COUNTY AGENDA REQUEST

Department:	Commissioners	Presenter(s):	Commissioner Lee Hearn
Meeting Date:	Wednesday, September 5, 2012	Type of Request:	New Business

Wording for the Agenda:

Discussion by Commissioner Lee Hearn to consider amending Fayette County's Zoning Ordinance as it pertains to the number of dogs and cats permitted on A-R zoned properties.

Background/History/Details:

Fayette County's Zoning Ordinance limits the number of dogs and cats, in a mixed or unmixed combination, to three animals per property; irrespective to how the property is zoned.

During the March 2, 2011 Board of Commissioners Workshop meeting, the Board discussed how Fayette County's Zoning Ordinance relates to the numbers of animals allowed on various properties. In that discussion, it was noted that a person living in A-R zoning could own as many as 40 or more pigs, since they are unregulated, but that person could only have three dogs.

Commissioner Hearn would like the Board to reconsider the limitations placed on the numbers of dogs or cats permitted on A/R zoned properties, and would appreciate input from the Board on how to best raise or remove those limitations.

What action are you seeking from the Board of Commissioners?

No action is sought at this time. Commissioner Hearn is seeking input and direction on this issue, with the intention of a formal vote on a future agenda.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
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:

Floyd Jones

From: Dennis S. Dutton
Sent: Wednesday, August 29, 2012 4:12 PM
To: Floyd Jones
Subject: Number of animals kept shall be limited to three (3.)

Floyd:

Animals are defined in the County Ordinance as only domestic dog and domestic cat. This excludes fish, pet birds such parrots, cockatiels, etc. It also states in the definition that number of animals kept shall be limited to three. Then we back into the ordinance's interpretation by regulating owners of more than three animals (dogs and/or cats) as meeting the Conditions of an Animal Hospital, Kennel, and/or Veterinary Clinic. I have attached the various excerpts from the Zoning Ordinance dealing with the number of animals in a household. See below:

ARTICLE III. DEFINITIONS

Sec. 3-1.

Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus.) It shall not include livestock (see *Livestock*.) The number of animals kept shall be limited to three (3.)

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

Sec. 7-1. Conditional Use Approval.

B. *Conditional Uses Allowed*:

4. *Animal Hospital, Kennel (Commercial or Non-Commercial) 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.

5. *Animal Hospital and/or Veterinary Clinic. (excludes commercial and non-commercial kennel)* (Allowed in O-I Zoning District):
All structures shall not be located closer than 55 feet (30 foot buffer and 25 foot setback) from any A-R or residential zoning district. No outside activity (runs, pens, or enclosures) or boarding is allowed except during the convalescent period.

I hope this helps. Call me if you need answers.

Thanks,

Dennis S. Dutton
Zoning Administrator
Fayette County Planning & Zoning Department

8. Director of Community Development Pete Frisina will discuss how the Zoning Ordinance relates the number of animals allowed; and the issue of beekeeping.

Director of Community Development Pete Frisina discussed the Zoning Ordinance that relates to the number of animals allowed, and he also spoke about beekeeping issues that had recently arisen in the County. Mr. Mike Maxwell, a local beekeeper in Fayette County, also spoke to the Board.

Mr. Frisina reported that the first round of amendments to the current Zoning Ordinance had been accomplished on December 9, 2010, and they encompassed issues that the County was trying to find agreement with, but he was asked by the Board to remove the two issues currently under consideration, and to return to the Board to get direction on how the Board wanted staff to address the numbers of permitted animals and, more recently, issues related to beekeeping.

He explained that the current Zoning Ordinance permits a set number of dogs and cats that can be kept on a residential lot, and basically it states that any resident in an R district, be it R-40 or R-20, is limited to three dogs and cats. He continued that in areas zoned as A-R, C-C, C-H, and M-1, where a kennel being the criteria used for everything, including a commercial kennel all the way to someone owning four dogs or four cats. He reported that the initial recommendation was to do away with the limitations on cats and only deal with dogs since "kennels" are more readily associated with dogs than cats. He asked if it was the Board's desire to continue to regulate the number of cats that can be kept in a residential zoning district, and if that is the Board's desire it needs to be stated outright, because kennels need to be dealt with as kennels. He continued that when the issue is pets, the County has seen situations where a person says they have four dogs, and they do not have pens or runs since the dogs are kept in the house, and the County is required to say that the house has to meet the setback. He spoke about surrounding communities and counties, and how they handle the issue, including some that regulate pets based on the nuisance they could cause without regard to the actual numbers of cats or dogs located at a residence.

Commissioner Hearn asked if a person resided in A-R zoning, how many pigs could a person own. Mr. Frisina replied the number of pigs were unregulated. Commissioner Hearn clarified that he could have 40 pigs on his property if he lived in A-R zoning but he would be limited to three dogs if he could not meet the 300-foot setback. Commissioner McCarty asked if he could have unlimited numbers of pigs without the 300-foot setback, and Mr. Frisina replied there were no setback requirements for pigs.

Commissioner Horgan said he agreed with Mr. Frisina, to separate the cats from the dogs in the ordinance. Commissioner Brown added that it was "kind of bizarre" to put cats or dogs in a zoning ordinance, since they should be regulated in their own separate ordinance, but that commercial kennels should be regulated under zoning and there should be dictation concerning what type of zoning classification they should be placed in. He thought classifying someone who lives in a single-family dwelling as having to have a kennel was far-fetched and that language should be removed. He suggested that there be a dog and cat ordinance, and then a commercial kennel ordinance. Commissioner Horgan also favored the City of Fayetteville's approach of regulating pets on a nuisance basis instead of a numerical basis. Commissioner McCarty suggested removing the "noncommercial kennel" language from the current Zoning Ordinance as well. Commissioner Hearn also favored not regulating pets based on their numbers, but rather on their nuisance. Discussion followed.

The Board suggested that the Ordinance should separate requirements placed on dogs from requirements placed on cats. The Board further thought that commercial kennels should be regulated under Zoning, that it was "far-fetched" to required a single-family dwelling to be a kennel, and that the language concerning noncommercial kennels be removed with animals regulated under a dog and cat ordinances. The Board also considered that regulating pets and animals based on a nuisance factor, rather than a numerical factor may be the best approach to consider. The Board also considered removing the term "kennel" from residential zoning.

The Board directed Mr. Frisina to prepare a recommendation that address its suggestions concerning regulating dogs and cats, and to return to the Board at a later date.

The secondary area of concern was about regulations on beekeeping in Fayette County. He explained that the County's ordinance does not mention bees or beekeeping at all, but under Section 5-3, the County looks at uses or classes of uses, and in researching bees and beekeeping, they are regulated by the Department of Agriculture. He explained his thinking that bees are related to agriculture and therefore would be allowed in A-R districts, but would not be allowed in a residential districts since they are not agricultural districts. He said the two situations that drew the County's attention was based on citizens' complaints within residential subdivisions. He acknowledged that beekeeping is becoming a very popular hobby, but that the bees cause problems that generate complaints. He asked the Board for direction on how to address this issue. He informed the Board that one of the complaints involved a resident who told his neighbors that he would put a beehive in his one-acre residential lot so the neighbors called the County; one of whom complained about his son being highly allergic to bees. The second incident involved bees swarming around a person's pool for a good portion of a day.

Commissioner Frady commented that bees were beneficial to the County since they pollinate the plants, and Commissioner Horgan suggested that regulations on beekeeping be determined on the size of a person's property, and not based on the zoning district they reside in.

Mr. Mike Maxwell, a beekeeper in Fayette County, addressed the Board about his understanding of the Zoning Ordinance. He suggested that since beekeeping is not explicitly prohibited from the R-40 zoning. He spoke about why he was cited over his honeybees, and he asked the Board to specify or create an exception for a certain amount of bees. He suggested that the Board conduct a hearing to listen to beekeepers discuss what types of hives would be appropriate for different sized lots. Discussion followed.

Concerning beekeeping, the Board considered regulations could be written based on the size of the beekeeper's property. The Board further suggested creating a committee of local beekeepers, for the committee to include Planning and Zoning staff, and for the committee to study the beekeeping issue with the view of presenting a draft ordinance before the Board. A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part hereof.

Adult Day Care Facility. Adult day care facilities shall include any building, or portion thereof, used to house four (4) or more adults requiring care, maintenance, and supervision for part of a day.

Agriculture. The raising of soil crops, including forestry and landscape planting materials, and/or livestock in a customary manner on lots of land at least five (5) acres in size, including all associated activities.

Aircraft. Any machine, whether heavier or lighter than air, used or designated for navigation of, or flight in the air.

Aircraft Landing Area. Areas designed for safe landing and departures, including runways and heliports.

Aircraft Hangar. A fully enclosed structure with operational doors designed to store aircraft and the associated equipment or supplies needed for the operation and maintenance of the aircraft.

Airplane. A fixed-winged aircraft that is supported in flight by dynamic reaction of the air against its wings.

Alteration. Any construction or renovation to an existing structure, other than repair.

Amphitheater. An open-air facility primarily used for entertainment purposes, commonly with tiers of seats facing a performance stage.

Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus.) It shall not include livestock (see *Livestock*.) The number of animals kept shall be limited to three (3).

Animal, Wild. This shall include any species or family or breed (including hybrids) of wild animals listed by the Georgia Department of Natural Resources (DNR) as being wild per OCGA Title 27, Chapter 5 as presently stated and as hereafter amended.

Antenna. A device used to transmit and/or receive radio-frequency signals, microwave signals, or other signals transmitted to or from other antennas.

Apiary. A place where honeybees and beehives are kept. (Adopted 07/28/11)

Aquaculture. The hatching, raising, and breeding of fish and/or aquatic plants for food or fiber.

Artist Studio. A structure accommodating the practice of the full spectrum of the arts including, but not limited to: fine arts, visual arts, and performing arts.

Athletic Facility. An area designated for athletic activity.

Automobile Service Station. A land use where gasoline, oils, greases, batteries, tires, and general automobile accessories may be provided, but where no part of the premises is used for the storage or dismantling of wrecked or junked vehicles.

Auxiliary Structure. A structure which is allowed incidental and secondary to a residence.

Junk/Auto Grave Yard. Property used for outdoor storage, keeping, abandonment, sale or resale of junk, including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Junked Automobile. (see *Vehicle, Abandoned)*

Kennel. Any location where any combination of animals are kept in excess of three (3) shall be deemed to be a kennel. This definition does not include a location where one (1) litter of dogs or cats of not more than six (6) months of age are kept.

Kindergarten. (see *School, Private*)

Landscape Areas. A maintained area of grass and/or ornamental planting materials.

Livestock. Animals including, but not limited to: horses, cattle, goats, sheep, pigs, pot bellied pigs, chickens, ducks, geese, mules, rabbits, emu/ostrich, buffalo, chinchilla, fox, mink or other fur-bearing animal, and llamas. This term shall be deemed to specifically exclude domestic dogs and domestic cats.

Loading Space. Space logically and conveniently located for pick-up and delivery service, scaled to the vehicles expected to be used, and accessible to such vehicles at all times.

Lot. A tract of land of varying size which is designated as a single unit of property.

Lot, Corner. A lot located at the intersection of two (2) streets.

Lot Depth. The distance between the front and rear lot lines.

Lot, Interior. A lot which has frontage on only one (1) street.

Lot, Landlocked. A lot of record having no frontage on a street.

Lot, Through. A lot, other than a corner lot, having frontage on more than one (1) street.

Lot Width, Minimum. The minimum distance between side lot lines either measured in a straight line parallel to the street right-of-way or tangent and perpendicular to the mid-point of the right-of-way in the case of the turn around portion of a cul-de-sac along the front minimum building line (see graphic.)