

**THE FAYETTE COUNTY PLANNING COMMISSION** met on February 19, 2015 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Jim Graw, Chairman  
Brian Haren, Vice-Chairman  
Al Gilbert  
Bob Simmons

**STAFF PRESENT:** Peter A. Frisina, Director of Community Services  
Dennis Dutton, Zoning Administrator  
Phil Mallon, County Engineer  
Dennis Davenport, County Attorney

**Welcome and Call to Order:**

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

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**1. Discussion of Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Section 110-3 Definitions, Section 110-25 A-R, Agricultural-Residential District, and Section 110-169 Conditional Use Approval.**

Pete Frisina said these are the regulations we looked at on February 5<sup>th</sup> and they were tabled until March 5<sup>th</sup> so we could discuss the concerns brought up by the public at the last meeting. He said the Planning Commission should have three (3) copies: one in all black is what was discussed on February 5<sup>th</sup>, the redline are Randy Ogino and Rick Minter's suggestions and the blue line is Phil Mallon's amendments. Pete Frisina said Phil Mallon's amendments contain references to the Fayette County's Development Regulations, which include the American Association of State Highway and Transportation Officials' (AASHTO's) Guidelines for Geometric Design of Very Low Volume Local Roads. He added there is still language about the road being improved by the County or the facility owner and language concerning the wear and tear on the road.

Phil Mallon said his amendments are in response to the concerns stated at the last meeting and our current regulations don't really address when someone wants to put some type of non-residential use on an unpaved road. He added that zoning rules prohibit some non-residential uses on an unpaved road.

Chairman Graw said, for the benefit of Dennis Davenport, Randy Ogino and Rick Minter's concerns are the criteria in the proposed regulations are too vague and open to interpretation and they recommended taking out all of the criteria. He added that Phil Mallon has proposed specific regulations and references in the Development Regulations.

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Randy Ogino said he liked the revisions to 3. c. proposed by Phil. He asked Phil Mallon where there are presently churches in the County that access an unpaved road, has the County had issues with excessive wear and tear on those roads.

Phil Mallon said he is not aware that any one church that is creating a problem.

Randy Ogino said he didn't think the wedding/event facility would produce any more traffic than one of these churches. He said let's put something in place and if it creates a problem we can come back and change the ordinance and he likes the part of being able to revoke the Conditional Use permit if a facility creates a problem. He asked what would happen if we end up in court, can we defend the criteria we use to turn somebody down for a Conditional Use.

Chairman Graw said we have to have some criteria to determine if someone can do this or not and without criteria we have a problem.

Randy Ogino said we are still leaving the criteria up to the discretion of the County Engineer.

Chairman Graw said he makes those kinds of decisions all the time.

Randy Ogino asked if a court of law will see it that way.

Chairman Graw said I think they will if we use good criteria.

Rick Minter said it sounds like the County will maintain a paved road if someone tears it up but you won't fix an unpaved road if someone tears it up and it's their responsibility to fix it.

Brian Haren said in 3, b it clearly says if the road does not meet safety standards it shall be improved by the County so I don't think that is discriminating.

Rick Minter said it only mentions unpaved roads.

Brian Haren said right.

Dennis Davenport asked are there unpaved roads in the County that are maintained by a private entity.

Phil Mallon said he is not aware of any official agreement with a private entity to maintain a public road.

Dennis Davenport said in these regulations the County would be requiring a private entity to do work on public roads and we shouldn't do that because if they don't maintain it properly and there is an accident as a result the county is responsible. He said another issue is as a

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Conditional Use you meet a set of conditions where the County has no discretion; the Conditional Use is approved if all of the conditions are met. He stated once you put discretion into the mix, you no longer have a Conditional Use and once you issue a Conditional Use permit and the road degrades as a result, the County can't take the approval back because we shouldn't have issued it in the first place. He said he recommends against a revocation of a Conditional Use based on its effect on the road.

Randy Ogino said he understands not putting the maintenance requirement on the property owner but what about relating it to the excess funds the County has to spend on the road because of the facility. He added we need objective criteria to achieve this because this business is requiring the County to spend excess funds for road maintenance.

Dennis Davenport said the County has unpaved roads and it is the County's decision to improve those roads or not. He said if the County doesn't improve those roads the County can't complain about having unpaved roads because the County has the power and authority to improve those roads. He added that making rules on how to maintain road based on a business that accesses the road is not wise course of action.

Randy Ogino said the problem is we are trying to determine if a business can be allowed on a road that the County is saying is safe to travel on and now we are going to say just because this business wants to access these roads we are going to say the business can't be there because the road is unsafe.

Dennis Davenport said you have to ask yourself does the County allow other non-residential uses on an unpaved road in A-R and if the answer to that question is yes you don't have much leverage to say can't you have other non-residential uses on an unpaved road because you allow other non-residential uses in A-R to access an unpaved road.

Pete Frisina said most similar Conditional Uses such as churches, private, schools, colleges, and non-profit recreational facilities in A-R are required to access an arterial or collector and for the most part those roads are going to be paved.

Rink Minter said he thinks a farm wedding facility that is a part of a working farm should be treated differently than a standalone wedding facility.

Bob Simmons said because you would be using it for wedding and not a farm and the weddings are what are going to increase the traffic.

Rick Minter said it is not like we are creating a whole different business.

Brain Haren said I think that it is a whole different business because there is a big difference in running a wedding venue and running a farm.

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Rick Minter said he sees it as a way to promote your farm.

Chairman Graw said we permit churches in A-R and I would imagine that there are churches on unpaved roads.

Pete Frisina said there are nonconforming churches on unpaved roads.

Chairman Graw said he would bet that some of these churches generate more traffic than a wedding facility may generate because you are not going to have a wedding every week.

Al Gilbert said we have conditions a church has to meet but no where do we have anything in the ordinance where the County Engineer sets out criteria for roads. He added the ordinance is laid out specifically as to what conditions must be met to build a church. He said he is not comfortable with leaving something up to the discretion of staff.

Dennis Davenport said when you know that it is the volume of traffic that is going to impact the road, have we considered limiting the use to a certain number of events per year to address the concern.

Randy Ogino said a farm can have trucks and tractors using unpaved roads but we are taking about a few cars going in and out and we think it is going to cause a problem.

Rick Minter said he thinks school buses tear up a road more than a wedding facility will.

Dennis Davenport said he is looking at a true wedding facility and a wedding facility that looks like a farm and you are doing it in addition to the farm versus you are doing it as the main business. He stated with a true wedding facility the way to make money is to have as many weddings as you can and two (2) weddings per weekend every week is not something you would want to put on an unpaved road. He said so where is the line where this produces too much traffic and what is a reasonable number of events as far as an unpaved road is concerned.

Pete Frisina said as one of the conditions the County should make a determination whether a road can handle the traffic based on the current criteria in our existing Development Regulations and his concern has always been to determine if the road meets standards on the front end of the process.

Randy Ogino said a farm a can have tractor trailers coming in and out.

Pete Frisina said the County allows certain uses on certain roads and a farm is not required to be on a paved road.

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Randy Ogino said the traffic that could go in and out of that farm is probably much more than would be produced by a wedding facility.

Pete Frisina said we don't know how much traffic will be generated by a wedding facility.

Randy Ogino said then how can we create regulations for something we have no idea how much traffic it will create.

Pete Frisina said he has been on some unpaved roads in the county that in his opinion wouldn't be able to handle that much traffic.

Brian Haren said there are some with limited site distance or grades that are out of line with roads standards.

Randy Ogino said a tractor trailer can go down it if there is a farm on it.

Brian Haren said he getting the sense that we don't want to leave this determination up to a single individual and the County spends a lot of time recruiting, interviewing and hiring a professional engineer to make these decisions so if you have somebody who is making bad decisions than blame the person that hired the engineer

Randy Ogino said it is not necessarily their qualifications when you go to court but the criteria the County uses.

Brian Haren said in paragraph 3, a, it says assessment of the road's characteristics against minimum safety standards documented in Fayette County's Development Regulations, which include the American Association of State Highway and Transportation Officials' (AASHTO's) Guidelines for Geometric Design of Very Low Volume Local Roads and those are accepted engineering standards that will stand up in court.

Rick Minter asked how many unpaved roads would meet those standards.

Randy Ogino said you will have someone say you allow me to bring tractor trailers in and out of the farm and now you are saying it is unsafe for a wedding facility.

Dennis Davenport said it is not the decision by a person that is the problem it is the discretion as is started in 3, c, where it states the Conditional Use approval may be revoked by Fayette County if the road requires increased maintenance as a result of facility operations and this is not specifically defined by a standard. He recommends the County determine a limit on the number of events on an unpaved road to address the concerns.

Chairman Graw said one of these facilities could be on a road where there are residences as well.

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Phil Mallon said his concern is if a facility goes in and maintenance becomes a problem what does the County tell those other property owners along that road that complain and wants the county to get the facility owner to pay to maintain the road.

Dennis Davenport said it is not a good practice to try to get funds from the wedding facility to maintain the road because once the County allows it the County has the responsibility to maintain the road.

Brian Haren said what we are looking at roads that were not designed to handle a lot of traffic and may not support a wedding facility and limiting the number of events per year is something that you probably can't determine from an engineering perspective.

Al Gilbert said he understands Phil Mallon's concern because he has a budget to maintain roads and once it is gone it's gone.

Phil Mallon asked what's the drawback of allowing a private entity improve or maintain an unpaved road if the road department approves the improvements and maintenance methods.

Dennis Davenport said if the County allows any private entity to work on a public road the County assumes responsibility for the work and if there is an accident as a result of that work the County is legally responsible.

Chairman Graw suggested limiting the number of events that can be held by a facility on an unpaved road to address some of these concerns.

Brian Haren asked how we would regulate the limit.

Chairman Graw suggested through a permit for each event and he suggested 12 events per year.

Al Gilbert said this would give the County the opportunity to evaluate these facilities to determine their effect on an unpaved road.

Randy Ogino said if the facilities don't have a bad effect we could increase the number of events at a later date.

Rick Minter asked if the County would limit the amount of people that can come to an event.

Chairman Graw said that would be limited by the Fire Marshal.

Pete Frisina said the Fire Marshal only limits the capacity of a building and would not limit the amount of people outside of a building.

Brain Haren said this is a good approach and the Road Department could get base line data from a facility.

Phil Mallon said he agrees with the approach.

Brian Haren said we still need to evaluate the road for safety such as site distance.

Phil Mallon said site distance applies to building a new road not site distance for a driveway.

Pete Frisina said the approach is to limit a wedding/event facility on an unpaved road to 12 events per calendar and to require a permit to keep track of the number of events.

Dennis Davenport said let's make sure that we are requiring an adequately sized lot so as to minimize the effect on surrounding properties.

Pete Frisina said the proposed regulations will not allow the use on lot that accesses an internal local road.

**2. Discussion of proposed amendment to the Zoning Ordinance, Article IX. Policies, Procedures and Standards Governing Amendments and Article VII. Zoning Board of Appeals.**

Pete Frisina said he would review the changes made since the last meeting which are the following: Sec. 110-291. - language changed to make the sentence more clear, Sec. 110-292. - included the applicant with proponent and deleted workshop/meeting from public hearing, Sec. 110-293. - added staff to the list of who can propose amendments to the zoning ordinance, Sec. 110-294. - just for an example not an amendment, gave an example of how long it would be before a property that was denied for a rezoning could reapply and be heard, Sec. 110-297. - added language to better define when a table applies to the Planning Commission's 100 day deadline to act on a rezoning, Sec. 110-299 -a minor amendment to clean up the language, Sec. 110-238 - remove language which conflicts with the BOC's policy to appoint ZBA members, Sec. 110-239 - removed language and created a new Sec. 110-243 which is consistent with the procedure of a rezoning, Sec. 110-241 - included the applicant with proponent, removed the 15 calendar day requirement for the certified notice to the applicant, added a withdrawal to the list of actions the ZBA can take, extended the period in which the ZBA must act on a petition from 45 days to 60 days, and added language to better define when a table applies to the ZBA's 60 day deadline to act on a petition. He presented zoning amendment scenarios as follows:

**Withdrawal**

- **Petitioner withdraws application prior to legal advertisement running in legal organ.** The application is void. No action required by the Planning Commission or Board of Commissioners.



**Petitioner requests withdrawal of the petition after the legal advertisement runs in legal organ.** The petition moves forward to the Planning Commission for Public Hearing

- where the Planning Commission can make a recommendation to accept the withdrawal of the petition. The Planning Commission may also make a recommendation that the withdrawal request be denied. In this case the Planning Commission must also make a recommendation to approve, deny, or table the petition.

The petition moves forward to the Board of Commissioners for Public Hearing where the Board of Commissioners can accept the withdrawal of the petition. The Board of Commissioners may also deny the withdrawal request. In this case the Board of Commissioners must approve, deny, or table the petition.

#### **Table**

##### **Planning Commission**

- **Lack of a Planning Commission quorum at a Public Hearing.** Without a quorum, the Planning Commission can neither meet nor act. The petition is automatically tabled until the next Public Hearing date (1st Thursday of the month.) New legal ad will be run and new sign will be posted. This counts toward the Planning Commission's 100 days.
- **Lack of a full Planning Commission at a Public Hearing.** As long as there is a quorum (3 members) the Planning Commission can meet and act. The petitioner is made aware that they can ask to table to the next Public Hearing in anticipation that a full board may be present and that the petitioner may only exercise this option one time. The petitioner must take this option prior to making the presentation. The Planning Commission must vote to table the petition to the next Public Hearing date. New legal ad will be run and new sign will be posted. This does not count toward the Planning Commission's 100 days.
- **The Planning Commission initiates the tabling of a petition.** The Planning Commission must vote to table the petition. New legal ad will be run and new sign will be posted. This counts toward the Planning Commission's 100 days.
- **The petitioner requests to table the petition.** The Planning Commission must vote to table the petition. New legal ad will be run and new sign will be posted. This does not count toward the Planning Commission's 100 days.

**Board of Commissioners** (Note: there is no time limit in the Zoning Ordinance in which the Board of Commissioners must act)

- **Lack of a Board of Commissioners quorum at a Public Hearing.** Without a quorum, the Board of Commissioners can neither meet nor act. The petition is automatically tabled until the next Public Hearing date (4th Thursday of the month.) New legal ad will be run and new sign will be posted.



- **Lack of a full Board of Commissioners at a Public Hearing.** As long as there is a quorum (3 members) the Board of Commissioners can meet and act. The petitioner is made aware that they can ask to table to the next Public Hearing in anticipation that a full board may be present and that the petitioner may only exercise this option one time. The petitioner must take this option prior to making the presentation. The Board of Commissioners must vote to table the petition to the next Public Hearing date. New legal ad will be run and new sign will be posted.
- **The Board of Commissioners tables a petition.** The Board of Commissioners must vote to table the petition. New legal ad will be run and new sign will be posted.

#### Variance Scenarios

##### Withdrawal

- **Petitioner withdraws application prior to legal advertisement running in legal organ.** The application is void. No action required by the Zoning Board of Appeals.
- **Petitioner requests withdrawal of the appeal/petition after the legal advertisement runs in legal organ.** The petition moves forward to the Public Hearing where the Zoning Board of Appeals can vote to accept the withdrawal of the appeal/petition. The Zoning Board of Appeals may also vote to deny the withdrawal request. In this case the Zoning Board of Appeals must also vote to approve, deny, or table the appeal/petition.

##### Table

- **Lack of a Zoning Board of Appeals quorum at a Public Hearing.** Without a quorum, the Zoning Board of Appeals can neither meet nor act. The appeal/petition is automatically tabled until the next Public Hearing date (4th Monday of the month.) New legal ad will be run and new sign will be posted.
- **Lack of a full Zoning Board of Appeals at a Public Hearing.** As long as there is a quorum (3 members) the Zoning Board of Appeals can meet and act. The petitioner is made aware that they can ask to table to the next Public Hearing in anticipation that a full board may be present and that the petitioner may only exercise this option one time. The petitioner must take this option prior to making the presentation. The Zoning Board of Appeals must vote to table the petition to the next Public Hearing date. New legal ad will be run and new sign will be posted.
- **The Zoning Board of Appeals tables a petition.** The Zoning Board of Appeals must vote to table the petition. New legal ad will be run and new sign will be posted. This counts toward the Zoning Board of Appeals' 60 days.
- **The petitioner requests to table the petition.** The Zoning Board of Appeals must vote to table the petition. New legal ad will be run and new sign will be posted. This does not count toward the Zoning Board of Appeals' 60 days.

Pete Frisina said he would add language that says a member stays on the board until such time that the board member is reappointed or his successor is appointed.

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It was the consensus of the Planning Commission to move ahead with the aforementioned amendments.

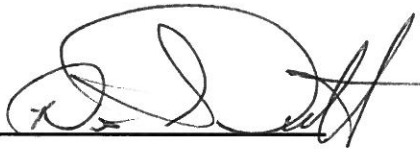
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Al Gilbert made a motion to adjourn the meeting. Chairman Graw said the meeting was adjourned at 9:00 pm.

PLANNING COMMISSION  
OF  
FAYETTE COUNTY

  
JIM GRAW, CHAIRMAN

ATTEST:

  
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