

Meeting Minutes 6/1/23

THE FAYETTE COUNTY PLANNING COMMISSION met on June 1st, 2023 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Jim Oliver, Chairman
John Kruzan
Arnold Martin

MEMBERS ABSENT: Danny England
John H. Culbreth Sr., Vice Chairman

STAFF PRESENT: Deborah Sims, Zoning Administrator
Chelsie Boynton, Planning and Zoning Coordinator
E. Allison Ivey Cox, County Attorney

NEW BUSINESS

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.

Debbie Bell asked to remove items six (6) and seven (7). She stated they will be readvertised for the July meeting, there is a minor revision to the parcel and staff is getting a new legal description.

Arnold Martin made a motion to approve the agenda with the removal of items 6 and 7. John Kruzan seconded the motion. The motion passed 3-0. Danny England and John Culbreth Sr. were absent.

4. Consideration of the Minutes of the meeting held on May 18, 2023.

Arnold Martin made a motion to approve Minutes of the meeting held on May 18, 2023. John Kruzan seconded the motion. The motion passed 3-0. Danny England and John Culbreth Sr. were absent.

PUBLIC HEARING

5. **Consideration of Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-3. Definitions; Sec. 110-241. – Public Hearing; Sec. 110-292. – Public Hearing; Sec. 110-295. – Appeal.**

Debbie Bell stated the first amendment is to add a definition for a specific use. The definition of Drug Abuse Treatment Facility means a residential treatment facility staffed by professional and/or paraprofessional persons offering treatment and/or therapeutic

programs for drug-dependent person who reside on the premises. This is a special use of property requiring the grant of a permit after two (2) public hearings. A drug abuse treatment facility must also be approved and licensed by the Georgia Department of Community Health.

Chairman Oliver asked if there were public comments.

Adam Kaye introduced himself and stated his comments did not make the previous meeting minutes due to his microphone being left off. He stated he would reiterate those comments as well as provide updates. He stated his concern about the County adding Drug Abuse Treatment Facility as a defined term in the zoning code. He stated on March 21st, he reached out to the Zoning Director requesting a zoning verification letter related to a property in the O-I zoning district. He stated this is a formality to satisfy lender requirements of acquisition of the property. He stated the request was for the Office Planning and Zoning to confirm that use of the property for hospital or care home for the treatment of mental illness, specifically for the treatment of substance use disorders were permitted. He stated the request was not for a traditional rehab facility or sober living house instead for a detoxification facility for the treatment of acute withdrawal symptoms. He continued, a detailed scope of services was provided to the County, it clearly demonstrated the use satisfied the definition of a hospital and a care home. He stated hospitals are already permitted in O-I zoning districts. He stated the County Attorney instructed the Planning and Zoning Director not to issue the zoning verification letter. He stated the County Attorney has stated that the facility would be like a hospital and O-I is appropriate. He stated the refusal to approve the business license or Occupational Tax Certificate is based on the Planning and Zoning office's position that people recovering from substance use disorders must be treated differently. He stated the actions by the County are unlawfully restricting his client's use of its property and making it harder for those in need to access the necessary care. He continued, when medical treatment is permitted under the zoning code, when is the County in the business of deciding that certain medical treatment is excluded? And when treatment of mental illness is permitted in the zoning code, when is the County in the business of deciding that certain types of mental illness are excluded? He further stated the most recent use of the property was for a hospice facility which is classified under a type of care home. He stated it's okay for people to go there to get medication under medical supervision so they comfortably die but it's not okay for people to go there to get care under medical supervision so they comfortably get well. He concluded with the proposed definition for Drug Abuse Treatment Facility is in violation of federal law. He stated HUD and the DOJ came out with a joint statement regarding state and local land use and zoning law as it relates to drug treatment centers. In the statement they make clear that people seeking recover for substance use disorder, alcoholism, and other mental illnesses qualify as disabled under the Civil Rights Act and the Americans with Disabilities Act. He stated because they are considered disabled, any attempt by the County to oppose restrictions on facilities treating such individuals would be discriminatory and in violation of federal laws. He stated in other words, if there is a medical weight loss facility that doesn't have to go through two (2) public hearings, they can't require a drug treatment facility to go

through two (2) public hearings or any additional requirements not generally applicable.

Chairman Oliver asked if County staff had a response.

Attorney Cox stated they have done everything they can to work with Mr. Kaye. She stated they are trying to add the use because it doesn't fall under hospital. She stated it is similar but the definition of hospital excludes offices for private practice of medicine, dentistry, or psychiatry. She continued the drug detox facility are specifically addressed in state law. She stated they are doing as much as they can to get it done as quickly as possible to add to code so it can function and stay in line with what's required under state law. She stated the HUD complaint, which was received by her office on Tuesday, is a little contradictory. That would require a residential facility which is Mr. Kaye has been arguing this is not.

Chairman Oliver asked if the appeal on the Agenda in reference to Mr. Kaye?

Debbie Bell stated the items are on the agenda are for other parts of the code not related to this definition.

Attorney Cox stated he is appealing the non-issuance of the zoning letter.

Debbie Bell stated the appeal will go before the Zoning Board of Appeals on June 12th.

Chairman Oliver asked if tonight was for adopting the definition?

Debbie Bell stated yes.

Arnold Martin asked is there was a copy of the definition from HUD addressing it being a residential facility?

Attorney Cox stated there was a complaint filed from HUD. She explained there is no definition but it would be Housing. She continued she does not have a copy of the complaint with her and it's a very short complaint.

Arnold Martin asked if it was a short term residency?

Mr. Kaye stated he can elaborate on the HUD issue. He stated HUD does not have a specific codified definition of a residence just like Fayette County doesn't have a specific definition of a residence. He stated speaking with attorneys at HUD, the fact that people would stay overnight even for one day they classified it as under their jurisdiction. He stated it is not a residential facility the way the substance use treatment world describes. He stated there is detox, which is the facility he's referring to, which is the beginning and would be two (2) to five (5) days, acute care withdrawal symptoms, it is like a hospital. He stated from there someone would go to a residential treatment facility. This could be 30 to 90 days. He stated that's where he's been distinguishing the facility in question

from a residential treatment facility.

John Kruzan asked in terms of services, are there critical care facilities? He gave the scenario of someone suffering from acute withdrawals could have a seizure, heart attack, or stroke. Are they treated at the facility or moved to another facility?

Mr. Kaye answered if someone had a stroke or heart attack they would be taken to another facility. He stated these people are under the supervision of MDs and nursed not therapists. The therapy happens at the residential facilities. He stated they are getting stabilized so they can go get care.

John Kruzan stated the medial personnel at this facility would help to stabilize them. If something happens that was more acute, they would then be moved to a hospital or a facility that could handle that situation.

Mr. Kaye stated not for seizures. Seizures are associated with alcohol withdrawals and are far more common.

Arnold Martin asked for clarity on what the Planning Commission is voting on.

Chairman Oliver stated it is to adopt the entire Section 110-3 Definitions with the added definition of Drug Abuse Treatment Facility.

Arnold Martin asked if that would bring them closer to what Mr. Kaye is asking for?

Attorney Cox stated yes. It will go before the Board of Commissioners, they will adopt it, the application will be triggered, and the process will start.

Arnold Martin made a motion to approve Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-3. Definitions; Sec. 110-241. – Public Hearing; Sec. 110-292. – Public Hearing; Sec. 110-295. – Appeal. John Kruzan seconded the motion. The motion passed 3-0. Danny England and John Culbreth Sr. were absent.

- 6. Consideration of Petition No. RDP-016-23, To revise the development plan for Morning Falls Subdivision - to remove parcel# 1308 021 (48.472 acres) from Morning Falls subdivision. This property is located in Land Lot 224 of the 13th District, and fronts on Gadson Drive.**

Item removed from agenda. No action taken.

- 7. Consideration of Petition No. 1329-23 CG & PH, LLC, Owner, and John K. Pell, Agent, request to rezone 48.472 acres from C-S to A-R. This property is located in Land Lot 224 of the 13th District, and fronts on Gadson Drive.**

Item removed from agenda. No action taken.

.....

John Kruzan made a motion to adjourn. Arnold Martin seconded. The motion passed 3-0. Danny England and John Culbreth Sr. was absent.

The meeting adjourned at 7:21pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY



JIM OLIVER, CHAIRMAN

ATTEST:



CHELSIE BOYNTON
PC SECRETARY

