

THE FAYETTE COUNTY PLANNING COMMISSION met on July 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
Bill Beckwith
Douglas Powell
Tim Thoms

STAFF PRESENT: Pete Frisina, Director Community Services Division
Dennis Dutton, Zoning Administrator

Welcome and Call to Order:

Chairman Gilbert called the Planning Commission Meeting to order. Chairman Gilbert introduced the Commission Members and Staff.

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1. Consideration of the Minutes of the Meeting held on June 6, 2013.

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

2. Consideration of the Minutes of the Meeting held on June 20, 2013.

Doug Powell made a motion to approve the minutes. Jim Graw seconded the motion. The motion passed unanimously 4-0-1. Tim Thoms abstained as he was not present at the June 20, 2013 meeting

PUBLIC HEARING

3. Petition RDP-010-13: Request approval of the Revised Development Plan for Ballard's Terrace Subdivision to change the proposed Community Clubhouse containing a pool and cabana to a Landscaped Park consisting of 1.62 acres.

Donna Black said the proposal is to revise the Development Plan to change the Community Clubhouse area that was to contain a pool and cabana to a Landscaped Park. She said that she has a proposed landscape plan to show the Planning Commission. She added that the subdivision was rezoned in 2006 and the developer at that time proposed a pool and cabana and the subdivision only contains 36 lots and it is their experience that it takes approximately 100 lots to support a pool economically. She said there are no homes built in the subdivision at this time and the park would be landscaped for appearance with a grassy area for passive uses such as playing Frisbee.

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Chairman Gilbert asked if anyone from the public had any questions or comments and seeing none he brought the item back to the Planning Commission.

Doug Powel made a motion to approve petition RDP-010-13 as presented.

Bill Beckwith seconded the motion.

Chairman Gilbert asked if there was any discussion.

Doug Powell said his subdivision has 173 homes and 83 homes pay into the pool and it is sometimes difficult to raise the funds necessary to support the pool adequately.

Bill Beckwith asked if there are plans to have a pool in some other area of the subdivision.

Donna Black said there are no plans to have a pool in the subdivision.

Tim Thoms asked for clarification if any lots have been sold in the subdivision.

Donna Black replied that no lots have been sold in the subdivision.

Tim Thoms said the letter in the request stated that walking paths and seating is proposed but the landscape plan doesn't show any of those improvements and he wondered if the request should be conditioned as such.

Doug Powell said he didn't believe it was necessary.

Jim Graw asked if seating will be provided.

Donna Black said seating would be placed under the shade trees.

Tim Thoms said his proposal would be to place a condition on the request that these improvements be shown on the landscape plan submitted to the staff.

Chairman Gilbert said he was uncomfortable with the condition because it could be difficult to enforce.

Doug Powell said he was not in favor of a condition.

Jim Graw said the request could be conditioned to meet the landscape plan submitted tonight.

Tim Thoms said the plan doesn't show any benches or paths.

Donna Black said she would rather bring back a more detailed plan if the Planning Commission would like to see it.

Pete Frisina said this request has been advertised for public hearing so the request would need to be tabled if the Planning Commission wants to base their recommendation on a new landscape plan or she could provide a landscape plan to the Board of Commissioners and the question when do the developers have to implement the plan.

Chairman Gilbert said that he didn't want to pass something onto the BOC the Planning Commission hadn't seen.

Bill Beckwith said he didn't think the Planning Commission needed to see a layout as long as the intent is to provide the improvements.

Tim Thoms said he is concerned the improvements will not be made and no one will maintain the landscaping.

Pete Frisina said the park will be turned over to the Home Owner's association at some point and the developer would not be involved after that time.

Bill Beckwith said he is satisfied with the intent of the request.

Donna Black said the developer is interested in planting the landscaping in the fall.

Doug Powell said he did not want to put a timeline on these improvements with a condition.

Chairman Gilbert said there does not seem to be a consensus on placing a condition on the request so he would call the question.

The motion to approve the request was unanimous.

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

Pete Frisina said these are the amendments that have been discussed concerning building height in the G-B zoning district and consists of an amendment to the definition of building height, a new definition for a soundstage and under the G-B zoning district it

adds a height limit of 65 feet for a soundstage, which is a use within the G-B zoning district. He said the building height of a soundstage can exceed the 40 foot height limit but for every one (1) foot of building height over 40 feet the front setback increases eight (8) feet and the side and rear setbacks increase five (5) feet if they are adjacent to a residential or A-R zoning. He added that there are two options for acreage requirements: Option 1 starts at 45 feet of height with a minimum acreage of 10 to 25 acres, 50 feet of height with a minimum acreage of 25 to 50 acres, 55 feet of height with a minimum acreage of 50 to 75 acres, 60 feet of height with a minimum acreage of 75 to 100 acres, and 65 feet of height with more than 100 acres, Option 2 starts at 50 feet of height with a minimum acreage of 20 to 50 acres, 55 feet of height with a minimum acreage of 50 to 75 acres, 60 feet of height with a minimum acreage of 75 to 100 acres, and 65 feet of height with more than 100 acres. He said staff favors Option 2 and the Planning Commission favors Option 1.

Chairman Gilbert asked for public comments.

Aisha Abdur-Rahman said she is not in favor of the amendments including Options 1 or 2 nor is she in favor of a movie studio in her neighborhood (SR 138 area) as it is the commercialization of her neighborhood and it will decrease their property values. She said she distressed that this creeping commercialization is taking place in her area. She said since this zoning is in place the minimum acreage for any increase in building height should be 20 acres and she didn't know why this wasn't proposed in the first place because the community was told one thing and now the County is changing the ordinance in less than six (6) months of enacting the G-B zoning district. She said she feels this is a backdoor approach to changing this when the County should have known this in the first place.

Chairman Gilbert seeing no other comments brought the item back to the Planning Commission.

Tim Thoms said the amendments say the side and rear setbacks will be increased if the property is adjacent to a residential or A-R zoning, should the same be specified for the front setback.

Pete Frisina said the front setback is adjacent to a road, not other property, so the front setback will always be increased in this case.

Doug Powell said as he reads the amendments, the base height limit is 40 feet and if I want to increase to 45 feet and the property abuts residential or A-R zoning, the side and rear setbacks will have to be increase accordingly and for every foot of building height over 40 feet the side and rear setbacks increase by five (5) feet and the acreage has to increase as well.

Tim Thoms asked why this building height increase is limited only to soundstages and shouldn't it apply to other buildings.

Pete Frisina said at this time it is a conservative approach as we have a request for soundstages and no other uses have asked for an increase in build height in G-B, so he would wait to address other requests when they are made.

Tim Thoms asked if the height is limited to 65 feet.

Pete Frisina said the charts under Options 1 and 2 stop at 65 feet.

Doug Powell said the County has in the past limited building height to 35 feet and now we recently went to 40 feet in G-B and his concern with the citizens we worked with is that he doesn't want to increase the height too much on SR 138 and that is why he recommends Option 1 as it gives Alvin Williams the 45 feet he originally wanted and he doesn't know what that will do for him competitively but he is not here to deal with competition.

Bill Beckwith asked how many acres Alvin Williams has.

Pete Frisina replied just under 25 acres.

Tim Thoms asked if he could add to the property.

Pete Frisina said he would have to rezone more property.

Jim Graw asked approximately acres are available on SR 138 next to Alvin Williams' property.

Pete Frisina said approximately 75 to 80 acres.

Jim Graw said he recommends Option 1. He said Alvin Williams had originally requested a 45 foot height when we were considering his request many months ago and if Alvin Williams needed 45 feet at the time then he should have strongly explained his reasons and fought for 45 feet but he didn't. Option 1 gives him the 45 he originally asked for.

Chairman Gilbert said he recommends Option 2 because Pinewood changed everything we knew about movie studios and he feels Alvin Williams needs to have some consideration for building height because Pinewood was a game changer and 25 acres is no small parcel of land and I think 50 feet is fair for that size of property.

Bill Beckwith recommends Option 1.

Tim Thoms made a motion to approve the amendments as presented with Option 1.

Jim Graw seconded the motion.

Chairman Gilbert called the question and the motion passed 4-1 with Chairman Gilbert voting in opposition to the motion.

Pete Frisina said that staff is recommending Option 2 as it gives Alvin Williams (the first G-B rezoning) the 50 feet he asked for in the workshops to keep him competitive with Pinewood and other studios that may come into the County in the future.

5. Consideration of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article V, Sec. 5-16., regarding: church or place of worship structures permitted above the height limit.

Pete Frisina said this amendment would exempt a church with a cathedral or vaulted ceiling from the building height limit specified in the applicable zoning district. He added that the references in this section referring to "human occupancy" were removed based on discussions of the Planning Commission, as the Planning Commission felt it was too vague and could possibly be applied to any structure where there was not area for "human occupancy" or "habitable space" specifically pertaining to the prior consideration of building height in the G-B zoning District.

Chairman Gilbert asked if anyone from the public had any questions or comments and seeing none he brought the item back to the Planning Commission.

Tim Thoms said he was concerned with taking the term "human occupancy" out it would allow someone to build a monument with no height restrictions, like a Washington Monument.

Pete Frisina said at the last meeting the Planning Commission had a concern that it could be applicable to any building without human occupancy, such as the soundstages we just discussed to build at any height as the top of the soundstage is not designed for human occupancy.

Doug Powell said the Washington Monument has human occupancy at the top.

Pete Frisina said it depends on what your definition of human occupancy is because per building codes an area is not occupiable just because you can stand in it because it is not

set up for occupation where you can carry on normal activities.

Doug Powell said that a water tower in Senoia is proposed to be turned into a restaurant and it is now a water tower that is occupied.

Doug Powell made a motion to approve the amendments as presented.

Bill Beckwith seconded the motion.

Chairman Gilbert called the question and the motion passed 4-1 with Tim Thoms voting in opposition to the motion.

6. Consideration of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article V, Sec. 5-20., regarding: accessory structure size in residential zoning districts.

Pete Frisina said the amendment adds another option in residential zoning districts for the size of accessory structures under this section. He said the amendments would allow a total of 3,600 square feet of accessory structure floor area with a minimum of 5 acres. He also that the total accessory structure floor area could not exceed the total square footage of the principal structure (residence), any structure greater than 1,800 square feet cannot be located to the side of the principal structure, and a single accessory structure of greater than 1,800 to 3,600 square feet shall be located to the rear of the principal structure. He said the requirement of being to the rear of the principal structure was brought up by Tim Thoms.

Chairman Gilbert asked if anyone from the public had any questions or comments.

Steve Brown, Chairman of the Board of Commissioners, said he was approached by a builder with a NBA star client who wants an indoor basketball gym build on his property and he discussed this with the staff and he realized that we didn't allow these size structures and this type of individual would build a quality structure that would add a lot of value to the property. He said some of these professional athletes build some very elaborate structures and the regulations could be a deterrent to some of these individuals moving into the County as many of them are very civic minded and support community activities.

Chairman Gilbert asked if anyone else from the public had any questions or comments and seeing none he brought the item back to the Planning Commission.

Jim Graw said he did not recommend the amendments as he thought this should be permitted in A-R zoning only and not residential zoning districts. He said this particular property is in an R-70 residential subdivision with two (2) acre lots and this lot happens

to be a seven (7) acre lot in the subdivision and this would allow this lot to have something that no one else in the subdivision can have because they are not five (5) acres in size. He added that the homeowners in this two (2) acre subdivision bought their homes knowing what the rules were and changing the rules midstream after they purchased their homes is very unfair to them. He said the first these homeowners will know about the change will be when the bulldozers come to the property to build a 3,600 square foot accessory structure.

Doug Powell said he agrees with Jim Graw and this should be allowed in A-R only and not residential zoning districts. He said if this individual gets traded to another team he didn't know who could afford to buy this property. He added that we had made amendments to the A-R zoning concerning agricultural structures that were left over after agricultural uses to allow use of these buildings and it would be in keeping with these amendments to allow a 3,600 square foot accessory structure in A-R on five acres. He said it is not appropriate to go into a residential subdivision where the majority of the lots are below five (5) acres and change the rules.

Bill Beckwith said he agrees with Jim and Doug.

Doug Powell said this can be accommodated in A-R.

Jim Graw asked Pete Frisina if this proposed 3,600 square foot structure be tuned into a principal residence.

Pete Frisina replied if the original principal structure was removed from the property this structure could be converted into a residence.

Tim Thoms said the potential for these structures to be used for sports leagues exists and that is not appropriate in a subdivision.

Chairman Gilbert said he didn't think this was appropriate in a subdivision.

Jim Graw made a motion to recommend that the proposed amendments, as presented, not be approved. He added that he would be in favor of seeing amendments for A-R zoning in the future.

Tim Thoms seconded the motion for discussion.

Bill Beckwith asked Pete Frisina if it was appropriate to send the Planning Commission's suggestion that this be allowed in A-R but not residential zoning districts to the Board of Commissioners.

Pete Frisina said it would appropriate to send that suggestion along with the recommendation.

Doug Powell suggested making the changes to the amendments now and sending those to the Board of Commissioners.

Chairman Gilbert said he was not comfortable doing that because changes like that are usually discussed in workshop.

Pete Frisina said the amendments have been advertised and are going to the Board of Commissioners and they could table it or just send it back to the Planning Commission for more work.

Chairman Gilbert called the question and the motion passed unanimously.

7. Consideration of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article VII, Sec. 7-1., regarding: Church and/or other Place of Worship and existing residential structures that do not meet the Conditional Use setbacks and/or buffers.

Tim Thoms said that he had been hired as a consulting arborist by a consultant doing work for this church and he didn't feel he had a conflict of interest so he would participate with the discussion of the amendments.

Pete Frisina said a church that is being proposed on a seven (7) acre lot that contains an existing single-family residence and accessory structure and when the use of the property is changed to a church these structures do not meet the Conditional Use buffer and setbacks for a church. He said the existing residence encroaches partially into the setback and the accessory structure encroaches fully into the setback and partially into the buffer. He said the amendments allow an existing structure to encroach into the setbacks but not the buffer and the uses are limited to administration, parsonage, storage building or detached garage.

Chairman Gilbert said he would hate to see a good building torn down.

Jim Graw asked what the definition of a place of worship is in the Zoning ordinance.

Pete Frisina said it is as follows: Church or other Place of Worship. A building used for public worship, including, but not limited to: temple, synagogue, pagoda, shrine, cathedral, tabernacle, and mosque/masjid.

Jim Graw said this may be a stupid question, but what if an individual wants to convert his house in a subdivision into a church.

Pete Frisina said one of the requirements for a church is it has to front and access a major thoroughfare and street in a subdivision is a minor street plus a church has many requirements that can't be met in a subdivision and to change a use of a lot in a residential subdivision you would need to go through a public hearing.

Tim Thoms recommended that a time period requirement be established where the existing structure had to have been built five (5) years prior to the permit for the church as he did not want someone to try to get around the ordinance.

Bill Beckwith asked if that is really necessary.

Tim Thoms said he thought it was.

Doug Powell said Tim is trying to prevent the situation from happening but in this time of foreclosures he would not want to see a church have to wait to buy a property with an existing house built two (2) years ago.

Pete Frisina said he appreciates Tim's concern as we always try to anticipate individuals trying to get around the ordinance, so he suggests we put the ordinance in place and see if this occurs and then we can come back and amend the ordinance so it doesn't happen again.

Tim Thoms said his other concern is it is a different situation when the existing structure is adjacent to an existing residential subdivision.

Bill Beckwith said but the structure is already there.

Tim Thoms said but the use is being changed from strictly a residential use and we seem to be moving the bar way too often when it comes to zoning.

Chairman Gilbert said in the past this was a rural county and now we are a suburban county.

Doug Powell said we are always trying to prevent devious situations that try to get around the ordinance.

Pete Frisina said for perspective if look under c. of this section you will see allowances that have been made in the past for certain things that can be located in the setbacks under the Conditional Uses for a church and this isn't the first time these allowances have been made. He said back in the 90's an allowance was made for a tot lot to be in the

setback when a church built a tot lot in the setback. He added that the County has not been consistent in enforcing this with existing structures in the last 40 years.

Doug Powell made a motion to recommend the amendments as presented.

Bill Beckwith seconded the motion.

Pete Frisina reminded the Chairman that this was a public hearing.

Chairman Gilbert asked if anyone from the public had any questions or comments and seeing none he brought the item back to the Planning Commission.

Chairman Gilbert called the question and the motion passed 4-1 with Tim Thoms voting in opposition to the motion.

OLD BUSINESS

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

Pete Frisina said the amendments had been discussed with the Zoning Board of Appeals and he wanted to bring to the Planning Commission's attention the amendment they wanted changed and that is the 10 year ownership of the illegal lot. He said they liked the following wording: The transaction giving the applicant ownership in the subject property was more than five (5) years from the date of the application or if the period of ownership is less than five years the subject property was made illegal more than ten (10) years from the date of the application. He asked the Planning Commission how they felt about the language.

Jim Graw said the Planning Commission had similar concerns and he liked the amendment.

Al Gilbert said he attended the first meeting with the ZBA and he liked their suggestion. He added that in general the rest of the proposed regulations are very tough and will be hard to meet.

Jim Graw said he agreed with Chairman Gilbert.

Pete Frisina said he would take this back to the Board of Commissioners for their input and direction.

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Chairman Gilbert thanked Pete Frisina and Dennis Dutton for all the work they have done on these ordinances.

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

Tim Thoms said so moved.

Chairman Gilbert said the meeting was adjourned.

PLANNING COMMISSION
OF
FAYETTE COUNTY



AL GILBERT, CHAIRMAN

ATTEST: