

THE FAYETTE COUNTY PLANNING COMMISSION met on November 4, 2010, at 7:13 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Tim Thoms, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw

MEMBERS ABSENT: Douglas Powell

STAFF PRESENT: Pete Frisina, Director of Community Development
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Deputy Harold Myers

Welcome and Call to Order:

Chairman Thoms called the Public Meeting to order and led the Pledge of Allegiance. Jim Graw gave the Invocation. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Minutes of the Public Hearing held on October 7, 2010.

Chairman Thoms asked the Board Members if they had any comments or changes to the Minutes. Al Gilbert made the motion to approve the Minutes. Jim Graw seconded the motion. The motion unanimously passed 4-0. Doug Powell was absent.

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2. Consideration of the Minutes of the Public Meeting/Workshop held on October 21, 2010.

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Bill Beckwith made the motion to approve the Public Meeting/Workshop Minutes. Al Gilbert seconded the motion. The motion unanimously passed 4-0. Doug Powell was absent.

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THE FOLLOWING WILL BE CONSIDERED BY THE PLANNING COMMISSION ON NOVEMBER 4, 2010, AND BY THE BOARD OF COMMISSIONERS ON DECEMBER 9, 2010.

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3. Consideration of the proposed amendments to the Fayette County Code of Ordinances, by the addition of Chapter 20. Fayette County Zoning Ordinance, in its entirety, and proposed amendments to the Fayette County Comprehensive Plan Text and Map.

Pete Frisina stated the proposed amendments to the Zoning Ordinance are actually the first round of amendments. He said the BOC had reviewed the proposed amendments for approximately three (3) months before authorizing staff to advertise the proposed amendments. He added the BOC was given a copy of the revised Zoning Ordinance and an Executive Summary which detailed the major amendments. He commented he had met with each commissioner individually and received some feedback. He reported the feedback from the BOC had been added and highlighted in the Executive Summary. He presented a few minor changes which Robyn Wilson had found while proofreading the proposed amendments which she also emailed to the PC. He pointed out the following amendments: 1) Article III. Definitions, deleted “bus” as requested by the BOC for Vehicle, Passenger; 2) Article IV. Establishment of Districts, Section 4-4 Boundary Rule, inserted “official” prior to “zoning map” since the zoning map is called the official zoning map; 3) Article V. General Provisions, Section E. Public Hearings Required, h. was amended to read follows: ~~Two (2)~~ ***The degree of the tower’s compliance with the one (1) statute mile separation (inside the Highway Corridor) or one and one-half (1.5) statute mile separation (non-highway outside the Highway Corridor);*** and (Adopted 12/15/05); 4) deleted i. as it was a partial duplicate of h.; and 5) added “minor subdivision plat” throughout the ordinance, where applicable, due to the revisions adopted when the Subdivision Regulations were amended. He added the Zoning Ordinance would become a part of the County Code of Ordinances.

Pete Frisina advised there were also proposed amendments to the Land Use Plan Text and Map regarding the PUD-PSBC.

Al Gilbert commented he did not remember taking this length of time and working this much on one (1) ordinance and everyone getting along as well as they did because there was very little disagreement and no major disagreements. He remarked he was proud the group could sit down and do what they did which is a compliment to staff because they have done a superior job and he added he was appreciative of the job staff had done.

Chairman Thoms asked if there were any public comments.

Attorney Ellen Smith, on behalf of T-Mobile and the Georgia Wireless Association, remarked she goes to numerous jurisdictions, not only to present wireless applications, but also work with other jurisdictions that are now rewriting their ordinances. She reported DeKalb County has been working

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on revisions to their telecommunications ordinance for over two (2) years and had finally hired an outside consultant and aren't any closer to adoption. She said Fayette County had undertaken a gigantic task. She commented she and the industry appreciated the willingness of the County to listen and hold discussions regarding the proposed amendments. She noted she holds monthly conference calls with Verizon and AT&T and Fayette County has been one (1) of the topics of conversations. She added Liz Hill, on behalf of American Tower was also present and she also appreciated the willingness to listen and hold discussions regarding the proposed amendments.

Bill Beckwith commented the industry had been very helpful in explaining telecommunication technicalities to staff and the PC.

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

Chairman Thoms stated staff had done a tremendous job with not only the telecommunications industry but business owners and citizens.

Jim Graw reported, for the record, that no one was present in the audience except Attorney Smith and Ms. Hill from the telecommunications industry.

Chairman Thoms remarked Doug Powell, who was absent tonight, submitted the following comments in writing to Robyn Wilson and requested it be made a part of the Minutes. He summarized the three (3) points of concern as follows: 1) Operating Hours; Limited Commercial; 2) Home Occupation; and 3) Alternative Towers.

The following is a copy of Doug Powell's comments:

During the October 21, 2010, Fayette County Planning Commission Public Meeting/Workshop, Pete Frisina informed the Planning Commission that the Amended Fayette County Zoning Ordinance would be presented for Public Hearing and Recommendation on November 4, 2010.

During the workshop, the undersigned (Doug Powell) requested "to have the vote by the PC postponed" due to his planned absence. The PC was directed to prepare their concerns in writing to be inserted directly into the 4 November Minutes as a part of the record. As such, I submit the following comments to be included in the Minutes of the 4 November Planning Commission Public hearing.

The Planning Commission has worked diligently on the amended Zoning Ordinance since January of 2009. During this period, the staff provided superb management of the project; coordinating citizen and business owner input; and providing sound recommendations to the PC. Their efforts are commendable.

I believe the Fayette County Zoning Ordinance is much improved. Were I able to attend the 4 November meeting, I would vote to recommend approval to the Board of Commissioners. I do have reservations concerning three (3) items, each of which did not achieve consensus during our review.

1) Operating Hours; Limited Commercial. Article VI, District Use Requirements, 6-21 Limited Commercial District.

The Planning Commission discussed this item, in a Workshop on January 21, 2010. While the group did not reach consensus on the exact operating hours, 6:00 a.m. to 9:00 p.m., there was consensus for limiting the hours of operation. There were dissenting opinions.

As currently amended, our ordinance has removed the proposed hours of operation, 6:00 a.m. to 9:00 p.m., which allows Limited Commercial establishments to operate any hours they wish. I feel this omission may be in error as to what the Planning Commission discussed. Limited Commercial should be just that: Limited.

The L-C Zoning District was adopted in 2001. To date, there exists no L-C zoned property within the county.

“The intent of the L-C Zoning District is to establish small scale business areas which do not generate large amounts of traffic, noise or light.”

In keeping with the intent, I recommend re-inserting the hours of operation, 6:00 a.m. to 9:00 p.m., into the ordinance, which will reduce traffic, noise, and light.

2) Home Occupation. Article VII, Conditional Uses, 7-1, B-25.

During the course of our discussions, I remained the lone voice for limiting home occupations. Residential Subdivisions and A-R are the sole zoning districts in Fayette County where a family can expect to be free from outside-business issues. Our

neighborhoods are where our homes are located. It is where our children play. It is our retreat from work. The neighborhood environment should be protected. The Ordinance states:

*The intent of these rules and regulations is to **protect the health, safety and welfare** of the general public and ensure that home occupations are regulated in a manner so they do not adversely impact surrounding residential properties, as residential areas and uses are normally separated from non-residential areas and uses.*

The ordinance, as currently amended, allows every home to conduct business with eight (8) clients per day, 9 AM to 7 PM, six (6) days a week. This will decrease the health, safety and welfare of the residents by promoting increased traffic in subdivisions. Quite possibly, it could lead to increased crime, noise, and trash. For example: If every occupant in a 175 home subdivision decided to work out of their homes; and each serviced 48 clients per week, 8,400 non-residentially related round-trips would be generated in the subdivision. This amounts to 436,800 non-residentially related round-trips per year. I believe this is far too intense for any residential subdivision. It does little to protect and promote the health, safety, and welfare (and solitude) of our neighborhoods. If someone wants to have a business in Fayette County, our Ordinance more than accommodates them in O-I, C-C, C-H, L-C, M-1, M-2, BTP, or PUD/PSBC.

I'm against home occupations and so are my neighborhood covenants. I believe other citizens of Fayette County are against this as well.

3) Alternative Towers. Article V, General Provisions, 5-40 Standard for Telecommunications Antennas and Towers, D. General Requirements & E. Supplemental Requirements.

During various Workshops, the Planning Commission hosted members of the telecommunications industry. Essentially, the industry felt our Ordinance was too restrictive. They proposed many changes and the PC moved to lessen our restrictions. We were introduced to Alternative Towers.

As currently amended, our Ordinance now exempts Alternative Towers from 1) Setbacks; 2) Separation Requirements; and 3) Security Fencing. As written, 70 foot monopole towers located in Highway Corridors are limited to a one (1) mile separation between towers; however, it is now possible to administratively approve, without public hearing, a 120 foot alternative tower without any separation limitation.

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With the advent of Alternative Towers, which we have little or no experience, I am concerned about the proliferation of cell phone towers in Fayette County. Our proposed Ordinance allows for an Alternative Tower, 120 feet or less, to be administratively approved by staff, after a design-review by the Planning Commission, without public hearing.

I recommend public hearings for every Alternative Tower until we are familiar with them. We can then further amend the Ordinance to allow administrative approval, if appropriate.

Jim Graw read the following comments and submitted a copy which he wanted to be made a part of the Minutes.

I would like to respond to Mr. Powell's comments about the operating hours of Limited Commercial establishments.

Mr. Powell is correct in saying that the Planning Commission discussed operating hours early in 2010. However, on July 15th of this year, I again raised the issue about hours of operation for Limited Commercial zoning at our Workshop meeting which Mr. Powell attended. At that time, I said I did not feel that government should be involved in dictating how businesses operate in these circumstances. The marketplace should dictate hours of operation. I also stated that if L-C zoning was utilized in an area abutting a residential district, I could understand some type of restrictions on hours of operation. Placing restrictions on hours of operation now is premature since we don't know where the L-C districts will be located. I suggested, at the meeting, that as we review each L-C zoning request we make a determination, at that time, whether operating hours would be appropriate for the particular area.

Mr. Powell states that he feels the omission of the operating hours may be in error as to what the Planning Commission discussed. At the July 15, 2010, Workshop meeting the Planning Commission concluded to delete the operating hour requirement for now to allow further discussion in the near future and possibly make the hours of operation a recommendation of zoning based on individual circumstances. Therefore, omitting the hours of operation was intended and was not done in error.

Al Gilbert stated he had spoken with Doug Powell earlier this week about alternative towers. He said he believed the public should have as much input as possible; however, cell phones are now looked at similar to the electrical, gas, and telephone industry. He remarked if an electrical, gas, or telephone

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company had to be approved, how much electricity, gas lines, and telephone lines would be in Fayette

County today because it would not be popular to digging up the earth running lines and pipes, yet those things are needed. He commented cell phones were initially a luxury but today they are a necessity but politically a tower will be denied because the public does not want them next door but they want their cell phone to operate. He said the trust should be in the hands of the elected officials.

Al Gilbert made a motion to approve the proposed amendments to the Fayette County Code of Ordinances by the addition of Chapter 20. Fayette County Zoning Ordinance, in its entirety, and proposed amendments to the Fayette County Comprehensive Plan Text and Map. Bill Beckwith seconded the motion.

Chairman Thoms said he was in a dilemma because there are certain aspects of the Zoning Ordinance that he is not comfortable with; however, the proposed ordinance is an improvement over the current ordinance. He stated he wished he had more time to review the proposed amendments because of its importance. He received his copy a week ago but has not had an opportunity to read the entire ordinance and feel comfortable with it. He said he had considered tabling the proposed ordinance but he understood the need to proceed.

Jim Graw said he got very frustrated over the Sign Ordinance revisions; however, if you find problems with an ordinance, you amend it because they are never perfect. He remarked the Zoning Ordinance is “a living document.”

Al Gilbert said the PC spent months and months on the Transportation Corridor Overlay Zone and prior to the public hearing by the PC for its adoption, a couple of the PC members stated they had problems with it because they wanted more commercial on SR 54 West and the PC voted to deny the Transportation Corridor Overlay Zone but it passed the BOC unanimously and became law. He pointed out the very first rezoning was someone wanting a commercial zoning on SR 54 West and the PC acted like they were in charge and voted to approve the commercial rezoning; however he voted against it. He noted the PC was dissolved and a new PC was appointed. He remarked you are never 100 percent sure you are making the right decision but the PC needs to make decisions.

Bill Beckwith stated each of the PC has original ideas even though they usually think alike. He said the PC thinks they have to have a consensus; however, this is not necessary. He remarked that overall for the benefit of the County, this is the thing we need to do.

Pete Frisina advised the PC that in January staff would continue the review of the Zoning Ordinance. He said there are still issues which need to be resolved; however, there are also issues which have been resolved and they need to be adopted.

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Hearing no further comments, Chairman Thoms called for the vote.

The motion unanimously passed 4-0. Doug Powell was absent.

The revised Zoning Ordinance, in its entirety, is attached hereto and made a part hereof.

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Chairman Thoms asked if there was any further business.

Robyn Wilson advised PC that there would not be a Public Meeting/Workshop held in November or December. She added she had distributed the public hearing package for December which consisted of a revision to a recorded final subdivision plat.

There being no further business, Jim Graw made the motion to adjourn the Public Hearing. Al Gilbert seconded the motion. The motion for adjournment unanimously passed 4-0. Doug Powell was absent. The Public Hearing adjourned at 7:44 P.M.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**TIM THOMS
CHAIRMAN**

**ROBYN S. WILSON
SECRETARY**