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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Comm. Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Tom Williams/Pete Frisina

Preferred Meeting Date: Thursday, May 22, 2008

Wording for the Agenda:

Consideration of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the S.R. 54 West Overlay District as presented by the Planning & Zoning Department.

Background/History/Details:

SR 54 W Overlay District, adopted 1995, 3 rezoning requests to O-I for lots in recorded residential subdivisions,1 approved (963-97) and 2 denied (994-98 and 1201-07). Staff proposing to amend SR 54 W Overlay District section of Land Use Element of Comp. Plan to clarify County's position for rezoning in recorded resid s/d. 03/05/08 BOC Wkshop, BOC instructed to review. 03/20/08 PC Wkshop, Staff - lots in platted resid. s/d oriented to and access to SR 54 W from 1 or more internal streets and any lot less than 5 acres and surrounded on side/rear by platted recorded resid. s/d not be considered for O-I. Lots 5 acres or more could be considered to O-I with additional s/backs and buffers. PC - all lots in platted resid. s/d should not be given consideration for O-I but lots surrounded on sides/rear by platted s/d should be given consideration for O-I. Staff/PC compromise - all lots in platted resid. s/d and lots surrounded fully on side/rear by platted resid. s/d should not be given consideration for O-I. 04/02/08 BOC Wkshop, BOC concurred with Staff's original amendment and instructed Staff to advertise for May Public Hearings.

What action are you seeking from the Board of Commissioners?

The P.C. recommended to table the proposed amendments as follows: 05/15/08 - Planning Commission Workshop/Public Meeting 06/05/08 - Planning Commission Public Hearing.
Even though the proposed amendments have been advertised for 05/22/08 to be heard by the B.O.C., by the P.C. tabling until 06/05/08 for a Public Hearing, this will place the proposed amendments on the 06/26/08 B.O.C. Agenda.

If this item requires funding, please describe:

N/A

Has this issue come before the Commissioners in the past? Yes

If so, when? Wednesday, April 2, 2008

Do you need audio-visual for the presentation? Yes

Back-up Material Submitted? Yes

STAFF USE ONLY

- (●) Finance Review Complete
- (●) Purchasing Review Complete
- ( ) Legal Review Complete
- (●) Administrative Staff Review Complete

Administrator's Approval Yes

Confirmed Meeting Date May 22, 2008

- ( ) Recognition/ Presentation
- ( ) Public Hearing
- (●) Old Business
- ( ) New Business
- ( ) Consent
- ( ) Report
- ( ) Other

D. Discussion of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the SR54 West Overlay District as presented by the Planning and Zoning Department. This item was last discussed during the March 5, 2008 Wednesday Workshop Meeting. A copy of the request and additional information, identified as "Attachment 4", follow these minutes and are made an official part hereof.

Mr. Pete Frisina discussed the proposed amendments as requested. Some discussion followed. It was the Board's consensus that the proposed amendments allow lots within a platted residential subdivision that are not oriented to or access SR54 to be considered for O-I zoning, but lots that are oriented to or access SR54 or lots that are surrounded by platted residential subdivisions are not to be considered for O-I zoning. The Board added that it wanted the proposed amendments to address greater setbacks, buffers or other measures that would lessen the impact on adjacent residential properties. The Board then directed Mr. Frisina to make the changes as discussed to the proposed amendments and move ahead with public hearings in May.

4. <u>Consideration of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the S.R. 54 West Overlay District as presented by the Planning & Zoning Department.</u>

Tom Williams explained that the B.O.C. instructed Staff to begin review of the Ordinance on March 5, 2008. He stated that the P.C. held a Workshop on March 20, 2008, and the B.O.C. held a Workshop on April 2, 2008.

Mr. Williams presented the proposed amendments as follows:

Staff's additions to the current ordinance are indicated in **bold, <u>underline</u>**, and ***<u>italics</u>***. ~~Strikethrough~~ indicates deletion.

Transportation Corridors

Over the next twenty years, a number of state routes in Fayette County are scheduled to be widened from a two-lane highway to a four-lane divided highway. These state routes are the connecting corridors for the incorporated municipalities in Fayette County and neighboring counties. With few exceptions, in the unincorporated areas of the county these roads traverse residential and/or agricultural land uses.

With the widening of these state routes comes the increased pressure for nonresidential development. The County is now in the position where it must balance this demand with its own growth and transportation policies. These state routes are first and foremost transportation corridors; the efficient flow of traffic must be maintained. Nonresidential land uses are indicated on the Land Use Plan Map where their location and intensity are most appropriate for the surrounding area.

In order to better facilitate the desired development along its transportation corridors, Fayette County has adopted an Overlay District on SR 54 and several Overlay Zones. The particular requirements pertaining to these transportation corridors are discussed below.

<u>SR 54 West Overlay District</u>: With the widening of SR 54 West, the Board of Commissioners adopted the SR 54 West Overlay District. This District identifies the county's goals and recommendations for the corridor and sets out the desired development pattern. SR 54 connects the communities of Fayetteville and Peachtree City, and serves as the only major east-west thoroughfare through the county. The following section defines the District.

Existing Development: Existing **residential development** is scattered along the SR 54 West Corridor. Residential tracts range in size from large agricultural tracts of as much as 200 acres down to minimum one (1) acre subdivisions. Large tracts are still used for agricultural purposes and may or may not contain a single-family residence. These tracts vary in size from approximately five (5) to 200 acres. The majority of the larger tracts are located between Sandy Creek and Tyrone Roads. Single-family residential development consists of smaller lots, varying in size from one (1) to five (5) acres, fronting on SR 54 West or within subdivisions which access SR 54 West. Three single-family residential subdivisions (Newton Estates, Fayette Villa, and The Landings) are developed in this area. These subdivisions are zoned for one (1) acre minimum lots. Fayette Villa and The Landings are located between Flat Creek Trail west to Sumner Road (north) on the north side of SR 54 West. Newton Estates is located west of Huiet Drive on the south side of SR 54 West. Existing **nonresidential development** consists of two commercial areas, one at Tyrone Road and one at Sumner Road (south).

Future Development: SR 54 West is first and foremost a transportation corridor. The efficient flow of traffic must be maintained. High intensity nonresidential uses should be targeted to the major intersection with Tyrone Road and SR 54 West. As one moves away from this node, the intensity of nonresidential development should decrease. The **goals** of the SR 54 West Overlay District are: (1) to maintain the efficient traffic flow of SR 54 West as the County's only major east-west thoroughfare; (2) to maintain a non-urban separation between Fayetteville and Peachtree City; and (3) to protect existing and future residential areas in the SR 54 West Corridor.

If lots, which front on SR 54 West are allowed to change from a residential use to a nonresidential use, care must be taken to protect existing or future residential property. This can be accomplished by requiring enhanced landscaping, buffers and berms to protect these residential areas.

Recommendations: The intent of the SR 54 West Overlay District is to offer existing tracts of five +/- acres the option to convert to office uses. Outside of the commercial designation at Tyrone Road and the commercial and office-institutional designation at Sumner Road (south), these parcels would be considered for the Office-Institutional Zoning District. Conditions should be placed on property at the time of rezoning to address unique situations ***such as a lot adjacent to a residential subdivision where berms and fences could be required, as well as, an increase in the buffer.***

In certain situations a change from a residential zoning to the Office-Institutional Zoning District should not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

- ***Parcels platted and recorded in a residential subdivision where the residential subdivision is oriented to and has access to SR54 from one or more internal streets as individuals purchased lots within these subdivisions with the assurance that it would remain a residential area;***

- ***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.***

Other Transportation Corridors: Section 7-6 Transportation Corridor Overlay Zone of the Fayette County Zoning Ordinance establishes Overlay Zones on state highways that traverse Fayette County. Regardless of the underlining zoning, any new nonresidential development along these corridors must meet the requirements of the particular Overlay Zone. The Zoning Ordinance establishes Overlay Zones on SR 54 West and SR 74 South, SR 85 North, and a General State Route Overlay Zone on all other state routes.

Chairman Powell asked if there was any public input.

The following people spoke in opposition:

1. Alan Bell
2. Mona Williams
3. Randy Holt

The following were points of opposition:

1. All subdivisions with lots fronting on S.R. 54 West are not included.
2. Proposed amendments do not treat all property owners equally.
3. Covenants are the only way of providing assurance.
4. When a rezoning request has been denied, there is a six (6) month waiting period required before resubmittal. These properties should be "grandfathered". If these proposed amendments are adopted, a rezoning request cannot be resubmitted.
5. Other property owners which will be affected by the proposed amendments may not be aware of these amendments.
6. It is impossible to market a piece of property fronting S.R. 54 West as residential?

7. Can a rezoning application be submitted for properties affected the proposed amendments?
8 Everything from Fayetteville to Peachtree City is commercial, commercial, commercial.

Chairman Powell confirmed that a rezoning application could be submitted for properties affected by the proposed amendments; however, the Comprehensive Plan would not be in support of the rezoning request.

Hearing no further comments, Chairman Powell closed the floor from public comments.

Jim Graw asked Staff how the proposed amendments would affect lots 1-4 of Ledgewood Subdivision.

Mr. Williams stated that the lots would be considered for O-I zoning because the subdivision accesses Old Norton Road.

Chairman Powell presented a copy and read the following statement:

Tonight we are being asked to consider a change to the County Comprehensive Plan. This change affects the landowners on Highway 54.

I respect my fellow Planning Commission member's thoughts concerning changing platted subdivisions. I too, feel that a land owner who purchases land in our County should not be surprised by changes that we cause to occur, after the landowner has purchased their property. So, to my fellow planning commissioners I say, I support your thoughts on the subject of maintaining the integrity of previously platted subdivisions.

My problem is we are being asked to change the comprehensive plan in a manner that is inconsistent in its treatment of the land owners we are here to represent. If approved, we will create an plan that I feel treats land owners, on the same road, and in some cases within a half mile of each other, differently. If approved, this treatment will be as inconsistent as the rulings we have previously made on petitions for rezoning Residential to Office uses within the Highway 54 corridor.

In the past, land owners have petitioned the County to rezone residential properties along Highway 54. These petitions were consistent with the intent of the Highway 54 West Overlay District, which states, *"To offer existing tracts ...the option to convert to office uses."* To my knowledge, there have been three requests to rezone Residential to O-I. The County has not made consistent rulings: Petition 963-97 was approved. Petition 994-98 was denied; and most recently, Petition 1201-07, was denied, even though it received the planning staff's recommendation to approve.

So to correct this inconsistency, we were asked to look at the ordinance. We did, and the majority agreed that we should change the existing ordinance to accurately reflect the County's vision for growth on Highway 54. The majority felt that if a residential lot was in a platted subdivision, bordering on SR54, it should NOT be allowed to be rezoned O-I. However, the ordinance before us tonight does not treat all land owners equally on this matter.

As a case in point, compare Lot #18 of the Lakeview Estates subdivision to Lots 1, 2, 3 and 4 of the Ledgewood Subdivision. These parcels are located within ½ mile of each other, on opposite sides of SR 54.

- Lakeview Estates Lot 18 is a residential lot, in a platted subdivision, bordering on SR54. Ledgewood Lots 1, 2, 3 and 4 are residential lots, in a platted subdivision, bordering on SR54.

- Lakeview Estates Lot 18 is not accessible from any internal subdivision street. It is solely accessible via SR54. Ledgewood Lots 1, 2, 3 and 4 are not accessible from any internal subdivision street. They are solely accessible via SR54.

I do not comprehend the logic of making the main road access into a platted subdivision the distinguishing criteria. The main road access to the subdivision has absolutely no impact on any of these lots. I see these residential lots as being identical; however, this proposed ordinance before us tonight will treat them differently. It will allow the four residential lots, in the Ledgewood subdivision to be rezoned to O-I and at the same time, prohibits Lot 18 in the Lakeview Estates subdivision from being rezoned.

I have to ask, if the County wants to change the current comprehensive plan to be more in line with the way it votes on landowner petitions along the Highway 54 corridor, then why does it create a plan that continues to allow it? This plan is inconsistent. It will not treat land owners in Fayette County equally. It is not fair. I cannot support it.

Tim Thoms stated that the problem is considering a rezoning request for a lot that is in a platted recorded subdivision; however, the P.C. has not been prone to change the zoning within a platted subdivision. He commented that the P.C. has to consider consistency. He said that he could see a difference between a subdivision accessing S.R. 54 West and a subdivision which didn't, even though both subdivisions may have lots with road frontage on S.R. 54 West. He remarked that a buyer knew that he was purchasing a lot in a platted subdivision with road frontage on S.R. 54 West; however, no one knows what will happen in the future and when you get into something you better have a way out.

Jim Graw stated that it makes no sense to treat one (1) subdivision one way and another subdivision another way just because of the subdivision street access/orientation.

Al Gilbert said that the lots fronting on S.R. 54 West located in a subdivision will not remain residential because as S.R. 54 West fully develops, the pressure to rezone to a nonresidential zoning district will increase.

Bill Beckwith remarked that he did not want the P.C. to make a hasty decision. He said he would like more time for review.

Jim Graw made a motion to table the proposed amendments until the P.C. Workshop scheduled for May 15, 2008, to allow further discussion and to hold the P.C. Public Hearing on June 5, 2008. Al Gilbert seconded the motion. The motion unanimously passed 5-0.