

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, October 25, 2001, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
 Linda Wells, Vice Chair
 Peter Pfeifer
 A.G. VanLandingham

COMMISSIONER ABSENT: Herb Frady

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
 Carol Chandler, Executive Assistant
 Dennis Davenport, Assistant County Attorney
 Karen Morley, Chief Deputy Clerk

Chairman Dunn called the meeting to order, offered the Invocation and led the pledge to the Flag.

RECOGNITION OF PATSY McELWANEY:

The Board recognized Patsy McElwaney for her twenty-five years of service to the county and her retirement.

Tax Commissioner George Wingo remarked that Patsy was being honored tonight for her twenty-five years of service to the county. He said Patsy was the third full time employee who started in April of 1976 as a part time employee. He said in November 1976 she became a full time employee of the Tax Commissioner's Office. He said when he took office in January of 1993, Patsy was one of the first people to come in and pledge her support and cooperation. He said during those nine years Patsy had demonstrated that she meant just what she said. He said the Tax Commissioner's Office had gone through some hectic times during his short two terms. He said the auto registration software had been changed three times. He said they had also changed from a year round system to a twelve-month birthday based system. He said finally two years ago they had changed to the State data base gratis system of registration. He said during this time Patsy had worked hard to make sure that these things happened with as little difficulty as possible. He said he remembered in 1997 when they were making the change to the year round birthday system, the State provided the pre-bills for his office to mail but they had provided incorrect pre-bills and these ended up being printed in house. He said Patsy worked by herself all weekend reprinting those pre-bills so that they could be mailed before January 1st. He said Patsy had been a very dedicated and loyal employee. He said Patsy's twenty-five years had been a great benefit to the county. He said he hated to see Patsy leave but he knew she was looking forward to some leisure time with her husband and Nick.

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PROCLAMATION FOR RETIRED EDUCATORS DAY:

Chairman Dunn read and the Board presented a Proclamation to Carol Lunsford recognizing Sunday, November 11, 2001 as "Retired Educators Day".

CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS. ARTICLE VI. TREE RETENTION, PROTECTION AND REPLACEMENT:

Chairman Dunn announced that this item had previously been tabled by the Board at its August 9th Commission meeting. He said the Board felt at its last meeting when this item was brought up publically that it was not the ordinance that the Board was looking for. He said this Board had made a determination that it wanted to protect as many trees and as much tree growth as it could in this county. He said the ordinance before the Board would have probably hurt some legitimate timbering operators in the county of which there were many. He said it was put back on the agenda tonight but the Board had tabled this from the agenda because the Board was still not ready. He said the Board still did not know if there was a regulation that would be fair to all of the citizens and achieve what the Board wanted. He said this item was being tabled indefinitely. He said the Board was looking at ordinances around the Country as well as in the region and undergoing a lot of legal review. He said the Board wanted to really be sure that there would not be any intended negative consequences while trying to do something good. He apologized to anyone who was present to discuss this item but the Board was not going to present this to the community until it felt it was right.

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to three minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an

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individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

Attorney Davenport interjected that since there was less than a full Board there was another opportunity for the procedures of less than a full Board to come into play. He said if petitioners would prefer to table or continue this for one meeting due to the lack of a full Board that would be the petitioner's prerogative. He said it would take an affirmative vote of three Commissioners to pass a rezoning.

PETITION NO. 1085-01:

Zoning Director Kathy Zeitler read Petition No. 1085-01, Donald J. Davis and Donald Glen Davis, Owners/Agents request to rezone 1.9 acres from C-H to M-1 to develop a large truck repair and maintenance shop. She said this property was located in Land Lots 200 and 201 of the 5th District and fronted on S.R. 85 North. She said the Planning Commission recommended approval subject to recommended conditions #1 and #2 (4-0) and Staff recommended approval with conditions.

Chairman Dunn asked the petitioner, Donald Davis, if he was aware of what the Attorney had just stated. He remarked that Mr. Davis could postpone this request since one of the Board members was absent and there was not a full Board.

Donald Davis stated that he was ready to proceed with the hearing. He said he resided at 250 Postwood Drive in Fayetteville. He said he was present to request the rezoning of a piece of property located on S.R. 85 from C-H to M-1. He said this was like a little lost plat and was sitting in the middle of M-1. He said he had owned the property since 1989. He stated at one time he had come into the office to check on this property. He said since all of the surrounding property was M-1 he thought his property was also zoned M-1. He said since 1978 it had really been used for the type use that would require M-1. He said at one time C-H had required those types of businesses. He said there had been two paving companies located there before he purchased the property. He said he purchased the property in 1989. He remarked that from 1989 through 1996 it was used as a sub-base for his business and did have a small fleet of garbage trucks there. He said since that time his son had been doing some refurbishing work on trucks. He said the use would not be changing. He said the wording referred to a large truck repair shop. He said the shop was a four mechanic shop and

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would not be a large operation. He said the building was only a three bay garage. He said he did not know if there would be any problem in approving this but he asked for condition #2 to be deleted. He said the property was exempt from the watershed as he understood it. He said he also had some pictures of the property for the Board to review. He said he had drawn lines on the pictures to show the amount of property that would be lost due to the 150 foot buffer. He said this would take over half of the property.

Chairman Dunn remarked that due to the way the property was currently zoned it was exempt from the watershed regulations.

Zoning Director Kathy Zeitler replied that this did not have anything to do with the zoning district that the property was located in. She said the property was just exempt due to the fact that the lot configuration had not changed since prior to the adoption of the watershed ordinance.

Chairman Dunn said if the Board changed the zoning and the lot configuration then it would change other things as well.

Ms. Zeitler replied that the Board could change the zoning and the property would still remain exempt. She said the only thing that would make the property not exempt any longer was if the property changed by adding land to it, taking away land or subdividing the property.

Chairman Dunn asked Mr. Davis if he had anything else to say.

Mr. Davis replied that one of the reasons they were interested in using the balance of the land was to park some of their trucks in the rear of the property. He said he also thought they furnished parking for one or two of their customers who did the maintenance work.

Chairman Dunn asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's comments regarding this request.

Commissioner VanLandingham remarked that the Board had received some further information right before the meeting. He said Mr. Davis would be allowed to park trucks in the rear of the property but would not allow him to expand the building. He said he would echo what the Planning Commission had already set forth and that there was no problem with the current building and operation. He expressed concern with changing the zoning and what could go in within twenty-five feet of a stream that contributes to Fayette County's water supply. He said there had been a great effort on the part of this board and other boards to protect the county's water supply. He said if this was relaxed in an area such as this, then the next person who came along would expect the same treatment and it would be very difficult to deal with. He said the problem would be with future use that could go on this property. He said it would

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be permissible to park trucks behind the building but there could be no development on the property.

On motion made by Commissioner Wells, seconded by Chairman Dunn to approve Petition No. 1085-01 with the three conditions as recommended by staff, discussion followed.

Mr. Davis remarked that Commissioner VanLandingham had indicated that there could be parking there. He said he understood from Ms. Zeitler that the first one hundred feet could not be used. He asked for clarification on this issue.

Ms. Zeitler referred the Board to a map in their packet. She remarked that the parking could go past the blue line, past the first green line up to the second green line which was the one next to the red line. She said it was approximately 120 foot area by a 120 foot area behind the building that was available for parking to the green line on the right.

Commissioner Pfeifer remarked that the map did not show the adjacent property behind the building. He asked if this could be accessed.

Ms. Zeitler replied that she believed that it could be accessed in the rear. She said the property followed the creek and it was 100 feet from the creek which was the rear property line.

Chairman Dunn said people would be allowed to park in the area marked #3 but no one could park closer to the stream.

Ms. Zeitler felt the way the stream meandered it would probably not be usable property.

Chairman Dunn said the Board was trying to allow Mr. Davis to do what he wanted to do but at the same time the Board had no choice but to be totally committed to protecting the waters of Fayette County and the State of Georgia. He said every single time the Board had an action in which it could increase the protections on the water, the Board would do so. He said the Board was determined to keep the waters as clear as possible.

Mr. Davis said he was having a little trouble in understanding the fact that he was exempt from the watershed provision when that was what the property had been used for in the past years.

Chairman Dunn asked Mr. Davis why he had to change the property from its current zoning to M-1 in order to do the exact same business on the property that he was doing now.

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Mr. Davis replied nobody had told him any differently. He said he and his son thought they were in M-1 zoning. He remarked that nobody had ever cited them for violation the whole time they were there.

Chairman Dunn interjected that Mr. Davis was not violating anything.

Mr. Davis said he thought they would have been in violation if they had done truck maintenance.

Chairman Dunn asked at what level did this go from commercial to industrial use.

Ms. Zeitler remarked that Mr. Davis had said the current use of the property was equipment refurbishing. She said she did not know the name of the business or even if it had a business license. She said Mr. Davis had stated at the Planning Commission hearing that he had operated Clayco from that location for several years up until 1996. She said the business license records showed that Clayco was down the street at 1449 S.R. 85 North from 1991 to 1994. She said nothing was shown at 1591 S.R. 85 North.

Chairman Dunn asked what was shown for this property.

Ms. Zeitler replied that she did not show anything for this property as far as a business license. She said Mr. Davis had stated that he was doing some equipment repair and now he wanted to do large truck repair. She said large trucks would be dump trucks, garbage trucks and things of that nature. She said this would be a much more intense use of the property.

Commissioner Wells said this was the Board's concern. She said if larger pieces of equipment were brought in, then there would be oil, residues and spillage problems. She said the closer this gets to this major tributary the more the chance of contaminating the water. She said what Mr. Davis was doing in the past and the distance he was from the tributary was the reason he was exempt. She said things had changed drastically in the last few years especially with water being limited. She said it was incumbent upon the Board to protect the water as much as possible. She said Mr. Davis might continue to do a small business there but the rezoning would go with the property. She expressed concern with whomever would purchase the property in the future. She said the Board would have to protect the lot and the area from whatever that person might do under that zoning.

Chairman Dunn clarified that the creek behind the building was Morning Creek. He said Morning Creek was a tributary that ran into the Flint River. He said the Flint River was where Fayette County gets the bulk of its drinking water. He said there had to be very stringent protections on the whole drinking water system and the Board really did not have any choice in that.

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Mr. Davis asked if there was any possibility that the Board could reduce the watershed buffer to 50 feet since he was not really doing anything there.

Commissioner Wells said the Board could not do that. She said what the Board decided tonight would go with the property zoning. She said when Mr. Davis sells the property, then that person would have the opportunity to increase the use on that property.

Commissioner VanLandingham said there was another issue that the Board would need to look at. He said it was not what Mr. Davis was doing but what M-1 zoning would allow at some future date to go in there. He said if the Board changed this zoning then someone could go in and build a pesticide manufacturing facility within twenty-five feet of that stream. He said the chicken farmers and the cattle ranchers are facing the same dilemma.

Mr. Davis thanked the Board members for their time and said he would like to withdraw his petition.

Attorney Davenport interjected that Mr. Davis would not have the opportunity at this time to withdraw his petition. He said once a petition was heard it would be up to the Board to take a vote on the action.

Commissioner Wells said there was a motion and a second on the floor.

Commissioner VanLandingham said he could support the motion and the second if the condition on landscaping was removed. He said there was nothing changing on the building.

Chairman Dunn said he could vote against this motion which would allow Mr. Davis to not get what he asked for and then probably achieve what Mr. Davis had just asked the Board to do. He said because there was a motion on the floor the Board would have to vote on it. He said if the Board passed the motion then Mr. Davis would have a piece of M-1 property. He said if the Board did not pass the motion then the zoning would remain the same as it currently was zoned.

Mr. Davis said he had inquired just yesterday to Ms. Zeitler about his position. He said he had told her at that time that he did not want to proceed with giving up that much. He said he understood from her that he could withdraw it before the vote.

Chairman Dunn said Mr. Davis could have withdrawn the request at a certain time but now it was too late. He said the Board would be required to vote on the motion that was currently on the floor. He said it was his intention not to support the motion. He said if this motion was turned down, then Mr. Davis' property would not be rezoned and would remain C-H zoning.

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The motion failed 1-3 with Chairman Dunn, Commissioner VanLandingham, and Commissioner Pfeifer voting in opposition. Commissioner Frady was absent for the vote. A copy of the Ordinance and Resolution denying Petition No. 1085-01, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

Chairman Dunn remarked that the motion had failed and Mr. Davis' property would remain C-H zoning.

PETITION NO. 1086-01:

Zoning Director Kathy Zeitler read Petition No. 1086-01, Joe D. and Vasana S. Smith, Owners, and Attorney Chris Ramig, Agent, request to rezone 3.9915 acres from A-R to R-40 to develop one (1) single-family dwelling lot. She said this property was located in Land Lot 254 of the 5th District and fronted on South Kite Lake Road. She said the Planning Commission recommended approval subject to recommended condition #2 (4-0) and Staff recommended approval with conditions.

Attorney Chris Ramig said he was representing Joe and Vasana Smith.

Attorney Davenport interjected and asked Attorney Ramig if he wanted to proceed with less than a full Board.

Attorney Ramig replied yes, he wanted to proceed.

Attorney Ramig remarked that the purpose of the petition for rezoning was to allow the Smiths to build a garage on a piece of residential property that they purchased earlier this year. He said in reviewing the site for any such garage there was only one place that was suitable. He said that place was not permitted to be built on given the current setbacks with A-R zoning. He said accordingly, the Smiths, some time ago sought to gain a variance on the property and that was denied. He said this time they were requesting a rezoning. He called the Board's attention to a map of the area. He said in the center of where the subject property was located, to the North, East and South there was adjacent R-40 zoned property. He said this piece of property was a non-conforming A-R lot and was less than five acres. He said it was 3.99 acres under one reading and 4.03 under another reading. He said it was certainly not conforming to the A-R five acre requirement. He said staff had recommended approval with two conditions. He said the Planning and Zoning Commission had removed one of those two conditions. He said the first of the two conditions about further subdividing the property was removed by the Planning and Zoning Commission. He asked for the Board's consideration in removing condition #2 from the recommended conditions. He said staff was asking that a condition be placed on the Smiths that before the issuance of a building permit that they dedicate approximately ten feet along the entire front of their property for a future road which the staff had stated was "to ensure the provision of adequate right-of-way per an established goal of Fayette County Comprehensive Growth Management Plan." He said a statement had

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been made at the Planning and Zoning Commission meeting on this petition on October 4th that no other property owner on South Kite Road had been required to give such property frontage to the county. He said this would be the first. He said ordinarily if the county needed property it would take certain steps and would get that property but it would not do so without a fair payment to the landowner. He said accordingly he was asking that the Board not impose on these landowners something that would not be imposed on other landowners and that was to say that they must give frontage to the county. He asked for the Board's consideration in this rezoning request.

Chairman Dunn asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. With no one speaking in opposition to the petition, he asked for the Board's pleasure in this matter.

Commissioner Pfeifer felt it seemed sort of backwards to let something as important as zoning to be driven by the location of a garage but he sympathized with the position that the petitioners were in. He felt the area along South Kite Lake Road was not R-40. He said in looking at the other properties in that area there was nothing else there that was that small. He said this was a non-conforming lot but he would like to make a motion that the property be rezoned R-85 which was three acres with a side yard set back of twenty-five feet. He said he did not know if twenty-five feet was enough but that was as far as he would be willing to go. He said his motion was with no conditions.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to approve Petition No. 1086-01 as R-85 zoning, discussion followed.

Chairman Dunn asked for the requirements on an R-85 zoning.

Ms. Zeitler responded there would be a seventy-five foot front setback with twenty-five feet on the side, fifty feet in the rear, a minimum lot size of three acres, 3,000 square foot minimum house size and 125 feet lot width at the building line.

Commissioner Pfeifer asked Attorney Ramig if the house size was a minimum of 3,000 square feet and Mr. Ramig replied yes.

Chairman Dunn asked if the garage would fit in with the twenty-five feet side.

Attorney Ramig said he was not certain that a twenty-five foot side set back would be sufficient for the proposed garage. He said he wanted to correct something that he had already said and that was this was a garage or a car port that petitioners wish to build. He said a garage would be enclosed presumably on four sides and a car port would be open on at least one side. He asked for a moment to speak with petitioners.

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Ms. Zeitler interjected that due to the location of the septic tank, petitioners had to propose a sixteen foot side set back for their proposed structure and they would not be able to increase that at all because of the location of the septic tank.

Chairman Dunn questioned if the Board voted in favor of this motion then petitioners might not be able to include the garage. He said it would be hard for him to vote for anything to deny petitioners the ability to put a garage on the property. He clarified that the motion was to go with R-85 with no conditions. He suggested that Attorney Ramig take a few moments and discuss this with his clients. He said one of Attorney Ramig's objections was the ten foot right-of-way which would go away in this motion. However, it might be hard to get the garage in there on that side.

Attorney Davenport clarified that there was a four member Board tonight and stated if a motion was denied that would be the last motion for rezoning of this property for six months.

Attorney Ramig said petitioners were satisfied with the recommendation for R-85 zoning.

Chairman Dunn asked if there was anymore discussion and there was none. He called for the vote.

The motion carried 4-0. Commissioner Frady was absent for the vote. A copy of the Ordinance and Resolution granting Petition No. 1086-01 as R-85 zoning, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

ORDINANCE NO. 2001-13 - AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE VIII. OFF-STREET PARKING AND SERVICE REQUIREMENTS, SECTION 8-216. REDUCTION OF PARKING AND MAXIMUM LOT COVERAGE AND SECTION 8-225. NUMBER OF PARKING SPACES

BY THE ZONING DEPARTMENT: Zoning Director Kathy Zeitler remarked that the Planning Commission had recommended approval 4-0. She said that some amendments including deletion of the cap on the parking which was set at 5% above the minimum were being proposed. She said also the maximum percentage impervious for nonresidential uses and conditional uses located in residential zoning districts were being established and also correcting the parking calculation formula for church uses back to the original one space per 150 square feet of gross floor area.

Chairman Dunn remarked that this item as well as the ones to follow were public hearing items. He said anyone present who would like to speak in favor or against could do so.

Hearing no comments on this issue, Commissioner Wells stated that she would like to make a motion.

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On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Ordinance No. 2001-13 regarding Amendments to the Fayette County Development Regulations regarding Article VIII. Off-Street Parking and Service Requirements, Section 8-216. Reduction of Parking and Maximum Lot Coverage and Section 8-225. Number of Parking Spaces by the Zoning Department, discussion followed.

Chairman Dunn asked why the county was going through the establishment of a minimum and then saying that there could not be less than 5% of the minimum. He asked why there was not just a minimum.

Ms. Zeitler replied that there was a median before and right now the median stated it could go 5% above or below the minimum parking calculation requirement. She said now the county would be establishing a maximum percent impervious for the nonresidential uses in residential zoning. She said the county had already recently established percent impervious for the nonresidential uses in nonresidential zoning districts. She said therefore, the county would no longer need the cap.

Commissioner VanLandingham asked why there needed to be a minimum if there was no cap.

Ms. Zeitler replied that staff wanted to provide enough parking for that use so there would always be a minimum. She said there was never any maximum until the cap was put on and there were problems with certain uses being hindered by that cap. She said now staff was proposing to delete the cap and just go with the maximum percent impervious. She said as long as someone met the minimum requirements they would be alright.

Chairman Dunn clarified that a minimum had been established and that was an exclusive term and now it was being said that someone could go 5% below the minimum. He asked why there was not just a minimum. He said the county either had a minimum or it did not have a minimum.

Ms. Zeitler replied said staff was proposing to delete the parking based on the median requirements altogether. She said it currently stated that required parking spaces may be based on a median number not to exceed 5% above or below the required number of parking spaces for the use or facility. She said this was proposed to be deleted. She said it also stated that off-street parking spaces for all nonresidential uses will not be reduced by more than 5% below the minimum required. She said staff was proposing to stay with the reduction which only amounted to a couple of spaces here and there. She said this would prevent individuals from having to go for variances to parking spaces when there was a site constraint or something of that nature. She said 5% was not very much.

The motion carried 4-0. Commissioner Frady was absent for the vote. A copy of Ordinance No. 2001-13, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

ORDINANCE NO. 2001-14 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE V. GENERAL PROVISIONS, SECTION 5-40. STANDARDS FOR TELECOMMUNICATIONS ANTENNAS AND TOWERS BY THE ZONING DEPARTMENT: Zoning Director Kathy Zeitler remarked that the Planning Commission had recommended approval 4-0. She remarked that this was an area of the tower ordinance where the previous ordinance had a height restriction where a 20 foot height was being added as a permitted use. She said this established a maximum height for the tower. She said when staff revised the tower ordinance that height was inadvertently left out. She said staff was proposing this as a housekeeping item to revise the date for the pre-existing towers that were approved between 1996 and 1998 to be included therein and also to allow them to increase in height since they were existing towers. She said staff was also proposing to correct the permitted uses to include certified notice of installation of antennas on structures and towers and placement of additional equipment at tower sites and establish a staff approval process for specific permitted uses and establish a maximum height for specific permitted uses.

Chairman Dunn asked if anyone wished to speak in favor or against this item. Hearing none, he asked for the Board's pleasure on this matter.

On motion made by Commissioner VanLandingham, seconded by Chairman Dunn to approve Amendments to the Fayette County Zoning Ordinance regarding Article V. General Provisions, Section 5-40. Standards for Telecommunications Antennas and Towers by the Zoning Department. The motion carried 4-0. Commissioner Frady was absent for the vote. A copy of Ordinance No. 2001-14, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VII. CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS, SECTION 7-6. TRANSPORTATION CORRIDOR OVERLAY ZONE BY THE ZONING DEPARTMENT: Zoning Administrator remarked that the Planning Commission recommended approval 3-1.

Commissioner VanLandingham stated that he would like to request that this item be tabled to the next Commissioners' Meeting on November 8th. He said he had reviewed this item and needed additional time for further review. He asked for the Board's consideration in tabling this item to the November 8th meeting.

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It was the consensus of the Board to table this item to the November 8th Commission meeting for further discussion.

The following amendments relate to the Final Summary Report of Compliance with the Regional Development Plan (ARC) including the Following Proposed Amendments:

H. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VI. DISTRICT USE REQUIREMENTS, SECTION 6-24. C-S, CONSERVATION SUBDIVISION BY THE PLANNING DEPARTMENT:

Senior Planner Pete Frisina said he was present to summarize the last phase of the regional development plan process that the county was going through with the Atlanta Regional Commission. He said the R.D.P. process was a function of the Georgia Planning Act requiring all local governments and regional development centers to prepare comprehensive plans. He said this was part of the requirement for qualified local government status. He remarked that the A.R.C. had adopted a Land Use Strategy in May 2000 to implement the R.D.P. plan. He said the purpose of this strategy was to ensure that land use policies represented in the regional development plan and the regional transportation plan were guided to the fullest extent in the Atlanta region. He said also the approval that the R.D.P. and R.T.P. were also elements that helped free up the money coming down from the Federal government and the Clean Air Act.

Mr. Frisina further remarked that the process consisted of three steps. He said the first step was to prepare a report as to how current local government development policies complied with the R.D.P. He said staff had done this in November 2000. He said the second step was to outline proposals for staff to investigate to amend county policies to try and come into more compliance with the R.D.P. He said staff had done this in March 2001. He said this section was the last portion where staff had actually gone in and looked at some of the suggested items and made recommendations on what needed to be done. He said he had ten items to discuss with the Board. He said staff had not proposed any action on the first six items. He said there would actually be some amendments that staff was proposing for the last four items for the zoning ordinance and the development regulations.

Commissioner Pfeifer said he had a question on point number 6 where it stated the county would work with Peachtree City to complete the connection of Peachtree East Shopping Center, located on S.R. 54 East to City cart paths and submission by Peachtree City to retain a consultant for this project. He asked Mr. Frisina for the status of this item. He asked what the consultant would consult on.

Mr. Frisina replied Peachtree City was going to hire a consultant to actually do the ground work and planning of where a cart path would go. He said Peachtree City had applied for an LCI Grant from the A.R.C. but did not get the grant; therefore, Peachtree City did not hire a

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consultant and did not follow through with the project. He said Peachtree City may apply again next year.

Commissioner Pfeifer asked Mr. Frisina how involved a process this would be and Mr. Frisina replied that the county would assist where it could since part of the cart path would be going through the county.

Chairman Dunn said the county did have to support their request when they made it. He said this was approximately two years ago and the county had to say that it also wanted it done. He said Peachtree City had gotten a lot out of the LCI Grant. He asked if this portion had been turned down.

Mr. Frisina replied that Peachtree City had two requests and one was approved for the work on the West Village design.

Chairman Dunn said he had not seen any evidence at the A.R.C. that this was going to be requested this year. He said all of the monies in the LCI program were increasing. He said he had reviewed all of the LCI Grants in the metro Atlanta area and did not recall this particular one being resubmitted.

It was the consensus of the Board that this item be tabled to the December 5th Commission meeting.

I. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE IV. ESTABLISHMENTS OF DISTRICTS, 24. C-S, CONSERVATION SUBDIVISION BY THE PLANNING DEPARTMENT: Senior Planner Pete Frisina said the next item was number 7. He said this referred to the investigation of the development of conservation subdivision regulations. He said conservation subdivision was a form of development that permitted a reduction in lot size and bulk requirements with the remaining land being devoted to open space and recreation, and preservation of environmentally sensitive areas or agriculture. He said staff had proposed a conservation subdivision zoning district and it would require the amendments of Article IV and Article VI to put them in the zoning ordinance.

It was the consensus of the Board that this item be tabled to the December 5th Commission meeting.

J. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VII. CONDITIONAL USES, EXCEPTIONS AND MODIFICATIONS, SECTION 7-2. NON-CONFORMANCES BY THE PLANNING DEPARTMENT: Senior Planner Pete Frisina said this item related to the investigation of the

development of Historic Area Standards for historically significant areas of the county. He said staff had proposed something similar to what was in the conservation subdivision ordinance. He remarked there were approximately 300 structures that were identified in the county in 1990 in an historic survey that had been done for the county. He said it was staff's intent to check the map and notify a developer of the presence of the historic structure and ask the developer to evaluate this as to whether or not the developer could use the historic structure within the development. He said some of the structures would not comply with the new zoning district that they would be requiring either for house size or setbacks. He said this procedure of notifying developers and the statement in the zoning ordinance was a proactive approach to preserving these structures. He said this basically made a statement that the county felt that these structures were important and the county would be willing to work with these people to try and save some of the history and character of the county.

Chairman Dunn asked what would happen if somebody wanted to maintain the building but it did not fit in that zoning category.

Mr. Frisina replied that it would go before the Zoning Board of Appeals for their review. He said all of these would require a variance before the Z.B.A.

It was the consensus of the Board that this item be tabled to the December 5th Commission meeting.

K. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN REGARDING THE COMMUNITY FACILITIES ELEMENT BY THE PLANNING DEPARTMENT: Senior Planner Pete Frisina remarked that this item was to incorporate the Greenspace Program into the Comprehensive Plan. He said he had included a map plus a paragraph to acknowledge existence of the program within the Comprehensive Plan.

Commissioner Pfeifer questioned if it was not in one of the designated areas, would it still qualify as greenspace.

Mr. Frisina replied yes. He said that was a general map that was outlined in the Greenspace Program of where the county would look to permanently protect greenspace. It was the consensus of the Board that this item be tabled to the December 5th Commission meeting.

L. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE XI. GROUNDWATER RECHARGE AREA PROTECTION ORDINANCE BY THE ENGINEERING DEPARTMENT: Senior Planner Pete Frisina said agenda items L and M were also part of the R.D.P. process. He said staff had to review and refine the county's regulations to

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protect environmentally sensitive areas. He said the regulations were Watershed Supply, Groundwater Recharge, Wetland areas and floodplain. He said staff had sent those ordinances into the Department of Community Affairs for review. He said the Watershed Ordinance came back and did not need any revisions. He said the Groundwater Protection Ordinance and the Floodplain Regulations as they related to wetlands needed some added verbiage as recommended by the Department of Community Affairs. He said staff had taken their suggestions and put these into the ordinance.

Commissioner Wells said she had a question about that because it referenced Tables MT-1 and MT-2. She said on page 29 referencing the first table it talked about minimum lot sizes for typical sized homes. She said the paragraph stated that the County Board of Health would require larger lots to assure usable soil area and in (B) it stated that the County Board of Health may also require larger lot sizes when physical factors indicated the need to do so. She said this was not really a function of the Board of Health as far as requiring larger lot sizes. She said the Board of Health could say whether or not it would fit in but it would not be a function of the Board of Health to make this a requirement.

Mr. Frisina remarked that those two pages were out of the Department of Human Resources' manual that the Board of Health did use. He said these pages were just added in as an addendum without any changes from the State manual. He said in most cases staff found that the county's lot sizes were much greater than anything that was required by the State. He said in the county's ordinance there was a statement that said in the case when the county required a larger lot size then that would always take precedence. He said in no way would staff be going below county minimums.

Commissioner Wells said she was thinking about a subdivision that was platted and people were planning on building a house on a particular lot and then it was determined that the soils were not usable. She said if this was taken literally, then the Board of Health could come in and require that they have a larger lot size within that subdivision and that was not really within the purview of the Board of Health. She said it was basically stating that the soils would not support a system, but she would not want someone to take it to the point where a Board of Health member or environmentalist could go out and decide the sizes of lots.

Mr. Frisina replied that he understood what Commissioner Wells was saying but he had not read it in that way. He said the sanitarian was the actual administrator of the policies for the Board of Health. He said that person would be the one who would say there were not sufficient soils and then they would go back and redesign the lots to try and find enough area for sufficient soils.

Commissioner Wells asked Attorney Davenport if he saw a problem with this.

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Attorney Davenport replied that there would always be an element of input from the Department of Public Health with respect to the septic system layout.

Commissioner Wells felt "shall require" and "will require" were legal imperatives.

Mr. Frisina remarked that the choice staff had was to either take this verbiage and put it directly into the ordinance or to just take these two pages out of the manual from D.H.R. and include it as an addendum. He said staff felt that was the easier route since they did require the verbiage to be in the ordinance in some form or fashion.

Commissioner Wells said she was concerned about a regional concept coming in and changing the flavor of Fayette County. She said achieving greenspace was an admirable goal and she supported that but she did not want someone outside of the county's boundaries setting what Fayette County would develop.

Mr. Frisina remarked that this was the information that the Director of Environmental Health Rick Fehr used in his manual.

Chairman Dunn remarked that the Land Use Strategy that was jointly developed by the A.R.C. and G.R.T.A. was what the Board was dealing with. He said when the county had responded to them about this they were told that in no uncertain terms that the county was unhappy with the prospect of them coming down here and telling Fayette County what to do. He said the Board had also told them that Fayette County would be good regional planning partners and would fulfill all of the requirements as they were being developed only if they were considered to be beneficial to Fayette County. He said the Board told them that the county would not comply with any of their regulations or directives that were not good for Fayette County. He said this was a long-standing process. He said the first part of the process was Fayette County comparing its plan to their plan. He said this had been done and submitted. He said the county had reminded the State in that submission that the county's plan was different from other areas and that the county would only change things in the plan if they were beneficial to Fayette County. He said the county had stated this in every submission that the county had given to the State. He said Fayette County wanted to be a good planning partner but would not do something that the State directed the county to do if it was not felt to be in the best interest of this county.

Commissioner Wells said this was her problem with this issue in that the State had said the county did not have exactly the same verbiage. She said she was not sure if legal staff had reviewed this to determine what kind of implications this could have. She said once this was adopted, it was adopted and it would be very difficult to undo.

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Mr. Frisina remarked that these regulations were handed down by the Department of Community Affairs and not the Atlanta Regional Commission. He said the D.C.A. did have State environmental criteria that were given to them by the Legislature.

Commissioner Wells remarked that this was all packaged together as the Regional Development Plan. She said the county was taking all of these different components and she was afraid that the county would become very complacent. She said she was afraid that Fayette County would have a plan that was just like everybody else's plan and Fayette County was not like everybody else. She said she did not want Fayette County to be like everybody else.

Chairman Dunn commended the Planning Staff had done a good job in not putting anything Fayette County at risk with any of these changes. He said Fayette County was the only county in the metro area who had told the State in writing that it would not allow them to do land use planning in Fayette County.

Chairman Dunn remarked on the issue of the new conservation subdivision. He said he would never go below an acre in Fayette County. He said Fayette County could not do a conservation zoning like all of the other counties were doing.

Attorney Davenport stated on the use of the word "shall". He said this indicated that if something fell within a certain set of parameters there would be no discretion and it would be done that way. He said "shall" sometimes infers that this would fix the perceived problem. He said there could be an inferred responsibility because of a formula that in a certain set of circumstances could solve a problem whatever the problem might be.

Chairman Dunn asked if there was a submission deadline for the county to respond.

Mr. Frisina replied the county would need to get a report to the State by January 2002.

Chairman Dunn said the Board would need to review these items further.

Commissioner Wells asked Mr. Frisina to send anything of that nature to legal council for review.

It was the consensus of the Board to table this item to the December 5th Commission meeting.

M. CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE IV. FLOOD PLAIN REGULATIONS BY THE ENGINEERING DEPARTMENT:

It was the consensus of the Board that this item be tabled to the December 5th Commission meeting for further discussion.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the consent agenda as presented. The motion carried 4-0. Commissioner Frady was absent for the vote.

FAYETTEVILLE FIRST UNITED METHODIST WOMEN - SIGN REQUEST:

Approval of request from Fayetteville First United Methodist Women to place a sign on the courthouse lawn from October 28 through November 3, 2001 to advertise their annual craft fair on November 3.

KEEP FAYETTE BEAUTIFUL: Approval of request from the Director of the Water System Tony Parrott regarding Keep Fayette Beautiful's request to place an insert in December water bills regarding recycling Christmas trees.

Commissioner Pfeifer remarked that citizens could bring their Christmas trees to the landfill where it would be chipped up. He said this service was free to the citizens and each person would receive a free seedling.

EQUILON LUBRICANTS COMPANY - AWARDED BID FOR GEAR OIL AND MULTIPURPOSE GREASE: Approval of recommendation from Fleet Manager Bill Lackey to award bid to Equilon Lubricants Company for gear oil and multipurpose grease.

EQUILON LUBRICANTS COMPANY - AWARDED BID FOR HYDRAULIC FLUID: Approval of recommendation from Fleet Manager Bill Lackey to award bid to Equilon Lubricants Company for hydraulic fluid.

EQUILON LUBRICANTS COMPANY - AWARDED BID FOR TRANSMISSION FLUID: Approval of recommendation from Fleet Manager Bill Lackey to award bid to Equilon Lubricants Company for transmission fluid.

B & B OIL COMPANY - AWARDED BID FOR ENGINE OIL: Approval of recommendation from Fleet Manager Bill Lackey to award bid to B & B Oil Company pending the outcome of testing on their oil. If the results of the test do not prove to be satisfactory, then it would be Mr. Lackey's recommendation that Equilon Lubricants Company be awarded the bid for engine oil.

MINUTES: Approval of minutes for Board of Commissioners meetings held on September 27, 2001, October 3, 2001 and October 11, 2001.

PUBLIC COMMENT:

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Members of the public are allowed up to three minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

There was no public comment.

STAFF REPORTS:

EXECUTIVE SESSION: Attorney Dennis Davenport requested an executive session to discuss one legal matter.

Chairman Dunn requested an executive session to discuss one legal item.

2001 GOVERNOR'S PUBLIC SAFETY AWARD PRESENTED TO CHIEF JACK

KRAKEEL: Commissioner VanLandingham announced that Chief Jack Krakeel was a recipient of the 2001 Governor's Public Safety Award. He said the award was presented to Chief Krakeel today at the Forsyth Training Center in Forsyth, Georgia. This award is in recognition of the men and women dedicated to the Georgia Public Safety Community for their acts of heroism, outstanding deeds and exemplary performance.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to adjourn to executive session to discuss two legal items. The motion carried 4-0. Commissioner Frady was absent for the vote.

LEGAL: Attorney Davenport briefed the Board on a legal item.

The Board took no action on this matter.

LEGAL: Chairman Dunn discussed a legal matter with the Board.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that two legal items were discussed in executive session. The motion carried 4-0. Commissioner Frady was absent for the vote. A copy of the Affidavit, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 9:30 p.m.

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Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 8th day of November, 2001.

Karen Morley, Chief Deputy Clerk