

**BOARD MEMBERS**

Brian Haren, Chairman  
John H. Culbreth, Sr., Vice-Chairman  
Al Gilbert  
Jim Graw  
Arnold L. Martin, III

**STAFF**

Peter A. Frisina, Director of Community Services  
Chanelle Blaine, Zoning Administrator

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**AGENDA**  
**FAYETTE COUNTY PLANNING COMMISSION MEETING**  
**140 STONEWALL AVENUE WEST**  
**June 1, 2017**  
**7:00 pm**

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

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1. Consideration of the Minutes of the meeting held on May 4, 2017.
2. Consideration of the Minutes of the meeting held on May 18, 2017.

**NEW BUSINESS**

3. Consideration of a Minor Subdivision Plat of Maurice Henderson Harbin. The property will consist of one residential lot zoned A-R, is located in Land Lots 88 of the 7<sup>th</sup> District and fronts on Dogwood Trail.

**PUBLIC HEARING**

4. Consideration of Petition No. 1266-17, George Tchaykov & Dieianna Panova, Owners, request to rezone 1.96 acres from R-70 to O-I to develop a A-R Fitness Center. This property is located in Land Lot 57 of the 7th District and fronts on Flat Creek Trail.
5. Consideration of amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-149. - Planned Unit Development concerning Planned Residential and Business Development-Planned Unit Development (PRBD-PUD) zoning district.
6. Consideration of amendments to Chapter 110. Zoning Ordinance, regarding Articles VII. - Zoning Board of Appeals, Article IX. - Policies, Procedures and Standards Governing Amendments and Article X. - Planning Commission.

To: Fayette County Planning Commission  
From: Chanelle Blaine, Zoning Administrator  
Date: May 26, 2017  
Subject: Minor Subdivision Plat to be considered on June 1, 2017

**MINOR SUBDIVISION PLAT**

Minor Subdivision Plat of Maurice Henderson Harbin

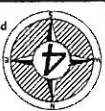
**OWNER/APPLICANT**

Maurice Henderson Harbin, Owner



Recommend **APPROVAL** for the Minor Subdivision Plat.

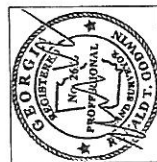


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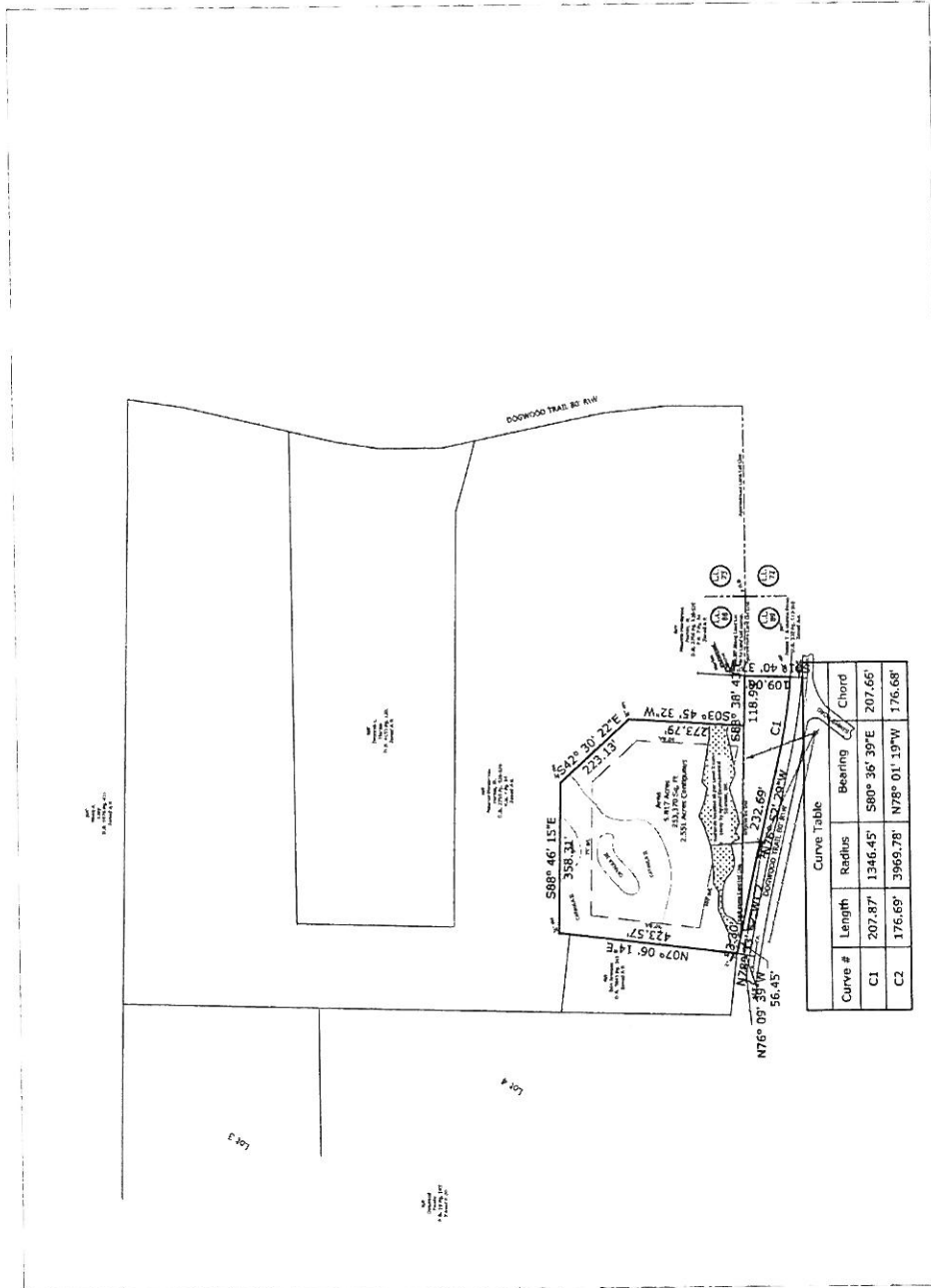
Maurice Henderson Harbin, JR  
251 Dogwood Trail  
Land Lot 88 of the 7th District Fayette County, Georgia  
JOB NUMBER: 16-139FP  
P.B. 7 ~ PG. 84  
SCALE: 1" = 100'  
DRAWN BY: JCB  
DATE: 02/13/17

SHEET 2 OF TWO

**DISCLAIMER:** Information regarding the required pressure, size, character and location of existing underground utilities and structures is shown herein. There is no certainty of the accuracy of this information and it shall be considered in that light by the user of this drawing. The location of private and public structures and utilities is shown as indicated on this drawing. The location of private and public structures and utilities not shown may be encountered. The owner, his employees, his consultants and his contractors shall be distinctly understood that the surveyor is not responsible for the correctness or sufficiency of this information. This survey was prepared for the owner, his employees, his consultants and his contractors. The survey was prepared for the use of the owner and his contractors and is not to be incorporated with any plat.



GRAPHIC SCALE: 1" = 100'



Curve Table				
Curve #	Length	Radius	Bearing	Chord
C1	207.87'	1346.45'	S80° 36' 39"E	207.66'
C2	176.69'	3969.78'	N78° 01' 19"W	176.68'

**NOTE:**  
Balance of Parent tract as per tract 1 in deed book 275-6 pages 528-529 per deed not surveyed at this time, but to be surveyed as a Minor subdivision plat prior to issuance of any permits.

This Box reserved for the Clerk of the Superior Courts.

- [illegible]

**REQUESTED ACTION:** R-70 to O-I

**PROPOSED USE:** Fitness Center

**EXISTING USE:** Residential

**LOCATION:** Flat Creek Trail

**DISTRICT/LAND LOT(S):** 7th District, Land Lot(s) 57

**OWNER:** George Tchaykov & Dieiana Panova

**PLANNING COMMISSION PUBLIC HEARING:** June 1, 2017

**BOARD OF COMMISSIONERS PUBLIC HEARING:** June 22, 2017

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**APPLICANT'S INTENT**

Applicant proposes to develop a Fitness Center consisting on 1.96 acres.

**STAFF RECOMMENDATION**

**DENIAL**

**1.**

**1266-17**

## **INVESTIGATION**

### **A. PROPERTY SITE**

The subject property is a 1.96 acre lot fronting on Flat Creek Trail in Land Lot(s) 57 of the 7th District. Flat Creek Trail is classified as a Collector road on the Fayette County Thoroughfare Plan. The subject property is currently zoned R-70 and contains a single-family residence and athletic courts including tennis courts.

**History:** Petition 1247-15 (A-R to R-70) was approved by the Board of Commissioners on July 23, 2015.

### **B. SURROUNDING ZONING AND USES**

The general situation is a 1.96 acre lot that is zoned R-70. In the vicinity of the subject property is land which is zoned A-R & C-H. See the following table and also the attached Zoning Location Map.

The subject property is bound by the following adjacent zoning districts and uses:

<b>Direction</b>	<b>Acreage</b>	<b>Zoning</b>	<b>Use</b>	<b>Comprehensive Plan</b>
North	0.7	C-H	Single-Family Residence	Low Density Residential (1 Unit/ 1 or 2 acres)
	2.3	A-R	Single-Family Residence	Low Density Residential (1 Unit/ 1 or 2 acres)
South & West	3.6	A-R	Fire Station	Low Density Residential (1 Unit/ 1 or 2 acres)
East (across Flat Creek Trail)	3.0	A-R	Single-Family Residence	Low Density Residential (1 Unit/ 1 or 2 acres)

### **C. COMPREHENSIVE PLAN**

The subject property lies within an area designated for Low Density Residential (1 Unit/ 1 or 2 acres) and Public Facilities/Institutional (fire station). This request does not conform to the Fayette County Comprehensive Plan.

### **D. ZONING/REGULATORY REVIEW**

The applicant seeks to rezone R-70 from to O-I for the purpose of developing a Fitness Center.

### **Access**

The Concept Plan submitted indicates one (1) access from Flat Creek Trail.

### **Site Plan**

Should this petition be approved, the owner/developer must submit a Site Plan as required by Section 8-26., c. of the Development Regulations. Access must comply with the provisions of Section 8-53. of the Development Regulations and the Georgia D.O.T., as appropriate. The subject property must comply with Fayette County ordinances including but not limited to: Sections 5-18. Screening Required and 5-19. Screening Standards of the Fayette County Zoning Ordinance and 8-159. Fayette County Landscape and Buffer Requirements, Article VI. Tree Retention, Protection, and Replacement, and Article VIII. Off-Street Parking and Service Requirements of the Fayette County Development Regulations.

## **E. CONCEPT PLAN**

The applicant is advised that the Concept Plan is for illustration purposes only. Any deficiencies must be addressed at the time of submittal of the Preliminary Plat, Final Plat, and/or Site Plan, as applicable.

## **F. DEPARTMENTAL COMMENTS**

### **Water System**

Water is available to this parcel.

### **Public Works/Engineering**

No Public Works / Engineering comments

### **Environmental Management**

EMD has no comments.

### **Environmental Health Department**

No objections to rezoning. This department will need to be involved in development of fitness center as the existing structure's septic system was designed for residential use.

## **Fire**

If the occupancy classification of this property changes from single family residential to commercial the following Fire and Life Safety Mandatory Codes Must be met.

### **Mandatory Codes:**

- Georgia State Minimum Standard Building Code (International Building Code 2012 edition with Georgia State Amendments)
- Georgia State Minimum Standard One and Two Family Dwelling Code (International Residential Code 2012 edition for One- and Two-Family Dwellings with Georgia State Amendments)
- Georgia State Minimum Standard Fire Code (International Fire Code 2012 edition with Georgia State Amendments)
- Georgia State Minimum Standard Plumbing Code (International Plumbing Code 2012 edition with Georgia State Amendments)
- Georgia State Minimum Standard Mechanical Code (International Mechanical Code 2012 edition with Georgia State Amendments)
- Georgia State Minimum Standard Gas Code (International Fuel Gas Code 2012 edition with Georgia State Amendments)
- Georgia State Minimum Standard Electrical Code (National Electrical Code 2014 edition with Georgia State Amendments)
- Georgia State Minimum Standard Energy Code (International Energy Conservation Code 2009 edition with Georgia State Supplements and Amendments).
- Georgia State Minimum ADA Standard for Accessibility 2010.
- Life Safety Code NFPA 101– 2012 Edition with Georgia State Supplements and Amendments.



### **STAFF ANALYSIS**

This request is based on the petitioner's intent to rezone said property from R-70 to O-I for the purpose of developing Fitness Center. Per Section 110-300 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated for Low Density Residential (1 Unit/ 1 or 2 acres) and Public Facilities/Institutional (fire station). This request does not conform to the Fayette County Comprehensive Plan.
2. The proposed rezoning could adversely affect the existing use or usability of adjacent or nearby property. Approval of this rezoning request could provide legal leverage for the rezoning of adjacent or nearby properties in this area within the Low Density Residential (1 Unit/ 1 or 2 acres) land use area to non-residential zoning districts.
3. The proposed rezoning will not result in a burdensome use of roads, utilities, or schools.
4. While the surrounding area does contain some properties with non-residential zoning (see Zoning Proximity map) and/or non-residential uses (fire station) in the area of the intersection of Flat Creek Trail and Tyrone Road, the Future Land Use Plan map does not indicate any expansion of non-residential zoning in this area.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **DENIAL**.

**1266-17**  
**Zoning**

Arthur Court

Tyrone Road

A map showing the intersection of Flat Creek Trail with the city boundary. The trail is a diagonal line running from the bottom left towards the top right. The area to the left of the trail is labeled 'CITY' and is colored orange. The area to the right of the trail is colored green. The trail itself is a white line with black borders.

**SUBJECT  
PROPERTY**

# Fire Station A-R

A red square labeled "C-C" representing a cross-section of a road. The square is tilted slightly to the right. To its left is a yellow area with the number "70". Below the square is a white area, and to the right is a green area.

**1266-17**  
**Land Use Plan**

Arthur Court

Tyrone Road

Flat Creek Trail

**Fire  
Station** PUBLIC  
FACILITIES/INSTITUTION

**SUBJECT  
PROPERTY**

LOW DENSITY  
RESIDENTIAL



**1266-17  
Aerials**

Arthur Court

Tyrone Road

Flat Creek Trail

Fire  
Station

**SUBJECT  
PROPERTY**



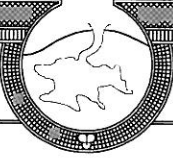


**1266-17**  
**Zoning Proximity**



John T. Reeves Jr., Architect  
Commercial and Residential  
Fayetteville / Peachtree City  
770.366.2254

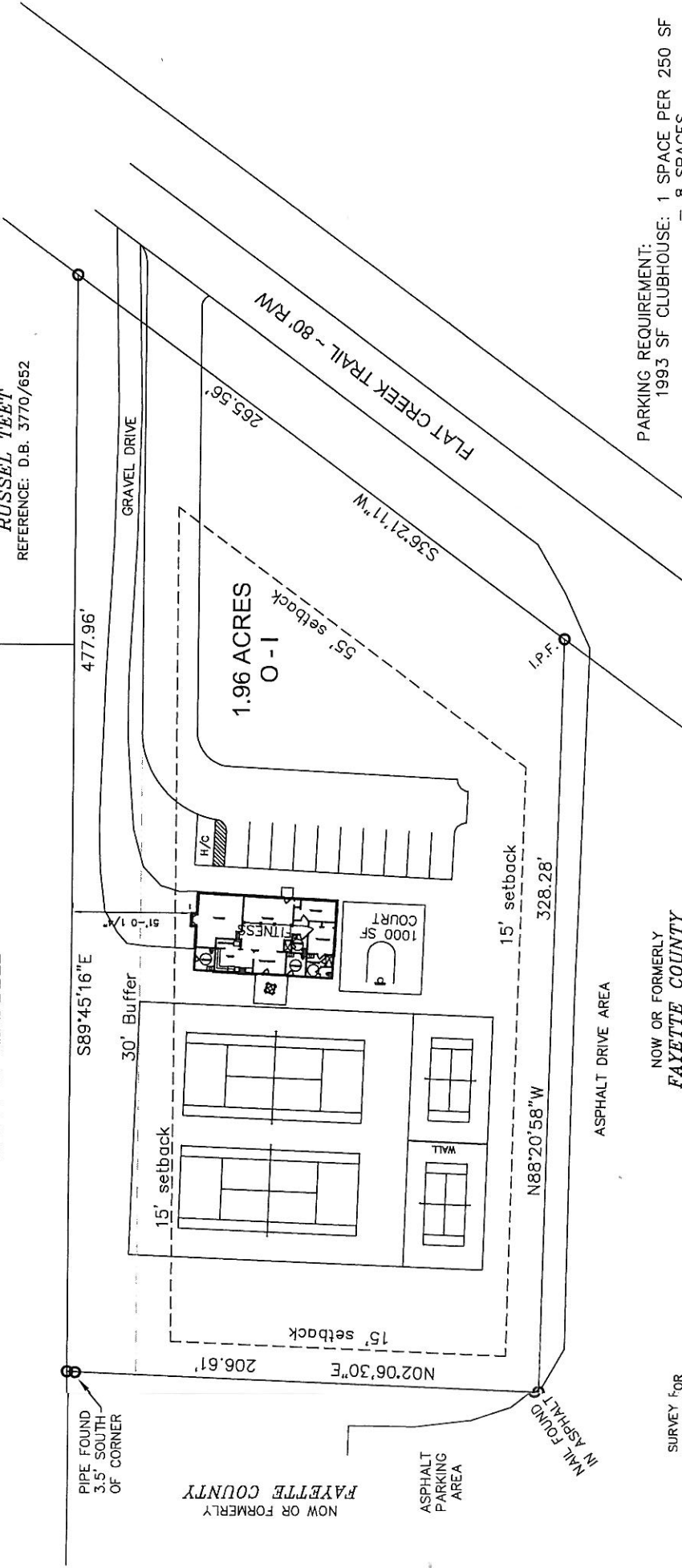
## Acreage To Eden



224 Flat Creek Trail - Fitness Ctr Addition

Drawn By: JTR  
Date: 3-29-17  
Job No.: FY

NOW OR FORMERLY  
*RUSSEL TEET*  
REFERENCE: D.B. 3770/652



PARKING REQUIREMENT:  
1993 SF CLUBHOUSE: 1 SPACE PER 250 SF  
= 8 SPACES  
TENNIS AMINITY = 2 SPACES  
TOTAL SPACES: 10 REGULAR AND 1 H/C SPACE

GRAPHIC SCALE



( IN FEET )  
1 inch = 50 ft.

GEORGE TCHAYKOV

FAYETTE COUNTY GEORGIA

PROJECT NAME: 15-094

JOB NUMBER: 15-094

McLAIN SURVEYING, INC.

**LAND SURVEYING      LAND PLANNING      ENGINEERING SERVICES**

6 MADISON STREET NEWNAN, GEORGIA 30263

PHONE: 770-251-8523 - FAX: 770-254-8905 - EMAIL: [tmdclain@nurnail.org](mailto:tmdclain@nurnail.org)

101.8 East Stonewall Ave.  
320 Dividend Dr.  
Fayetteville / Rockville City  
770.366.2254  
John T. Reeves Jr., Architect  
Commercial and Residential

*Acreage To Eden*

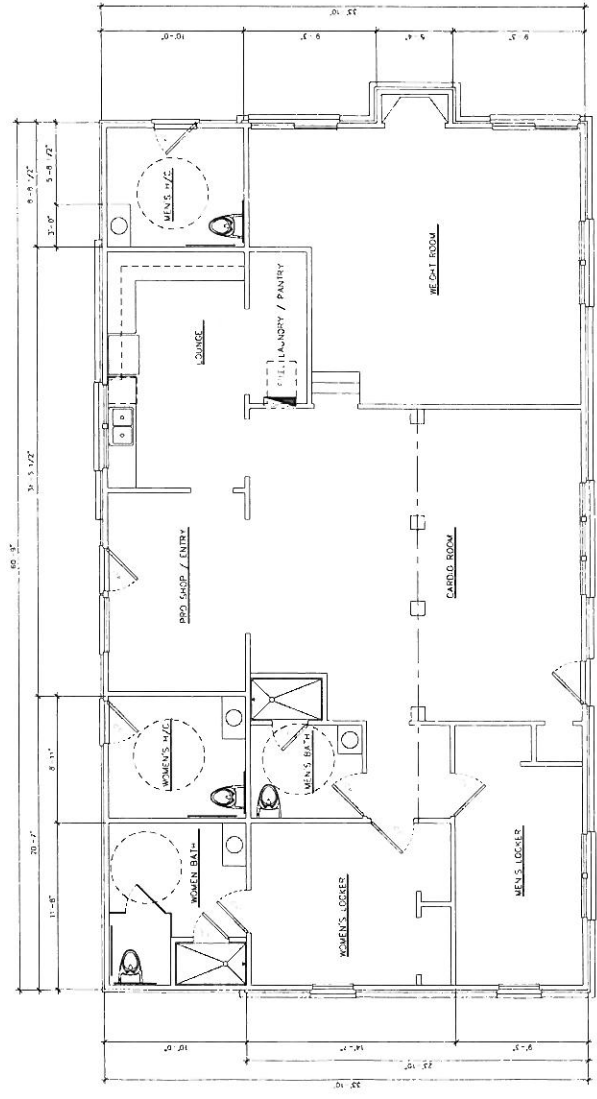
Flat Creek Trail - Fitness Ctr Addition



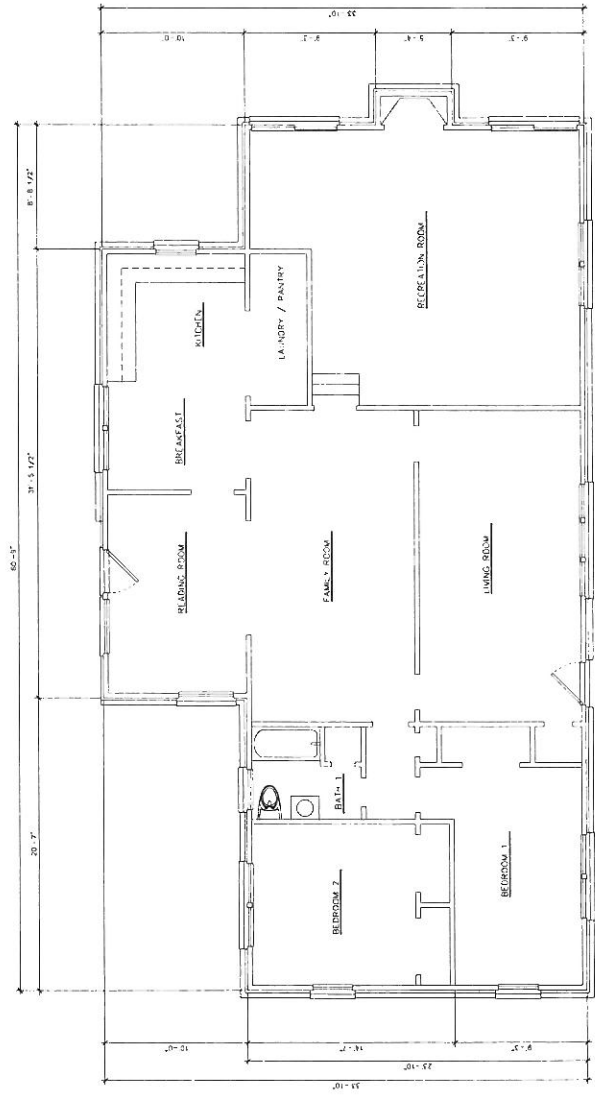
Drawn By: JTB  
Date: 3-29-17  
Project: 171  
Sheet No. A 1

OF Sheets

GRAPHIC SCALE  
0 5 10  
1/4" = 1'-0"  
MAIN LEVEL FLOOR PLAN  
SCALE



GRAPHIC SCALE  
0 5 10  
1/4" = 1'-0"  
EXIST'G  
MAIN LEVEL FLOOR PLAN  
SCALE



APPLICATION TO AMEND  
TO AMEND THE OFFICIAL ZONING MAP OF FAYETTE COUNTY, GA

PROPERTY OWNERS: George Ichmykov and Dilianna Panova  
MAILING ADDRESS: 527 MERRILL Lane, Peachtree city, GA 30269  
PHONE: 770-596-6418 E-MAIL: tenniscare@gmail.com  
AGENT FOR OWNERS: N/A  
MAILING ADDRESS: \_\_\_\_\_  
PHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

PROPERTY LOCATION: LAND LOT 57 LAND DISTRICT 7TH PARCEL 0713-059  
LAND LOT \_\_\_\_\_ LAND DISTRICT \_\_\_\_\_ PARCEL \_\_\_\_\_

TOTAL NUMBER OF ACRES REQUESTED TO BE REZONED: 1.96 acres

EXISTING ZONING DISTRICT: R 70 PROPOSED ZONING DISTRICT: OI

ZONING OF SURROUNDING PROPERTIES: A-R & C-H

PRESENT USE OF SUBJECT PROPERTY: Single-Family Dwelling

PROPOSED USE OF SUBJECT PROPERTY: Fitness Center

LAND USE PLAN DESIGNATION: Low Density Residential (1 unit/10-20 acres)

NAME AND TYPE OF ACCESS ROAD: Flat Creek Trail - Collector (asphalt)

LOCATION OF NEAREST WATER LINE: Flat Creek Trail & Tyrone Rd.  
224 Flat Creek Tr.

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: ~~0000~~ 1266-17

☐ Application Insufficient due to lack of: \_\_\_\_\_

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

☐ Application and all required supporting documentation is Sufficient and Complete

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

DATE OF PLANNING COMMISSION HEARING: June 1, 2017

DATE OF COUNTY COMMISSIONERS HEARING: June 22, 2017

Received from \_\_\_\_\_ a check in the amount of \$ \_\_\_\_\_ for  
application filing fee, and \$ \_\_\_\_\_ for deposit on frame for public hearing sign(s).

Date Paid: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



**PROPERTY OWNER CONSENT AND AGENT AUTHORIZATION FORM**  
*(Applications require authorization by ALL property owners of subject property).*

Name(s) of All Property Owners of Record found on the latest recorded deed for the subject property:

George Tchaykov  
Please Print Names

Property Tax Identification Number(s) of Subject Property: 0713059

(I am) (we are) the sole owner(s) of the above-referenced property requested to be rezoned. Subject property is located in Land Lot(s) 57 of the 7th District, and (if applicable to more than one land district) Land Lot(s) \_\_\_\_\_ of the \_\_\_\_\_ District, and said property consists of a total of \_\_\_\_\_ acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to \_\_\_\_\_ to act as (my) (our) Agent in this rezoning. As Agent, they have the authority to agree to any and all conditions of zoning which may be imposed by the Board.

(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees become part of the official records of the Fayette County Zoning Department and may not be refundable. (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

GG  
Signature of Property Owner 1

527 Merrill Ln  
Address Peachtree City, 30269

Signature of Property Owner 2

Address

Signature of Property Owner 3

Address

Signature of Authorized Agent

Address

Lisa Senger  
Signature of Notary Public

Signature of Notary Public

5/1/17  
Date

Date

Signature of Notary Public

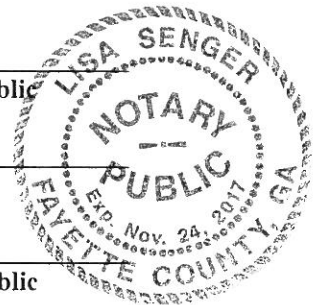
Date

Signature of Notary Public

Date

Signature of Notary Public

Date



NAME: George Tchaykov PETITION NUMBER: \_\_\_\_\_

ADDRESS: 224 Flat Creek Trail

PETITION FOR REZONING CERTAIN PROPERTY IN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, GEORGIA.

\_\_\_\_\_ affirms that he is the owner or the specifically authorized agent of the property described below. Said property is located in a(n) R-70 Zoning District. He/She respectfully petitions the County to rezone the property from its present classification and tenders herewith the sum of \$ 270.00 to cover all expenses of public hearing. He/She petitions the above named to change its classification to OI.

This property includes: (check one of the following)

☐ See attached legal description on recorded deed for subject property or

☐ Legal description for subject property is as follows:

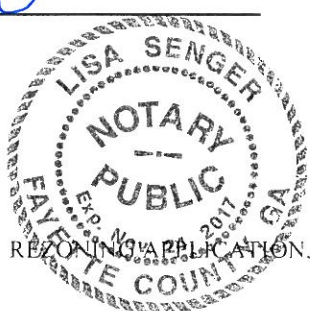
PUBLIC HEARING to be held by the Planning Commission of Fayette County on the 1st day of June, 20 17 at 7:00 P.M.

PUBLIC HEARING to be held by the Board of Commissioners of Fayette County on the 22nd day of June, 20 17 at 7:00 P.M.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 1 DAY OF May, 20 17

Lisa Senger  
NOTARY PUBLIC

[Signature]  
APPLICANT'S SIGNATURE



This letter serves as a declaration of intent regarding my property at 224 Flat Creek Trl. Until fairly recently I have been using this property to conduct tennis instructional classes and clinics, as well as hosting junior tennis matches sanctioned by the United States Tennis Association. It has served me well, but the demand for my services has increased to the point that I am no longer comfortable using the property to conduct all of my tennis related activities. I am aware that since this property is zoned residential, I cannot in good faith continue to create traffic on the property that may cause ill will towards my neighbors, or the county. I have scaled back traffic on the property that limits usage to a small percentage of USTA sanctioned junior matches, and free use of the facility to The Lighthouse School...so that they may use it for their students with physical disabilities. For the last 8 months I have been renting other facilities to conduct all other tennis related activities.

The demand for my services has exceeded my expectations. The kids I work with come from a wide range of cultural and socio-economic backgrounds. Those who can afford our services pay for them. For those who cannot, I reduce, or waive equipment, instructional, and court fees. My goal is to continue with this practice. Fiduciary commitments are making this increasingly difficult. Should you choose to approve my application for re-zoning of this property to I/O, it will put me in a position to conduct all my activities at this location. As such, monies committed to other rental spaces can be used to invest in this space. That will allow for me to increase revenues that I may continue to provide instruction and equipment to those who would otherwise not be able to afford my services, or the services offered by other similar facilities located within our community. Due to my longstanding partnership with the USTA, they have offered financial assistance for improvements to infrastructure should I succeed in my efforts towards re-zoning.

I am committed to continue to provide a safe and healthy space for the children of our community to learn a wonderful game and gain from that, lessons and discipline that will serve them in other areas of their lives. I humbly ask for your assistance in this endeavor.

Sincerely,

George Tchaykov

**Sec. 110-149. - Planned unit development.**

(a) *Purpose.* The intent of this section is to:

- (1) Encourage the development of large lots of land as: planned residential developments (PRD), planned industrial parks (PIP), planned retreats or lodges (PRL), planned entertainment farming (PEF), planned outdoor recreation (POR), ~~and~~ planned small business center (PSBC) **and planned residential and business development (PRBD);**

**This section is to be added in its entirety.**

(j) Planned residential and business development.

- (1) Purpose. The intent of a planned residential and business development (PRBD) is to allow mixed-use development with principal single-family residential and incidental business uses and through the use of large lots and the preservation of existing single-family dwellings maintain rural character. The characteristics of a PRBD are: in conjunction with a principal residence the occupant conducts on-site business operations, clients/customers visit the site, receipt and shipments of goods occur, and non-occupant employees will be on site.
- (2) Permitted residential uses and structures. Planned residential and business development shall contain single-family dwellings and residential accessory structures and uses shall also be allowed per article III of chapter 110. The summary of intent shall specify the minimum floor area of existing single-family dwellings. In addition, a home occupation is allowed per article V of chapter 110
- (3) Permitted business uses and structures. A list of proposed business uses shall be submitted with the summary of intent. Only those business uses approved through the rezoning process shall be allowed in the PRBD. Any approved business that is listed as a conditional use in Article V shall meet the conditional use requirements, as is applicable. The summary of intent shall specify the list of proposed businesses, number of proposed on-site employees per business, and the number, size, height and architectural character of the business structures proposed for the individual businesses in the PRBD. The architectural character of the business structures shall be agricultural in nature with roof types including hip, gambrel and gable. Appropriate facades shall include fiber-cement siding, wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or finished/baked enamel aluminum/metal siding which establishes a horizontal pattern.
- (4) Business vehicles. The summary of intent shall specify the type, size and number of business vehicles and trailers proposed per business in the PRBD and the anticipated frequency of business vehicular trips. Motor vehicles cannot exceed two axles, 22 feet in length, ten feet in height, and/or 8,000 pounds (curb weight). Vehicles that exceed these parameters shall be allowed only during business hours (see o. below) and only for the purpose of making deliveries, making pickups, and providing services.
- (5) Minimum dimensional and other requirements in the PRBD shall be as follows:
  - a. Development size: 75 contiguous acres
  - b. The proposed development shall be permitted only on a lot which fronts on and accesses a major thoroughfare, as specified by the county thoroughfare plan.
  - c. A minimum buffer of 100 feet shall be provided around the side and rear periphery of the development (see Sec. 110-94).
  - d. Minimum lot size: 15 acres.
  - e. Minimum lot width: 250 feet

- f. Front yard setback: 75 feet
- g. Side yard setback: 50 feet (except where the 100 foot buffer is applicable)
- h. Rear yard setback: 75 feet (except where the 100 foot buffer is applicable)
- i. New single-family dwelling minimum floor area: 2,100
- j. Height limit: 35 feet
- k. Lights shall be established in such a way that adjacent properties and residents are not adversely affected, and that no direct light is cast upon said properties and residents.
- l. The operator of the business shall be one of the following:
  - 1. The business operator is the owner/occupant of the property and the business is not owned by a corporation or partnership; or
  - 2. The property and business is owned by a corporation or partnership in which case the operator /occupant shall be an officer of the corporation or a partner in the case of a partnership.
- m. No more than five (5) persons shall be employed on-site by a business, not including the owner/occupants.
- n. All structures associated with the business are allowed in the rear yard only behind the principal residence and must be fully enclosed and shall not be used for any residential purposes. Business structures shall not be located within 100 feet of the principal residential structure.
- o. All vehicles associated with the business must be parked in the rear yard only.
- p. The hours of operation, in the context of clients/customers shall be limited to 9:00 a.m. to ~~7:00~~ 5:00 p.m., Monday through Saturday.
- q. All materials, equipment, supplies, and inventory associated with the business shall be stored, operated and maintained within the business structure. Semi-trailers or shipping containers cannot be used for storage.
- r. Stormwater Requirements: In the event that 5,000 or more square feet of impervious surface (including driveways and parking for the business) is added in conjunction with a business structure, a site plan compliant with stormwater requirements of the county development regulations shall be required for that lot. The lot will be exempt from site plan requirements, the nonresidential development landscape requirements and tree retention, protection, and replacement requirements of the county development regulations.  
  
In the event that the property is subdivided with an internal street, the development shall comply with stormwater requirements of the county development regulations, as applicable.
- s. Adequate off-street parking shall be required. A prepared surface is required for the parking areas. The parking area shall comply with Article VIII. - Off-Street Parking and Service Requirements of the Development Regulations and must be depicted on a sketch, drawn to scale on a survey of the lot. Gravel parking areas shall be exempt from Nonresidential Development Landscape Requirements of the Fayette County Development Regulations. The following is required for gravel parking areas:
  - (i) Exterior and interior parking aisles shall be terminated at both ends by a landscape island.
  - (ii) Landscape islands shall be provided for each 150 feet of continuous parking length.
  - (iii) One (1) canopy tree, six (6) feet high at planting, is required per landscape island.

Paved parking areas shall meet the Nonresidential Development Landscape Requirements of the Fayette County Development Regulations.

- t. Signage on individual lots shall be regulated under Sec. 108-135. - Residential freestanding signs.(a). Signage located at the entrance of a subdivision served by an internal local road shall be regulated under Sec. 108-135. - Residential freestanding signs.(b)



## ARTICLE VII. - ZONING BOARD OF APPEALS<sup>[2]</sup>

### Footnotes:

--- (2) ---

**Editor's note**— Ord. No. 2015-06, § 1, adopted March 26, 2015, repealed the former art. VII, §§ 110-238—110-242, and enacted a new art. VII as set out herein. The former art. VII pertained to similar subject matter and derived from Code 1992, §§ 20-9-1—20-9-5; Ord. No. 2012-09, § 5, 5-24-2012; Ord. No. 2013-13, § 1, 9-26-2013.

### Sec. 110-238. - Membership.

- (a) *Membership and appointments.* The zoning board of appeals shall consist of five members residing within the county and shall be appointed by the board of commissioners. None of the board members shall hold any other public office, except that one member may also be a member of the planning commission. The zoning board of appeals members shall be removed by the board of commissioners for cause, upon written charges, and after public hearing. Any member of the zoning board of appeals shall be disqualified to act upon a matter before the zoning board of appeals with respect to property in which the member has an interest. It may be deemed cause for removal should any zoning board of appeals member fail, without proper reason, to attend three consecutive meetings.
- (b) *Term of office.* The term of office for each member of the zoning board of appeals shall be for three years and the member shall remain on the board until reappointed or a successor is appointed. It is the intent of this section that their terms be staggered with no term limitation.
- (c) *Compensation.* The zoning board of appeals members shall receive compensation for their service as determined by the board of commissioners.

(Ord. No. 2015-06, § 1, 3-26-2015)

### Sec. 110-239. - Rules and procedures.

The zoning board of appeals shall elect one of its members as chairperson and another as vice-chairperson, each serving for one year, or until re-elected, or a successor is elected. The vice-chairperson shall have the authority to act as chairperson in the chairperson's absence. The zoning board of appeals shall appoint a secretary who shall be an employee of the county. The zoning board of appeals shall have authority to adopt rules of procedure. Meetings of the zoning board of appeals may be held at the call of the chairperson. The chairperson 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 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, and the grounds for its decision reduced to written form. The full text shall be sent to the appellant/petitioner.

(Ord. No. 2015-06, § 1, 3-26-2015)

### Sec. 110-240. - Administrative assistance.

The planning and zoning department shall provide such technical, administrative, clerical assistance, and office space as is required by the zoning board of appeals to carry out its function under the provisions herein.

(Ord. No. 2015-06, § 1, 3-26-2015)

Sec. 110-241. - Public hearing.

(a) *Place, time, and date.* The public hearings shall be conducted as follows:

- (1) Place: the 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.

- (b) *Conduct of hearing.* Public hearings shall be conducted with 20 minutes provided for the appellant/petitioner and proponents and 20 minutes provided for the opponents of an appeal/petition. An appellant/petitioner may reserve part of the allotted time for rebuttal.
- (c) *Notice of hearing shall be given.* Before making its decision on an appeal, a request for a variance, or any other matter within the zoning board of appeals' purview, the zoning board of appeals shall hold a public hearing thereon. A notice of the date, time and place of such hearing shall be sent to the appellant/petitioner by certified U.S. mail to the appellant/petitioner's last known address.
- (d) *Public notice in newspaper.* The zoning board of appeals shall cause public notice of the hearing to be published in the legal organ of the county, at least 15 calendar days but not more than 45 calendar days, prior to the date of the public hearing.
- (e) *Posting of signs.*
  - (1) A sign shall be posted on property. One sign is required for each street frontage of said property. The sign shall be posted consistent with the requirements for newspaper notification.
  - (2) Signs used for posting property shall be a minimum of 18 inches by 18 inches and shall indicate the appeal/petition number, the time, date, and place of the hearing.
  - (3) A refundable sign deposit shall be required for each sign at the time of filing the appeal/petition.
- (f) *Who may appear.* Any party may appear at the public hearing in person or by agent or attorney.
- (g) *Zoning board of appeals' decision.* The zoning board of appeals shall approve, deny, or table each appeal/petition by a public vote. An action to table shall include justification of such action and a specific meeting date at which the appeal/petition is to be reconsidered. If there is not a full zoning board of appeals board present at the public hearing, the appellant/petitioner may request to table the appeal/petition to the next zoning board of appeals public hearing, provided the appellant/petitioner requests to table the agenda item prior to the presentation. A new legal advertisement will be required with an announcement to a specific meeting date if an appeal/petition is tabled. The property shall be reposted with new signage indicating the new public hearing dates.
- (h) *Time limit on zoning board of appeals decision.* The zoning board of appeals shall reach a decision following a public hearing within 45 calendar days or the appeal/petition shall be deemed approved.
- (i) *"Writ of certiorari" (appeal).* An appellant/petitioner has 30 calendar days from the date of the zoning board of appeals' decision to seek a "writ of certiorari" (appeal) with the superior court of the county.

(Ord. No. 2015-06, § 1, 3-26-2015)

Sec. 110-242. - Powers and duties.



- (a) *Appeals from actions of the zoning administrator.* The zoning board of appeals shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of these regulations.
- (1) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any person aggrieved by any decision of the zoning administrator. Such appeals, specifying the grounds thereof shall be filed with the planning and zoning department no later than 30 calendar days after the date of notification of the zoning administrator's decision. The zoning administrator shall forthwith transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.
  - (2) *Legal proceedings stayed.* An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the zoning board of appeals that by reason of facts stated in the certificate a stay would, in the zoning administrator's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order from a court of competent jurisdiction.
  - (3) *Extent of the zoning board of appeals' power.* The zoning board of appeals may, in conformity with the provisions of these regulations, reverse or affirm the order, requirement, decision, or determination of the zoning administrator. The zoning board of appeals may direct the issuance of a permit. It shall be the duty of the zoning administrator to carry out the decisions of the zoning board of appeals.
- (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, no lot is eligible for a variance for reduction in lot size, lot width, or road frontage, unless the variance request is for an improved illegal lot. A variance shall not be granted for any requirements of a conditional use with the exception of a legal nonconforming conditional use (see article V of this chapter), or a use of land, building, or structure that is prohibited in the zoning district at issue, except as otherwise provided herein. In exercising the powers described in this subsection, 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. A variance may be granted in an individual case upon a finding by the zoning board of appeals that all of the following criteria exist:
- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
  - (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 chapter would deprive the applicant of any rights that others in the same zoning district are allowed.

In addition to the above factors, if the variance being sought is for an improved lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width required for its zoning district, or has less road frontage than is required for its zoning district and the lot is an illegal lot as opposed to a nonconforming lot, the zoning board of appeals may consider such a lot for a variance. Should the appellant/petitioner be successful in obtaining a variance, the resulting lot would, for the purposes of this chapter, be deemed to be a nonconforming lot. If the appellant/petitioner successfully

passes the above enumerated factors, the zoning board of appeals shall also employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:

- (1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;
  - (2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and
  - (3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.
- (c) *Compliance with standards.* Where an appeal/petition to the board is initiated due to an existing violation of this chapter and said appeal/petition is denied, the violation shall be required to be corrected within ~~ten~~ 30 calendar days of such denial, or as specified by the board, if a greater time period is necessary. The maximum extension of the time shall not exceed ~~30~~ 60 calendar days.
- (d) *Forms.* Appeals, requests for variances, or any other matter within the zoning board of appeals' purview shall be made on forms, as applicable, provided by the planning and zoning department; and all information requested on the forms shall be provided by the appellant/petitioner. Forms shall be filed with the planning and zoning department along with the necessary fees. No form shall be accepted by the planning and zoning department unless it contains all pertinent information and is accompanied by the required fee.
- (e) *Request for change of the legal nonconforming use of a structure.* The zoning board of appeals may authorize, upon appeal in specific cases, a change in the legal nonconforming use of a structure in accordance with the provisions herein.
- (f) *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 all of the following criteria are present:
- (1) The use is a legal nonconforming use as defined in these regulations; and
  - (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.
- (g) *Continuance of a legal nonconforming use.* The zoning board of appeals may allow a legal nonconforming use to be re-established after discontinuance for six consecutive months where it is deemed by the zoning board of appeals that all of the following criteria are present:
- (1) The design, construction, and character of the land, building, or structure is not suitable for uses permitted in the zoning district in which the legal nonconforming use is situated; and

- (2) Undue hardship to the property owner would result in not allowing the continuance of a legal nonconforming use; and
- (3) Adjacent property would not be unduly damaged by such continuance; and
- (4) The use is to be identical to the prior legal nonconforming use.
- (h) *Conditions on approval.* 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, 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.
- (i) *Limitation on re-applying.* If the decision of the zoning board of appeals is to deny, an application which seeks the same relief in regard to the same property shall not be accepted for a period of ~~six months~~ 180 calendar days following the date of the decision from the zoning board of appeals.

(Ord. No. 2015-06, § 1, 3-26-2015; Ord. No. 2016-08, § 1, 5-12-2016)

Secs. 110-243—110-262. - Reserved.

## ARTICLE IX. - POLICIES, PROCEDURES AND STANDARDS GOVERNING AMENDMENTS<sup>[3]</sup>

### Footnotes:

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**Editor's note**— Ord. No. 2015-06, § 2, adopted March 26, 2015, repealed the former art. IX, §§ 110-290—110-303, and enacted a new art. IX as set out herein. The former art. IX pertained to similar subject matter and derived from Code 1992, §§ 20-11-1—20-11-14; Ord. No. 2012-09, § 6, 5-24-2012.

Sec. 110-290. - Intent.

The purpose of this article is to describe and establish procedures for making changes to the official zoning map (i.e., rezoning of properties) and amending the text of the ordinance from which this chapter is derived. Such actions require legislative approval by the board of commissioners in order to be enacted.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-291. - Technical evaluation and qualification of properties.

- (a) Every petition for a legislative change shall be subject to a technical evaluation. The evaluation shall be conducted by the planning and zoning department which shall coordinate a review of the proposal with all appropriate county departments and public agencies. Following the evaluation, a report shall

be prepared by the planning and zoning department containing recommendations to be presented to the planning commission and the board of commissioners.

- (b) The planning and zoning department shall distribute copies of applications for amendment to the planning commission and the board of commissioners. In addition, ~~the appropriate county departments and public agencies members of the technical review committee (TRC)~~ shall be supplied with copies of each application. Each department head or his/her designee shall return his/her comments, in writing, ~~to~~ the planning and zoning department per the deadline established by the planning and zoning department.
- (c) Any lots affected by proposed rezonings which are initiated by a party other than the board of commissioners shall each be of sufficient size and shape to meet all requirements of this chapter, except as otherwise provided in article V of this chapter. 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 improved with existing structures which would become nonconforming within the zoning district for which the rezoning is sought may be considered for rezoning (see article V of this chapter).

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-292. - Public hearings.

- (a) *Date, place, and time.* The public hearings shall be conducted as follows:
  - (1) Place: the county administrative complex.
  - (2) Time and date:
    - a. Planning commission: First Thursday, 7:00 p.m.
    - b. Board of commissioners: Second and fourth Thursdays, ~~7:00~~ 6:30 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.
- (b) *Conduct of hearing.* Public hearings on amendments shall be conducted with ~~20 minutes the opportunity provided~~ for the applicant and proponents and ~~20 minutes provided for~~ the opponents of an ~~application for rezoning amendment to speak~~. An applicant ~~may reserve part of the~~ shall be given ~~allotted time~~ the opportunity for rebuttal. ~~The board of commissioners and planning commission may establish time limits through their individual adopted rules of procedure and such time limit shall not be less than 10 minutes.~~
  - (1) *Decisions.* Recommendations of the planning commission and decisions of the board of commissioners on applications for rezonings shall be made subsequent to the public hearings.
  - (2) *Minutes.* The minutes of any public hearing shall be maintained with the zoning decision entered thereon. The minutes shall be kept as public records.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-293. - Initiation of amendments.

Applications to amend the text of this chapter may be initiated by the planning commission, the board of commissioners, staff, or by a member of the general public. The planning commission, the board of commissioners, a property owner, or the authorized agent of a property owner may initiate an application to amend the official zoning map (rezone property). When an agent is authorized to act on behalf of an

owner, such certificate of authorization shall be notarized on the rezoning application. All information and required fees shall be received by the planning and zoning department by the deadline date for filing.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-294. - 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 months~~ 180 calendar days immediately following the date of denial. An application for a map amendment shall not be withdrawn by the applicant after the legal advertising as required herein, except as provided herein.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-295. - Appeal.

An applicant has 30 calendar days from the date of the board of commissioners rezoning decision to file an appeal with the superior court of the county.

(Ord. No. 2015-06, § 2, 3-26-2015)

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.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-297. - Planning commission recommendation.

- (a) The planning commission shall make a recommendation of approval, denial, table, or withdrawal without prejudice on each application.
  - (1) An action to table shall include a justification of such action and a specific public hearing date at which the application is to be reconsidered.
  - (2) If there is not a full board present at the public hearing, the petitioner may request to table the petition to the next planning commission public hearing, provided the petitioner requests to table the agenda item prior to the presentation. Only one such request may be made.
  - (3) When an application is tabled, a new legal advertisement will be required stating the new public hearing dates and the property shall be reposted with new signage indicating the new public hearing dates.
  - (4) The planning commission may recommend amendments to the applicant's request which would reduce the land area of a rezoning petition (where possible with a legal description only), or change the zoning district requested to one which is less intense, and recommend conditions which may be deemed advisable so that the purpose of this ordinance will be served and the public health, safety, and welfare secured.
- (b) A resolution of the planning commission's recommendation shall be submitted to the board of commissioners. The resolution shall contain the recommendation of the planning commission, all

grounds therefor, and shall be signed and approved by the chairperson or vice-chairperson of the planning commission.

- (c) If the planning commission fails to submit a report within 100 calendar days from the date of the acceptance of the completed amendment application, the application shall be forwarded to the board of commissioners with a positive recommendation. Actions of the planning commission which contribute to the delay, such as the lack of a quorum or a tabling of the petition initiated by the planning commission, shall count toward the 100 calendar days. Actions by the petitioner, such as a request to table or a request to table where there is less than a full board present, shall not count toward the 100 calendar days.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-298. - Public hearing before the board of commissioners.

- (a) After receipt of the planning commission's resolution and recommendation on the proposed amendment, the board of commissioners shall hold a public hearing. The board of commissioners may approve, deny, table an application or allow an application to be withdrawn without prejudice with regards to the waiting period required by a denial.
  - (1) An action to table shall include a justification of such action and a specific public hearing date at which the application is to be reconsidered.
  - (2) If there is not a full board present at the public hearing, the petitioner may request to table the petition to the next board of commissioners' public hearing, provided the petitioner requests to table the agenda item prior to the presentation. Only one such request may be made.
  - (3) When an application is tabled, a new legal advertisement will be required stating the new public hearing dates and the property shall be reposted with new signage indicating the new public hearing dates.
  - (4) The board of commissioners may approve an amendment to the applicant's request which would reduce the land area of a rezoning petition (where possible with a legal description only), or change the zoning district requested to one which is less intense, and recommend conditions which may be deemed advisable so that the purpose of this ordinance will be served and the public health, safety, and welfare secured.
- (b) The decision of the board of commissioners shall be contained in a resolution. The resolution shall contain the decision of the board of commissioners, all grounds therefor, and shall be signed and approved by the chairperson or vice-chairperson of the board of commissioners. The clerk shall provide a copy of the resolution to the planning and zoning department, which copy shall become a part of the application file, and shall send one copy to the applicant by certified mail.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-299. - Conditional approval.

Any application for an amendment may be approved subject to conditions which relate to the ~~use, occupancy, or development of the~~ property contained in the petition. Conditions imposed on the property may only be more restrictive than the requirements of any zoning district and other applicable parts of this chapter as may apply to the property. The following policies shall apply:

- (1) *Consent not required.* Approval of applications subject to conditions may occur with or without the consent of the applicant.
- (2) *Conditions shall be permanent.* All conditions imposed by action of the board of commissioners shall remain on the subject property regardless of changes in ownership.

- (3) *Changes to conditions.* Conditions shall be changed only through the amendment process by which they were established.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-300. - Standards for map amendment (rezoning) evaluation.

All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the land use plan and related development policies of the county. The following factors shall be considered by the planning and zoning department, the planning commission and the board of commissioners when reviewing a request for rezoning:

- (1) Whether the zoning proposal is in conformity with the land use plan and policies contained therein;
- (2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- (3) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- (4) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-301. - Public notification.

- (a) *Newspaper.* Notice of scheduled hearings shall be published in the newspaper of general circulation within the county in which are carried the legal advertisements of the county.

- (1) The notice shall be published at least seven days prior to the public hearing before the planning commission, but not more than 45 calendar days, nor less than 15 calendar days prior to the public hearing before the board of commissioners. In the event that the time-frames above cannot be met with one advertisement, the notice shall be published twice.
- (2) The notice shall contain the dates of the public hearings before the planning commission and the board of commissioners.
- (3) Public notification shall include at a minimum the time, date, place, purpose of the hearing, location, boundary description, area of the property, and the current and requested zoning classifications.

- (b) *Posting of signs.*

- (1) A sign shall be posted on property for which the rezoning is sought. One sign is required for each street frontage of said property. The sign shall be posted consistent with the requirements for newspaper notification.
- (2) Signs used for posting property shall be a minimum of 18 inches by 18 inches and shall indicate the application number, the time, date, place, purpose of the hearings, and the current and requested zoning classifications.
- (3) A refundable sign deposit shall be required for each sign at the time of application for rezoning.

- (c) *Applicant notification.*

- (1) Upon certification by the planning and zoning department that an application is complete, a notice giving the date, time, and place of the public hearings shall be provided by certified mail to the applicant.
- (2) The clerk to the board of commissioners shall notify the applicant by mail of any action (including tabling of action) taken by the board of commissioners. All actions of the board of commissioners shall be deemed to be effective as of the date of the action.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-302. - Zoning reversion.

Within three years of the date of rezoning, rezoned property shall be utilized for uses allowed in the new zoning district or substantial development shall be demonstrated toward such utilization. Failure to so utilize or demonstrate substantial development may subject the property to consideration for reversion to the previous zoning classification. In such event, public hearings shall follow the established procedures for rezoning petitions herein and a final decision shall be rendered by the board of commissioners.

(Ord. No. 2015-06, § 2, 3-26-2015)

Sec. 110-303. - Responsibilities of the ~~zoning administrator~~ planning and zoning department.

The planning and zoning department shall have the following responsibilities associated with receiving and processing all amendment applications:

- (1) Receive all applications and supporting information and collect all fees at the time of initial filing;
- (2) Maintain a log of all applications;
- (3) Return incomplete applications and all supporting information to the applicant upon determination that an application is incomplete with reasons for the determination;
- (4) If the application is complete, issue a notice that lists the dates, times, and places of all hearings that are scheduled for the application;
- (5) Establish and maintain a file for each application which shall contain:
  - a. Copies of all materials submitted by the applicant;
  - b. Correspondence, records, reports, and exhibits produced during processing;
  - c. Minutes and all actions taken by the planning commission and the board of commissioners on an application; and
  - d. All follow-up activities, if any, including re-filing of additional requests, copies of citations or violations and any other significant materials.
- (6) Prepare a map for all map changes (rezoning), which shall show the location and dimensions of the subject property of the petition, all properties within at least 1,000 feet of the subject property, and the zoning districts thereon;
- (7) Transmit to the appropriate departments within five working days after the deadline for submissions, all materials to be evaluated;
- (8) Schedule and provide notice for all public hearings, including the posting of the property, as required herein;
- (9) Transmit the recommendation of the ~~staff and~~ planning commission to the board of commissioners ~~at least 14 calendar days prior to the scheduled public hearing before the board~~



~~of commissioners~~ per the agenda request procedure established by the board of commissioners; and

(10) Update the official zoning map.

(Ord. No. 2015-06, § 2, 3-26-2015)

Secs. 110-304—110-324. - Reserved.

## ARTICLE X. - PLANNING COMMISSION

Sec. 110-325. - Planning commission.

The planning commission consists of that body of members appointed by the board of commissioners to carry out the directives of this and other ordinances and to carry out any other duties which may from time to time be assigned to the planning commission by the board of commissioners.

- (1) *Membership and appointments.* The planning commission shall consist of five members residing within the county and shall be appointed by the board of commissioners of the county. None of the planning commission members shall hold any other public office, except that one member may also be a member of the zoning board of appeals. The planning commission members shall be removed by the board of commissioners for cause, upon written charges, and after public hearing. Any member of the planning commission shall be disqualified to act upon a matter before the planning commission with respect to property in which the member has an interest. It may be deemed cause for removal should any planning commission member fail, without proper reason, to attend three consecutive meetings.
- (2) *Term of office.*
  - a. The term of office for each member of the planning commission shall be three years ~~and the member shall remain on the board until reappointed or a successor is appointed.~~ It is the intent of this section that the terms be staggered with no term limitation.
  - ~~b. A vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.~~
- (3) *Officers; rules and procedures; minutes.*
  - a. The planning commission shall elect one of its members as chairperson and another as vice-chairperson, each serving for one year or until re-elected or a successor is elected. The vice-chairperson shall act as chairperson in the chairperson's absence. The planning commission shall appoint a secretary who shall be an employee of the county.
  - b. The planning commission shall have the authority to adopt rules of procedure.
  - c. Meetings of the planning commission shall be held at the call of the chairperson and as scheduled.
  - d. The planning commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if they are absent or fail to vote, indicating such fact. The planning commission 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 planning commission (zoning administrator's office)~~ and shall be public record.

- (4) *Conflict of interest.* Any member of the planning commission shall be disqualified to act upon a matter before the planning commission with respect to property in which the member has an interest.
- (5) *Attendance.* It may be deemed cause for removal should any member of the planning commission fail, without proper reason, to attend three consecutive meetings.

(Code 1992, § 20-12-1; Ord. No. 2010-11, § 12-1, 12-9-2010; Ord. No. 2013-15, § 1, 10-24-2013)

Secs. 110-326—110-353. - Reserved.