

**THE FAYETTE COUNTY PLANNING COMMISSION** met on May 3, 2012, at 7:00 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  
Jim Graw  
Douglas Powell  
Bill Beckwith

**STAFF PRESENT:** Pete Frisina, Director of Community Development  
Dennis Dutton, Zoning Administrator  
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator  
Sgt. Travis Caldwell

**Welcome and Call to Order:**

Chairman Thoms called the Public Meeting to order and led the Pledge of Allegiance. Bill Beckwith 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 Public Meeting/Workshop Minutes of the meeting held on April 19, 2012.**

Chairman Thoms asked the Board Members if they had any comments or changes to the Public Meeting/Workshop Minutes. Al Gilbert made the motion to approve the Public Meeting/Workshop Minutes. Jim Graw seconded the motion. The motion passed 3-0-2. Members voting in favor of approval were: Chairman Thoms, Al Gilbert, and Jim Graw. Members abstaining were: Bill Beckwith and Doug Powell.

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Dennis Dutton read the rules and procedures for conducting a public hearing.

**THE FOLLOWING WILL BE CONSIDERED BY THE PLANNING COMMISSION ON MAY 3, 2012, AND BY THE BOARD OF COMMISSIONERS ON MAY 24, 2012.**

**2. Consideration of Petition No. 1223-12, Ricardo Alegria and Landria Toogood Alegria, Owners, Richard A. Diment, Esq., Agent, request to rezone 1.36 acres from R-70 to R-20 to bring a single-family dwelling lot into compliance. This property is located in Land Lot 74 of the 7th District, fronts on Ellison Road and Tyrone Road, and being Lot 2 of Ramonaland Subdivision.**

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Attorney Richard Diment said this rezoning is an attempt to undo some mistakes made by prior property owners going back 20 years ago. He noted the house was built in 1968, on a five (5) acre tract; however, the Alegrias have only owned the property for a few years. He pointed out the property was subdivided in 1993, and a Final Plat was recorded consisting of a two (2) acre tract containing a house and a three (3) acre vacant tract. He added a house was built on the three (3) acre tract shortly after the property was subdivided. He reported the lots were reconfigured by the prior owners back in the 1990's without approval of a Revised Final Plat which made both lots noncompliant with the R-70 Zoning District. He confirmed the Alegrias have worked out a land swap with the adjacent lot owners, the Kirks, to bring the Kirks property in compliance with the minimum road frontage. He added the Kirks had prepared a letter in favor of the rezoning petition. He said the Planning and Zoning staff have recommended approval of the rezoning petition with one (1) recommended condition regarding either compliance with the minimum square footage for the R-20 Zoning District (1,200 square feet) or approval of a Variance to reduce the square footage requirement. He noted the square footage of the house lacks approximately 100 square feet to comply with the R-20 Zoning District.

Ricardo Alegria advised getting to this point had taken six (6) years. He commented this was his and his wife's first house together. He reported his wife filed for a business license and the nonconforming lot was discovered. He said he and his wife had learned more about zoning than they thought they would ever know and this had been a lesson learned. He thanked the Planning and Zoning staff for their assistance.

Chairman Thoms asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal required, he closed the floor from public comments.

Al Gilbert read the recommended condition aloud and confirmed the petitioners agreed to the recommended condition.

The Alegrias concurred with the recommended condition.

Al Gilbert made a motion to approve the rezoning petition subject to one (1) recommended condition. Bill Beckwith seconded the motion. The motion unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell.

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3. **Consideration of the proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Article III. Definitions; Article IV. Establishment of Districts; Article V. General Provisions (including Sec. 5-44. Standards for Telecommunications Antennas and Towers); Article VI. District Use Requirements; Article VII. Conditional Uses, Nonconformances, Transportation Corridor Overlay Zone, and Commercial Development Standards (including Sec. 7-2. Nonconformances, A. Nonconforming Lots, Consideration for the Rezoning of Illegal Nonconforming Lots); Article IX. Zoning Board of Appeals; and Article XI. Policies, Procedures and Standards Governing Amendments.**

Pete Frisina presented the following amendments which had been added to the proposed amendments:

**Article III. Definitions**

***Boat House. A structure built in or over a waterway to house a boat.***

***Smoking Lounge. An establishment dedicated, in whole or in part, to the sale and/or smoking of legal substances, including but not limited to, establishments known commonly as cigar stores/lounges, hookah lounges, tobacco clubs, etc.***

Pete Frisina explained he had attended the GPA Meeting where the attorney giving the presentation on various new uses basically said a smoking lounge/hookah lounge is not a problem. He said a smoking lounge/hookah lounge was becoming a fad. He reported these establishments are subject to state and local tobacco sales and smoking laws and basically sell tobacco based smoking mixtures, provide the hookah pipes, and may also sell food and soft drinks. He added anyone under the age of 18 could not enter unless there is a designated nonsmoking area. He commented staff had been contacted by one (1) person regarding a hookah lounge; however, the person never followed through with his plan.

Chairman Thoms asked if smoking would be allowed outside of the establishment.

Pete Frisina replied the establishment would be required to comply with state and local smoking laws.

**Article V. General Provisions**

**Sec. 5-12. Yard not to be Encroached Upon.**

No yard shall be encroached upon or reduced in any manner except in conformity with the setback, off-street

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parking spaces, and such other regulations required for the zoning district in which such building is located. Landscaping, driveways, vehicle parking areas, multi-use path connections, walkways and associated steps, boat docks and bridges, retaining walls, walls and fences, curbs, and planted buffer strips shall not be construed to be encroachments.

**Sec. 5-13. Permitted Encroachments of Yards and Setbacks.**

Architectural features connected to a structure such as cornices, eaves, steps, landings, ramps, gutters, and fire escapes may project not more than three (3) feet beyond any required setback line, except where such projections would obstruct driveways. One (1) flagpole per lot shall also be allowed to encroach into the front yard setback, provided it is not located within 15 feet of the right-of-way. Flagpoles which encroaches the front yard setback shall be required to have a signed and sealed affidavit from an architect or engineer registered in the State of Georgia with the actual location and setback of the flagpole and inspection approval of the footing to be submitted to the Planning and Zoning Department prior to placement of the flagpole.

**Sec. 5-20. Accessory Structures and Uses.**

8. Cabana/pool house, boat house, covered patio, and covered deck;

Doug Powell asked if a boat house would count toward the number of accessory structures.

Pete Frisina replied a boat house would count toward the number of accessory structures.

**Article VI. District Use Requirements**

**Sec 6-19. C-C, Community Commercial District.**

- B. *Permitted Uses.* The following uses shall be permitted in the C-C Zoning District:
  45. Smoking lounge (Subject to state and local tobacco sales and smoking laws);

**Sec 6-20. C-H Highway Commercial District.**

- B. *Permitted Uses.* The following uses shall be permitted in the C-H Zoning District:
  68. Smoking lounge (Subject to state and local tobacco sales and smoking laws);

Pete Frisina stated he had been contacted by Jim Graw who brought up some points he wanted to discuss regarding the rezoning of an illegal nonconforming lot. He referenced the rezoning petition heard earlier tonight because the recommended condition required the owners to either add square footage to the house to bring the minimum square footage into compliance with the R-20 Zoning District or seek an approval for a Variance. He said LNS is a sub-category of the current zoning district and not a separate zoning district. He commented Mr. Graw had questioned what if a property contained a legal nonconforming house which did not meet the current minimum square footage requirements and the County rezoned the property on November 13, 1980, and then the lot

was altered which made the lot illegally nonconforming, would the legally nonconforming house be required to be upgraded to the current minimum square footage requirement?

Al Gilbert replied if the County created the legal nonconforming house then it should be able to remain at its present square footage.

Pete Frisina said if the house size is altered after November 13, 1980, this is a different situation. He added a house may not comply with the setbacks, especially on a road.

Jim Graw stressed the house size or setbacks had not been previously discussed. He said the rezoning petition heard earlier tonight was a perfect example. He remarked if the County made the house and/or setbacks legally nonconforming, the owner should not have to add square footage to their house.

Chairman Thoms concurred with Al Gilbert and Jim Graw since the County created the legal nonconforming situation.

Pete Frisina stated staff would try to develop a policy or add amendments to the proposed amendments of the Zoning Ordinance. He pointed out square footage would be required to be added when the rezoning was from one (1) zoning district to another zoning district.

Chairman Thoms asked if there were any public comments. Hearing none, he closed the floor from public comments.

Doug Powell made a motion to approve the proposed amendments, including the proposed amendments regarding a smoking lounge. Al Gilbert seconded the motion. The motion unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Doug Powell, Al Gilbert, Bill Beckwith, and Jim Graw.

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4. **Consideration of the proposed amendments to the Fayette County Comprehensive Plan Regarding: Land Use Element, Future Land Use Map and Narrative, Illegal Nonconforming Lots.**

Pete Frisina explained the proposed amendments were required due to the adoption of the consideration for the rezoning of an illegal nonconforming lot and had been discussed at several Public Meetings/Workshops.

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Chairman Thoms asked if there were any public comments. Hearing none, he closed the floor from public comments.

Doug Powell made a motion to approve the proposed amendments. Bill Beckwith seconded the motion. The motion unanimously passed 5-0. Members voting in favor were: Chairman Thoms, Doug Powell, Al Gilbert, Bill Beckwith, and Jim Graw.

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Chairman Thoms asked if there was any further business.

Pete Frisina reminded the P.C. of the Public Meeting/Workshop scheduled for Thursday, May 17, 2012, in the Board of Commissioners Conference Room, First Floor at 7:00 P.M.

There being no further business, Al Gilbert made the motion to adjourn the Public Hearing. The motion for adjournment unanimously passed 5-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Jim Graw, Bill Beckwith, and Doug Powell. The Public Hearing adjourned at 7:44 P.M.

**PLANNING COMMISSION  
OF  
FAYETTE COUNTY**

**ATTEST:**

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**TIM THOMS  
CHAIRMAN**

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**ROBYN S. WILSON  
SECRETARY**