COUNTY DEPARTMENT AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina/Dennis Dutton
Meeting Date:	Wednesday, May 4, 2011	Type of Request:	Old Business

Wording for the Agenda:

Further discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding beekeeping.

Background/History/Details:

On March 2, 2011, the Board of Commissioners instructed staff to begin developing a beekeeping ordinance. The current Zoning Ordinance does not list beekeeping as a recognized use or otherwise; therefore, it is prohibited, except within the A-R zoning district. On March 17, 2011, and April 7, 2011, the Planning Commission held Workshops to discuss beekeeping. There were numerous beekeepers present for the meetings and they have provided input during the entire process of staff developing a proposed ordinance. On April 21, 2011, the Planning Commission held another Workshop and discussed the proposed beekeeping ordinance amongst themselves; however, they did not reach a consensus. The Board of Commissions asked staff to update them on the progress of the proposed amendments at its Workshop scheduled for May 4.

If there is agreement that the time has come for the Planning Commission and Board of Commissioners to hold their required public hearings for the purpose of adopting an actual ordinance regulating beekeeping, hearings would be held during the month of June.

What action are you seeking from the Board of Commissioners?

Staff needs direction on how to proceed, possibly including permission to advertise the proposed beekeeping ordinance for public hearings by the Planning Commission and the Board of Commissioners. The soonest the Board of Commissioners could hold its hearing and possibly adopt the ordinance would be June 23.

If this item requires funding, please describe:

Not applicable.

Has this issue come before the Commissioners in the past?	Yes	If so, when?	Wednesday, March 2, 2011
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

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

Staff Notes:

Workshop Minutes

Board of Commissioners
March 2, 2011
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 an Official Workshop Session on Wednesday, March 2, 2011, 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
Carol Chandler, Executive Assistant
Floyd L. Jones, Deputy Clerk

Call to Order.

Chairman Frady called the March 2, 2011 Board of Commissioners Workshop Meeting to Order at 3:30 p.m.

Acceptance of Agenda.

Commissioner Horgan moved to accept the Agenda as published. Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously.

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.

Robyn Wilson

From: Scott D. Bennett
Sent: Friday, April 08, 2011 2:53 PM
To: Robyn Wilson
Subject: RE: Request from PC

Robyn,

O.C.G.A. § 2-14-41.1 specifically provides that we can regulate bees through zoning. It was my understanding that this is a zoning ordinance. Thus, I do not believe that we would have a problem regulating bees through the zoning ordinance.

Scott D. Bennett
County Attorney
Fayette County, Georgia
140 Stonewall Avenue, West
Fayetteville, Georgia 30214
770-305-5359
770-719-5506 (facsimile)

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From: Robyn Wilson
Sent: Friday, April 08, 2011 2:15 PM
To: Scott D. Bennett
Cc: Dennis S. Dutton; Pete Frisina
Subject: Request from PC

Scott:

Please advise on this request from Doug Powell of the PC.

3) One last item: Please have the County Attorney give us his legal opinion concerning how the Georgia Code impacts our endeavor to develop an (restrictive) ordinance.

Georgia Code: 2-14-41.1. **Prohibition against restriction of honeybee production or maintenance.**
No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This Code section shall not be construed to restrict the zoning authority of county or municipal governments.

Fayette County Zoning Ordinance: Sec. 5-3. Use, Prohibited.
If either a use or class of uses is not specifically indicated as being permitted in a zoning district,

either as a matter of right or as a conditional use, then such use, class of uses, or structures for such uses shall be prohibited in such zoning district, except as otherwise provided herein.

Thanks,

Robyn Wilson
Zoning Coordinator
Fayette County Planning & Zoning Dept.
Planning Commission Secretary and
Zoning Board of Appeals Secretary
Phone: 770-305-5162
Fax: 770-305-5258 or 770-305-5305
robyn@fayettecountyga.gov

Robyn Wilson

From: Scott D. Bennett
Sent: Friday, April 22, 2011 9:57 AM
To: Robyn Wilson
Subject: RE: Question from PC

I do not think they would be "grandfathered." In order to be grandfathered, the use must have been a lawful use when the new regulations were adopted. In this case, I believe that the bees in residential areas were not allowed.

Scott D. Bennett
County Attorney
Fayette County, Georgia
140 Stonewall Avenue, West
Fayetteville, Georgia 30214
770-305-5359
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From: Robyn Wilson
Sent: Friday, April 22, 2011 9:30 AM
To: Scott D. Bennett
Subject: Question from PC

Scott:

Doug Powell asked if existing beekeeping locations can be "grandfathered?"

Tim Thoms asked if so, how do we clarify the locations?

Please advise.

Thanks,

Robyn Wilson
Zoning Coordinator
Fayette County Planning & Zoning Dept.
Planning Commission Secretary and
Zoning Board of Appeals Secretary
Phone: 770-305-5162
Fax: 770-305-5258 or 770-305-5305
robyn@fayettecountyga.gov

Fayette County
GEORGIA

Where Quality Is A Lifestyle

To: Board of Commissioners

From: Planning and Zoning Department PAF

Date: April 22, 2011

Subject: Beekeeping

The Board of Commissioners (BOC) instructed staff to work on the Zoning Ordinance concerning beekeeping in residential zoning districts. Staff, Planning Commission, and local beekeepers have met on three (3) occasions. The main issues discussed include the number of bee hives allowed per lot, setback requirements for bee hives, location on the lot (rear yard), and screening. Consensus among the aforementioned parties was not reached. Staff is bringing the issue to the BOC for an update on the progress of the ordinance amendments and for further direction from the BOC. Some of the recommended standards are based on various model ordinances.

04/07/11 – PC Wkshop
04/21/11 – PC Wkshop
05/04/11 – BOC Wkshop

ARTICLE III. DEFINITIONS

Apiary. A place where honeybees and beehives are kept.

Beehive. A structure intended for the housing of bees.

OPTION 1

ARTICLE V. GENERAL PROVISIONS

5-26.1. *Beekeeping.* Beekeeping shall be allowed on any lot for which single-family residential is a permitted use (C-S, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, and PUD-PRD) under the following conditions:

The beekeepers presented 1) below:

A. The number of beehives shall be limited to:

1)

Number of Hives	Lot Size
2	Up to ¼ acre
4	Between ¼ and ½ acre
6	Between ½ and 1 acre
8	1 to 3 acres

Or

The PC presented 2) below:

2) a maximum of eight (8) hives per lot;

Or

Chairman Thoms, Jim Graw, Bill Beckwith, and Al Gilbert's recommendation (see 3 below):

3) eight (8) hives per acre with a maximum of 16 hives.

Or

4)

Staff recommendation:

Hive Density	Lot Size
2	Up to ¼ acre
4	Between ¼ and ½ acre
6	Between ½ and 1 acre
8	1 acre or more

Chairman Thoms, Jim Graw, Bill Beckwith, and Al Gilbert's recommendation (see B. below):

B. All beehives shall be set back a minimum of 10 feet from as measured from the nearest point of the hive to the property line.

Staff recommendation (see B. below):

B. All beehives shall comply with the required setbacks of the applicable zoning district as measured from the nearest point of the hive to the property line.

C. A minimum six (6) foot evergreen vegetative screen, at the time of planting, or a solid wall/fence constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, or other architecturally engineered facades which match these materials, shall be provided on all sides to screen the beehives from view.

D. All beehives shall only be located in the rear yard, or in the case of a corner lot the side yard.

E. Hive entrance shall be faced in the direction that will provide the least offensive flyway pattern to the surrounding neighbors.

F. The beekeeper shall provide and maintain a convenient and adequate supply of water for the bees at all times.

G. Proper storage of beekeeping equipment, honey supers, or hive debris shall comply with International Property Maintenance Code.

H. The beekeeper shall have 30 days from the time of a complaint to bring the beehive(s) into compliance.

OPTION 2

(This Option would not require any restrictions.)

ARTICLE VI. DISTRICT USE REQUIREMENTS

Doug Powell supports Option 2.
Staff does not support Option 2.

In lieu of **Sec. 5-26.1.** Beekeeping as indicated above, amend the EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, PUD-PRD, and C-S zoning districts by adding beekeeping to growing crops and gardens. Below is one (1) example.

Sec. 6-13. R-40 Single-Family Residential District.

A. *Description of District.* This district is composed of certain lands and structures in the County, having a low density single-family residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.

B. *Permitted Uses.* The following Permitted Uses shall be allowed in the R-40 Zoning District:

1. Single-family dwelling;
2. Accessory structures and uses (see Article V.); and
3. Growing crops, gardens***, and beekeeping;***

ARTICLE VI. DISTRICT USE REQUIREMENTS

All PC members support said proposed amendment.
Staff supports said proposed amendment.

Sec. 6-1. A-R Agricultural - Residential District.

A. *Description of District.* This district is composed of certain lands and structures having a very low density single-family residential and agricultural character and designed to protect against the depreciating effects of small lot, residential development and those uses which are incompatible with such a residential and agricultural environment.

B. *Permitted Uses*. The following Permitted Uses shall be allowed in the A-R Zoning District:

1. Single-family dwelling;
2. Accessory structures and uses (see Article V.);
3. Growing of crops and the on-premise sale of produce and agricultural products, provided 50 percent of the produce/products sold shall be grown on-premise;
4. Plant nurseries and greenhouses (no sales of related garden supplies); and
5. Raising of livestock; aquaculture, including pay fishing; ***apiary (all beehives shall comply with the required setbacks);*** and the sale thereof.