ordinance and the 300 foot set back, the property owner is losing a total of 90,000 square feet of land. With one acre of land being 43,560 square feet, the property owner loses a total of 2.06 acres of land based on the current wording of the ordinance. When people typically talk about footage, they do not think about 300 feet as being that much, but to put 300 feet in perspective, that is the total length of a football field and is a great distance.

I do understand why the current wording of the ordinance was set at three hundred feet with the current subdivisions that are being built on no more than one to two acres of land and not wanting this type of business right next door so to speak however; I do not think that the three hundred foot set back should apply in all cases. If a property owner is on twelve acres or more and the land is classified as agricultural then typically all land owners adjacent to the property own ten plus acres and is classified as agricultural as well therefore; no property owners residence is as close in proximity to the property lines as in your typical subdivision. For example in my case with the 100 foot set back from the property line, no areas used for the business would be within approximately 700 feet of the next closest residence. With the proposed rewording of the ordinance the property owner would only lose a total of 10,000 square feet of property, making more of the property usable for the property owner. With the 100 foot set back and the acreage requirement there would be more than ample room for safety and nuisance concerns and the business would still fall within any noise or nuisance ordinances that are currently established by the county.

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I have done some research of other ordinances in areas similar to Brooks and Fayette County Georgia and have found that the current ordinance containing the 300 foot set back from the property lines is a much greater distance than is required in other areas. Below are the results I found from my research in regards to the other county’s or cities.

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