COUNTY AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Thursday, May 24, 2012	Type of Request:	Public Hearing

Wording for the Agenda:

Consideration of Resolution 2012-11 approving proposed amendments to the Fayette County Comprehensive Plan, Land Use Element, and Future Land Use Map and Narrative by providing for the consideration of rezoning an Illegal Nonconforming Lot to a Legal Nonconforming Lot Status (LNS) sub-category of the same zoning district based on certain factors.

Background/History/Details:

Fayette County currently requires that illegal conforming lots be brought into zoning compliance before building permits for principal or accessory structures can be issues. In many cases, this requires the lot to be rezoned to a zoning district that it can comply with in terms of lot size, lot width, etc. A problem arises when a rezoning request does not comply with the Future Land Use Plan. The proposed amendments were presented at the Board of Commissioners Workshops held on October 5, 2011 and January 4, 2012. With the pending adoption of proposed amendments to the Zoning Ordinance regarding the consideration of rezoning an Illegal Nonconforming Lot to a Legal Nonconforming Status (LNS) sub-category of the same zoning district, an amendment to the Land Use Element, Future Land Use Map and Narrative is required in order to not nullify the Land Use Plan. At the Board of Commissioner's Workshop held on April 4, 2012, staff was given permission to advertise the proposed amendments for May 2012.

What action are you seeking from the Board of Commissioners?

Adoption of Resolution 2012-11 approving proposed amendments to the Fayette County Comprehensive Plan, Land Use Element, and Future Land Use Map and Narrative by providing for the consideration of rezoning an Illegal Nonconforming Lot to a Legal Nonconforming Lot Status (LNS) sub-category of the same zoning district based on certain factors.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	Yes	If so, when?	Wednesday, April 4, 2012
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

Minutes

Board of Commissioners
April 4, 2012
3:30 P.M.

Notice: A complete audio recording of this meeting can be heard by accessing Fayette County's Website at www.fayettecountyga.gov. Click on "Board of Commissioners", then "County Commission Meetings", and follow the instructions. The entire meeting or a single topic can be heard.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, April 4, 2012, at 3:30 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:
Herb Frady, Chairman
Robert Horgan, Vice Chairman
Steve Brown
Lee Hearn
Allen McCarty

Staff Present:
Jack Krakeel, County Administrator
Scott Bennett, County Attorney
Karen Morley, Chief Deputy Clerk

Chairman Frady called the meeting to order.

Acceptance of Agenda: Commissioner Brown made a motion to approve the agenda as presented. Commissioner Horgan seconded the motion. The motion carried 5-0.

Old Business:

1. **Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article III. Definitions, Article IV. Establishment of Districts, Article VI. District Use Requirements, Article VII. Conditional Uses, Nonconformances, Transportation Corridor Overlay Zone, Commercial Development Standards and Land Use Element (Future Land Use Map and Narrative of the Comp Plan regarding Nonconforming Lots:**

Director of Zoning Dennis Dutton presented this item for discussion. A copy of the request and backup, identified as "Attachment No. 2", follow these minutes and are made an official pat hereof. He said at the Board's Workshop meeting held on October 5, 2011, staff was directed to work with County Attorney Scott Bennett in order to provide options pertaining to illegal nonconforming lots and to return later with recommendations. At the Board's Workshop held on January 4, 2012, staff presented three alternatives and the Board directed staff to continue working on Alternative #2 and come back to the Board at a future meeting with recommendations. He said an example of Alternative #2 would basically be taking a property that was an illegal nonconforming lot and give them the opportunity to rezone the property in an area that was land used for what that property was zoned and could not meet the requirements and then put the LNS (Legal Nonconforming Status) onto that zoning. He pointed out that the zoning designation would not change but the subcategory would be added as opposed to a variance or a total out rezoning. He said the Zoning Ordinance was not an issue with this and remarked that the main issue was the Future Land Use Plan which is the County's legal binding document for zoning decisions, rezonings or uses for future development.

Mr. Dutton asked for the Board's permission to proceed with the proposed amendments and to advertise these proposed amendments to the Zoning Ordinance regarding illegal nonconforming lots to be heard by the Planning Commission on May 3, 2012 and by the Board of Commissioners on May 24, 2012.

Commissioner Brown expressed concern with trying to adapt nonconforming lots and decisions made in five years on requests. He recommended the private sector and the courts handle this.

Chairman Frady commented on some other situations that had occurred in prior years and he felt this amendment was necessary.

After some further discussion, there was a consensus by the Board to move this item forward in the public hearing process and come back to the Board at a future meeting for consideration.

4. Consideration of the proposed amendments to the Fayette County Comprehensive Plan Regarding: Land Use Element, Future Land Use Map and Narrative, Illegal Nonconforming Lots.

Pete Frisina explained the proposed amendments were required due to the adoption of the consideration for the rezoning of an illegal nonconforming lot and had been discussed at several Public Meetings/Workshops.

Chairman Thoms asked if there were any public comments. Hearing none, he closed the floor from public comments.

Doug Powell made a motion to approve the proposed amendments. Bill Beckwith seconded the motion. The motion unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Doug Powell, Al Gilbert, Bill Beckwith, and Jim Graw.

To: Board of Commissioners

From: Pete Frisina

Date: May 24, 2012

Subject: Fayette County Zoning Ordinance Amendments and Fayette Comprehensive Plan

The Board of Commissioners instructed Staff to begin a comprehensive review of the Zoning Ordinance at their retreat in January of 2009. Since that time, the Zoning Ordinance was adopted, in its entirety, on December 9, 2010. However, there were still some topics in the Zoning Ordinance that Staff and the Planning Commission needed to address and additional issues have come about since 2010.

Staff is presenting these proposed amendments for discussions with the intent of moving to public hearings in May. Amendments are proposed for Articles III, IV, V, VI, VII, IX, and XI. Please see the Executive Summary for a list of the key amendment proposed for the Zoning Ordinance. In addition, due to the proposed amendments regarding the consideration for rezoning illegal nonconforming lots, the Land Use Element of the Fayette County Comprehensive Plan shall also be amended.

10/05/11 – BOC Wkshop (Discussion Only)
10/20/11 – PC Wkshop (Discussion Only)
11/17/11 – PC Wkshop (Discussion Only)
01/04/12 – BOC Wkshop (Proposed Amendments)
01/19/12 – PC Wkshop (Discussion Only)
02/02/12 – PC Wkshop
02/16/12 – PC Wkshop
03/01/12 – PC Wkshop
03/15/12 – PC Wkshop
04/04/12 – BOC Wkshop
04/19/12 – PC Wkshop
05/03/12 – PC Public Hearing
05/24/12 – BOC Public Hearing

LAND USE ELEMENT

FUTURE LAND USE MAP AND NARRATIVE

Illegal Nonconforming Lots (added in its entirety and inserted as the last paragraph)

Illegal nonconforming lots may be given consideration for rezoning to a Legal Nonconforming Status (LNS) sub-category of the same zoning district based on the factors under Articles VII. and XI. of the Zoning Ordinance.