

THE FAYETTE COUNTY PLANNING COMMISSION met on May 2, 2013 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

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

STAFF PRESENT: Pete Frisina, Director of Community Services
Dennis Dutton, Zoning Administrator
Patrick Stough, Interim County Attorney
James Williamson, Marshal

Welcome and Call to Order:

Chairman Gilbert called the Planning Commission Meeting to order. Chairman Gilbert introduced James Williamson of the Marshal's office and Dennis Dutton and Pete Frisina of Planning and Zoning and the Commission Members Doug Powell, Jim Graw, Bill Beckwith, Tim Thoms and Chairman Gilbert, Chairman. Chairman Gilbert recognized David Brill with the North Fayette Community Association and Aisha Abdur-Rahman, resident.

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1. Consideration of the Minutes of the Meeting held on April 18, 2013.

Doug Powell made a motion to approve the minutes. Jim Graw seconded the motion. The motion passed unanimously 5-0.

NEW BUSINESS

2. Consideration of Earl J. Hanners, Jr. Minor Subdivision Plat, Earl J. Hanners, Jr., Owner and Matthew Rice, Agent. The property is zoned A-R and is located in Land Lot 4 of the 4th District and fronts on Lynch Road.

Chairman Gilbert asked Pete Frisina to bring Bill Beckwith and Tim Thoms up to date on the discussion at the last meeting concerning the Hanners Minor Subdivision Plat.

Pete Frisina explained the County Attorney advised that for a one (1) lot subdivision, when an applicant submits a plat for a lot that meets the minimum lot size and the dedication of right-of-way then reduces the lot size below the minimum required acreage, the lot can be approved as a nonconforming lot due to the dedication of right-of-way.

Doug Powell said so the lot started out with five (5) acres and after the dedication of right-of-way the lot was reduced to 4.9 acres?

Pete Frisina replied 4.92 acres.

Mr. Rice said that as a good summary from last week's meeting.

Doug Powell made a motion to approve the Minor Subdivision Plat as submitted.

Bill Beckwith seconded the motion.

Jim Graw said on March 21st the Planning Commission approved a variance of the Contiguous Area to 1.38 acres and this plat indicates the Contiguous Area as 1.57 acres and does the Planning Commission need to approve a variance of 1.57 tonight.

Pete Frisina replied the variance allowed the lot to go down to 1.38 acres of Contiguous Area but since it exceeds 1.38 acres there is not a conflict so another variance is not necessary.

Chairman Gilbert called the question. The motion passed unanimously 5-0.

OLD BUSINESS

3. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article VI, Sec. 6-26., G-B General Business District regarding: building height.

Pete Frisina stated this building height issue came up with the rezoning for the Pinewood movie studio and the Staff Report cited items that were in conflict with County regulations that would need to be discussed in terms of possible ordinance amendments. He said the Board of Commissioners has given staff direction to review the building height to accommodate movie studios. He added the proposal is to allow the height of 65 feet for a soundstage building and for every foot the building is over 40 feet the front setback will increase by eight (8) feet and the side and rear setbacks will increase by five (5) feet and this is a standard zoning practice and the county has something similar in A-R for agricultural building such as silos and windmills. He said the question from the last meeting is if this is allowed in G-B how will it affect the property on SR 138 as it is the only other property zoned G-B and based on the plat submitted with the rezoning there is a portion of the property where the proposed setbacks for a 65 foot tall soundstage could be met and the area comprises approximately two (2) acres that is 300 feet from the front property line and 200 feet from the side property lines.

Doug Powell asked if there has been any indication from Mr. Williams that he would want a 65 foot soundstage.

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Pete Frisina replied that Mr. Williams indicated that he would like the same consideration as the Pinewood property to be competitive. He added that he had invited Mr. Williams to the meeting and hoped he would be here tonight.

Doug Powell stated that originally Mr. Williams wanted 45 feet of height and we limited G-B to 40 feet and his concern is that went through the public process and the citizens in that area of the county were involved.

Pete Frisina said we limited it to 40 feet because at the time that was the tallest build the county allows in any zoning district.

Doug Powell said his concern is with the citizens that thought it was a done deal with 40 feet and now here we are considering 65 feet.

Jim Graw said he has the same concerns as Doug Powell.

Tim Thoms said it can't be 65 feet until the ordinance is changed.

Pete Frisina passed a picture around of a crane mast that was 65 feet tall taken at approximately 300 feet away to give some perspective to the presence of a 65 foot high structure.

David Brill said he measured his house at 31 feet today to get an impression of how high a 65 foot building would be and he said it would be a six (6) story building.

Aisha Abdur-Rahman said you can take a field trip to California and see what those big monolithic buildings look like and it is one thing to put them out on Sandy Creek Road on a big forested lot and another thing to put one right in the back of a residential neighborhood in the north end of this county and what Mr. Williams said he was going to do is produce TV shows and not major motion pictures like Pinewood and why he would need 65 feet to produce TV shows it makes her wonder what they were talking about in the first place.

Bill Beckwith asked if Mr. Williams indicated that he was going to build a building that tall.

Doug Powell replied that Mr. Williams indicated the he wanted 45 feet.

Bill Beckwith asked if he indicated that he wanted 65 feet.

Pete Frisina said he has now.

Jim Graw said he has driven past this area on SR 138 and this property is an open field.

Pete Frisina said the property is next to the back of the Catholic School and is pasture land.

Jim Graw said he is very concerned about a 65 foot building on that property in that area because of the residents and we talked about a 40 foot building height and now we are talking about a 65 foot building and he feels that 65 feet in that area is just too tall of a building even if it is 300 feet off of the road and 200 feet from the sides.

Chairman Gilbert said 65 feet in the area where Pinewood is located seems fine he is not sure that it fits on SR 138 and he thinks we should limit it on the number of acres.

Jim Graw said we should limit it to 100 acres and he got the 100 acres from the Planned Entertainment Farming PUD, so the county has used 100 acres for a minimum before.

Bill Beckwith asked what we consider media, is TV production media.

Pete Frisina said the term "media" is used in the G-B zoning district.

Jim Graw said we have two situations with G-B and we need to find a way to separate them and acreage is a way to do that and he also likes the increased setbacks. He added that there is not 100 acres available on SR 138 based on the area designated for G-B.

Aisha Abdur-Rahman asked instead of changing the entire ordinance why can't the county just make an exception for Pinewood studios.

Doug Powel said that had we had time the county could have developed a Planned Unit Development type zoning to provide control and flexibility.

Tim Thoms said at the last meeting conditional zoning was discussed.

Patrick Stough said conditional zoning is used to restrict property.

Tim Thoms said he meant Condition Use not conditional zoning and could we use Conditional Use restrictions for soundstages.

Pete Frisina said that Conditional Use restrictions could be created and they would be in Article VII.

Tim Thoms asked if someone makes application for G-B and they want to do something out of the scope of G-B would they ask for a conditional zoning or a variance.

Jim Graw said a Condition Use would need to be established.

Tim Thoms asked if we make a soundstage a Conditional Use would you take it out of the Permitted Use of the zoning.

Pete Frisina replied that Tim was using the terms “Conditional Use” and “conditional zoning” synonymously and they are similar but different as conditional zoning is applied in a rezoning to restrict over and above the basic zoning requirements and Conditional Use are written into the zoning ordinance and also restrict over and above the basic zoning requirements.

Chairman Gilbert said we need to think about this in other zoning districts because we have a situation in an industrial park that needs a taller building as well and churches that want taller buildings and in some cases it fine and it others it is not.

Tim Thoms said for clarification once someone meets the Conditional Uses you can establish the use.

Patrick Stough replied that was correct.

Doug Powell said based on the proposed setbacks the property on SR 138 could meet the setbacks for a 65 foot building so in developing these standards we need to consider the size of the lot and this property would be limited to 40 feet even though it could meet the setbacks for 65 feet.

Tim Thoms said he didn’t understand how 100 acres relates to a movie studio as it seems meant to exclude the SR 138 area and he didn’t agree with the limitation.

Jim Graw said in part it does exclude the SR 138 area.

Aisha Abdur-Rahman said her question is still why the county can’t treat Pinewood as an exception.

Pete Frisina said because the zoning ordinance does not have a mechanism to provide exceptions.

Aisha Abdur-Rahman so there is no way to write something in the ordinance to allow an exception.

Pete Frisina said currently there is a variance procedure but it is based on a hardship that relates to problems with the lot configuration.

Bill Beckwith said variances are not for convenience.

Pete Frisina said he had hoped that Mr. Williams would be at the meeting as he owns a G-B property and he feels we need his input as well. He said Mr. Williams expressed to him that he didn’t want to be in a position where he couldn’t compete in the market place. Pete Frisina

suggested that we look at a range of acreages and additional landscaping to screen the buildings using berms and trees.

Doug Powell said what you are suggesting is the structure height be related to acreage and also require increased setbacks.

Pete Frisina stated that was correct.

Chairman Gilbert stated a range of acreage thresholds is a good idea.

David Brill said that seemed like a fair approach.

Pete Frisina said the other issues that have come up lately is an industrial building that needs to exceed the height limits and a church that wants to do the same. He said the industrial building has a 10 foot clearance requirement for the manufacturing of high voltage testing equipment due to potential arching and a crane mechanism that will be installed in the top of the building, however, if the setback ratio we are discussing is applied there will be no room to build the structure. He said there is also an issue with churches as well and added he has reviewed Peachtree City's ordinance and they do not limit the height of churches and industrial buildings but the buildings must meet structural and fire codes and could have additional conditions placed on industrial development through the site plan process. He said Fayetteville limits commercial and industrial buildings to 60 feet. He added that there are some churches in the county that are higher than 35 feet and he isn't totally clear on how these were approved.

Patrick Stough said his understanding was the height limit did not apply because it was not occupiable space.

Pete Frisina said to his knowledge the ordinance was not amended to address this situation.

Chairman Gilbert said if someone is building a church they will question how those other churches got approved.

Pete Frisina said he didn't know exactly how it was handled at that time and he would continue to research the records but he would like to correct the ordinance. He added that if the setback ratio we are discussing is applied there will be no room to build the church.

Jim Graw said he is familiar with this industrial park.

Tim Thoms said the park backs up to a residential area.

Jim Graw said that are a lot of trees behind this property.

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Doug Powell pointed out that the top of this building will not be occupied space and if we make changes to G-B then someone will want the same height in another zoning district.

Pete Frisina said we should address this in each zoning district.

Chairman Gilbert recommended that staff prepare proposed building height requirements amendments for industrial and churches.

Doug Powell asked what we are going to do with G-B.

Pete Frisina said he really wanted Mr. Williams' input as well. He added that the suggestion tonight was to add an acreage requirement and to look at a range of required acreages.

Chairman Gilbert said he liked the range of acreage approach adding so much height per 25 or so acres up to 100 acres.

Jim Graw said another option is to increase the standard height requirement in G-B to 45 feet.

Aisha Abdur-Rahman said the county set a standard of 40 feet and now we are considering changing it 45 feet and she asks what people in the area can rely on if the requirements can be constantly changed and would an increased setback and acreage still be part of raising the standard height to 45 feet.

Pete Frisina said the setback could still be increased.

Aisha Abdur-Rahman said in her opinion, the ordinance should be amended to address Pinewood because it is a much larger operation on a much bigger property and 65 feet would be appropriate there and treat them as an exception and not rewrite an ordinance that was put in place just three months ago. She said she is not in favor of amending the ordinance in a way that affects the property on SR 138 by allowing a taller building.

Doug Powell said the BOC has asked us to look at this building height issue with the new studio as these studios are looked upon as economic development they have been approved to build their facility in a G-B zoning.

Tim Thoms said the zoning has been approved but the building height has not been increased yet.

Doug Powell said that Tim was correct.

Tim Thoms asked if the increased setback would apply to the rear yard as well.

Pete Frisina said the increase would include the rear yard as well.

Tim Thoms said he is not in favor of increasing the building height in G-B and he is not in favor of a 65 foot building on Sandy Creek Road or SR 138. He knows that Pinewood needs to be accommodated as they are a larger company and he doesn't fault Mr. Williams for wanting the same thing Pinewood wants to be competitive.

Bill Beckwith asks why Tim doesn't think that a 65 foot building is appropriate on Sandy Creek Road.

Tim Thoms said it is an agricultural area or it was an agricultural area until the county rezoned the Pinewood property, but it makes a huge impact and the applicant never shared the balloon test pictures they mentioned at the rezoning but a 65 foot building will stick out like a sore thumb.

Bill Beckwith said if the people that are in this business are rezoned and they know what they need, why would you say it is not right.

Tim Thoms said I can't say they don't need 65 feet, he said it shouldn't be in that area and they were approved G-B with a 40 foot height limitation.

Bill Beckwith said but they need 65 feet and we have been asked to look at the ordinance.

Tim Thoms said he thinks a 65 foot building is out of character in the agricultural-residential area.

Bill Beckwith said the area is agricultural-residential now but it is changing and it is close to the hospital.

Tim Thoms said in his opinion a 65 foot building is out of character for the county but he thinks the increased setbacks is a way to mitigate the height.

Doug Powell said when this property is annexed it will be under the city building height requirements.

Jim Graw said we don't know when the annexation will take place and they will start building these studios in the county and they need to know if they can build at 65 feet.

Doug Powell said the problem is we are changing our ordinance knowing that the property is going into Fayetteville and we are changing the entire G-B zoning district.

Pete Frisina said the movie business is one of the major growth industries in the state of Georgia and if this is the industry standard we may have to deal with this again in the future if another studio wants to locate in the County and we need to find a balance where we can between the neighborhoods and Mr. Williams and we already have Pinewood's input. He said he would take the suggestions from tonight and hopefully Mr. Williams can make the next meeting and we can continue the discussion.

Chairman Gilbert said that we should raise the standard building height to 45 feet as the property on SR 138 will find it hard to compete.

Aisha Abdur-Rahman said the county should start with 40 feet not 45 feet.

Doug Powell said we also have to understand the argument from the neighborhood's perspective.

Chairman Gilbert said he understood their opinion as well.

Jim Graw asked where would we start, does 25 acres allow 45 feet and then we go up incrementally from there.

Chairman Gilbert said let staff work on it and bring something back for discussion.

Jim Graw said Mr. Williams said he could work with 40 feet.

Chairman Gilbert said we capped the zoning district at 40 feet, what choice did he have. He said that we need look at Mr. Williams' property to be fair.

David Brill asked Tim Thoms what building height he would be comfortable with in the county.

Tim Thoms said he didn't know exactly right now and he wonders if there are other uses in G-B that may not be able to meet a 40 foot building height such as a recreational facility or gym.

Pete Frisina said Tim Thoms makes a good point and Fayette County could be at a turning point and we need to determine if we can still afford to be a bedroom community as the residential property has lost a great deal of value during the recession and may never regain their initial mortgage value and remain underwater and the new homes being built in the county now are not as big as were being built in the past and therefore have less value which affects tax revenue so we have to look at diversifying the tax base and movie studios and the like may be the way to go.

Tim Thoms said with that in mind if the county needs to intersperse 65 foot tall buildings amongst residential zoning and the only reason we controlled height in the past was for fire control and now we have ladder trucks and it not an issue then we need to find a defining point for height limitations, such as aesthetics or do we need any limit at all.

Pete Frisina said it was based on fire prevention and it was also based on the character of development. He said Peachtree City and Fayetteville have a limit of 35 feet in residential zonings like the county. He said these other jurisdictions have taller building in their non-residential zoning districts but the county generally limits building height to 35 feet in both residential and non-residential and Tim Thoms' points are good because what happens when a non-residential use needs more than 35 feet in building height and there are uses allowed in the zoning ordinance that have yet to develop in the county and we could be faced with the problem in the future because we can't anticipate all of these situations. He added as example we tried to come up with standards for a movie studio and we never had a movie studio before so we do the best we can and the county is moving in new directions that we have never experienced before. Pete Frisina said he would get information back to the Planning Commission and the citizens.

4. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding: illegal lots.

Chairman Gilbert asked Bill Beckwith and Tim Thoms if they have reviewed the proposed amendments prepared by the County Attorney since they were not at the last meeting.

Pete Frisina added that the other Planning Commissioners' comments were in the minutes from the last meeting and we were interested in Bill Beckwith's input since he is on the Zoning Board of Appeals (ZBA) and the ZBA would get an opportunity to comment on these amendments in the future.

Chairman Gilbert said the two items that got the most discussion was the ten year waiting period which could be too long of a time period and the availability of adjacent property to bring the illegal lot into compliance could be tough if the adjacent property owner doesn't want sell property.

Doug Powell asked what will be the mechanism to let a future buyer know the property has had a variance making it a nonconforming lot.

Pete Frisina said if there is no platting involved after the variance there is not a way to put future buyers on notice.

Chairman Gilbert said his concern with number three, is the adjacent property owner does not want to sell any property because he wants to create lots for his kids in the future, but the intent of number three is if adjacent property exists that could make the subject lot conforming, that property owner is not eligible for a variance.

Patrick Stough said however the adjacent property is available until such time that it is subdivided.

Chairman Gilbert said that is correct but the adjacent property could be tied up for years before it is subdivided.

Patrick Stough said but there has to be some price where the adjacent property owner is willing to sell and legal is trying to make the criterion as objective as possible because what is stopping a property owner from getting his neighbor to just say he isn't willing to sell any property.

Jim Graw asked what if number three were eliminated.

Patrick Stough said then the all you would look at is how long has the property has been owned and did the individual or a family member create the illegal lot. He added that number three basically says if there is land available then he can solve his problem by getting more land.

Doug Powell said what if the person can't afford to buy additional property.

Chairman Gilbert pointed out that number three states that price of adjacent property is not a consideration.

Patrick Stough said the question for the property owner is it worth it to bring the lot into compliance or is it worth the risk to own an illegal lot and not be able to rebuild the house if it burns down. He added that this person should have checked into this before they bought the property.

Tim Thoms said these properties are not always purchased they could have been inherited.

Patrick Stough said if it is passed down through generations it doesn't qualify because it was created by a family member and the person would've had to acquire the property from someone other than a family member.

Tim Thoms asked how this addresses the purchase of foreclosed property and if nobody is willing the buy it then the bank is stuck with an illegal lot.

Patrick Stough said if no one buys the lot then we are not faced with someone not being able to rebuild the house if it burns down which is the main purpose of this variance.

Jim Graw said the one case we had before required the applicant to sign an avadavat swearing they had tried to buy property but couldn't, and legal didn't like that, is there another type of legal document that would be better.

Patrick Stough said it is ultimately still a subjective determination as to how much effort the property owner put into buying additional property and it is not a true or false analysis.

Jim Graw asked if we could differentiate between someone whose neighbor is not willing to sell adjacent property and someone who is not willing to buy adjacent property because he feels it costs too much.

Patrick Stough said this goes back to the collusion issue and how to verify that the neighbor is not really willing to sell and he not aware of any other legal document that could be used.

Chairman Gilbert asked Bill Beckwith what he thought as he was on the ZBA.

Bill Beckwith said there are problems with this variance.

Pete Frisina stated that the first seven criterion associated with a regular variance would also apply.

Bill Beckwith said it is difficult to write an ordinance that covers every situation.

Pete Frisina said if we look at the criterion is regard to the first case we had with LNS, the only one they didn't meet was the ten year time period.

Patrick Stough said that time period could be changed.

Pete Frisina said another consideration that could be given is how long the property has been illegal and how many different people have owned the property since that time and in terms of the time period we don't want it too short to encourage the creation of illegal lots but not too long that it feels unachievable.

Bill Beckwith asked who would determine when the illegal lot was created.

Pete Frisina said staff could review deeds of record to determine when the lot was created. He added that staff would have to research the adjacent properties to determine if there is adequate property to make the illegal lot conforming.

Chairman Gilbert suggested that the ZBA review the proposed amendments and their comments be brought back before the Planning Commission.

Pete Frisina said he would prepare the information for the ZBA to review including the Planning Commission minutes so they would be aware of the history and issues we have discussed.

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Chairman Gilbert said he would entertain a motion to adjourn the meeting.

Doug Powell said so moved.

Chairman Gilbert said the meeting was adjourned.

PLANNING COMMISSION
OF
FAYETTE COUNTY



Al GILBERT, CHAIRMAN

ATTEST:


