

**THE FAYETTE COUNTY PLANNING COMMISSION** held a **Workshop** on February 3, 2005 at 6:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, Fayetteville, Georgia.

**MEMBERS PRESENT:** Jim Graw, Chairman  
Douglas Powell, Vice-Chairman  
Bob Harbison  
Bill Beckwith  
Al Gilbert

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Aaron Wheeler, Director of Zoning/Zoning Administrator  
Phil Mallon, Assistant County Engineer  
Bill McNally, County Attorney  
Delores Harrison, Zoning Technician  
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator  
Deputy Travis Caldwell

**Welcome and Call to Order:**

Chairman Graw called the meeting to order and introduced the Board Members and Staff.

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**1. Discussion of proposed amendment to the Fayette County Development Regulations regarding Article XIII. Post-Development Stormwater Management for New Development and Redevelopment as presented by the Engineering Department.**

Phil Mallon stated that the proposed required ordinance will have a large impact on the development community, County government, and the citizens due to the perpetual inspections and maintenance requirements. He said that the model ordinance was prepared by the Northern Georgia Water Planning District and is required by the State to be adopted by Fayette County. He reported that many other states have already adopted an ordinance similar to the proposed ordinance, and in some cases for many years.

Mr. Mallon pointed out that there are water quantity control guidelines in the Street Design section of the Development Regulations for bridges and culverts which have to be designed to certain standards and more importantly, any development has to have the post-development runoff rate which is measured in cubic feet per seconds equal to or less than the existing conditions. He explained that for the large storms like the 25, 50, and 100 years storm, there has to be a 20% reduction of the peak pre-development flows. He confirmed that there are much more specific design criteria for the water quantity management which developers and their engineers must follow to demonstrate that the peak flows are being managed appropriately.

Mr. Mallon reported that the required studies will not stop at the property lines as they have in the past. He remarked that you will have to go downstream to see what impact the development will have on your neighbor and possibly your neighbor's neighbor to a certain area where the total impact is minimal. He added that this will require a larger hydrological study. He stressed that water quality control will be reviewed in addition to quantity control. He stated that quality control is a very difficult issue.

Mr. Mallon stated that the citizens would be impacted by the post-construction inspection and maintenance requirements. He explained that this means once the development is built that they will have to be routinely inspected by a qualified individual, probably a professional engineer, which submits his findings to the County for review and then the required maintenance will be performed. He said that an Inspection and Maintenance Agreement, signed by the property owner prior to final plat approval, will be required to help ensure this work is performed. He added that this would require additional record keeping for the homeowners and the County. He explained that the most

appropriate way to enforce this requirement is to establish a special tax assessment area on a subdivision should they fail to meet their inspection and maintenance requirements. He commented that many municipalities are establishing a storm water utility which involves a fee for the County to handle these requirements; however, due to the low density of development in Fayette County, it is more appropriate to establish a special tax assessment area. He commented that these requirements would apply to new construction/development only. He added that inspection certifications would be required during the construction process.

Al Gilbert asked who would perform the various inspections.

Mr. Mallon replied that it is his plan to put as much burden on the private sector as possible so the developer would be required to hire an Engineer who would submit their report to the Engineering Department.

Mr. Gilbert stressed that this ordinance would also put more work on the Engineering Department and additional employees may be needed. He asked if a fee could be charged to cover the expense of the County.

Mr. Mallon replied that he hoped another Engineer would be hired to help with these regulations. He said it may be appropriate to charge a fee to cover the review costs by the Engineering Department. He pointed out that the proposed ordinance incorporates the Georgia Stormwater Management Manual which gives specific details regarding stormwater management and associated technical specifications.

Bob Harbison asked if a new subdivision is developed with a detention pond then the detention pond will have to be inspected and certified periodically and if it is filled-in with silt then it will be required to be cleaned out.

Mr. Mallon replied that he was correct. He added that more permanent wet pools will be established which will be a challenge because you will have to ensure that the pool will hold water in dry periods and more importantly that it is maintained in a way that it looks attractive and is not a mosquito breeding ground.

Mr. Harbison asked what would happen when the homeowners association is no longer a viable homeowners association.

Mr. Mallon replied that this is probably one of the most important issues. He added that the County Attorney's office has suggested placing the burden on the developer, prior to the approval of the final plat, to establish a legal entity of the homeowners association. He remarked that the details of when it is transferred from the developer to the property owners is something that will have to be worked out. He explained that the entity will be required to be created and through contracts, have the ability to tax that entity if needed. He commented that the creation of the homeowners association will be a requirement for final plat approval and the County will have the ability to tax the members of the homeowners association through the special tax assessment area.

Bill Beckwith remarked that the fees to cover costs sounds like an impact fee.

Mr. Mallon replied that there are no impact fees proposed.

Mr. Harbison asked if a stormwater tax district could be established for a new subdivision similar to a street light district.

Mr. Mallon commented that this is exactly what is being proposed.

In regards to who this ordinance is applicable to, Mr. Mallon confirmed that it would include all new development, all subdivisions and commercial projects, and anything disturbing either one (1) acre

of land or adding up to 5,000 square feet of impervious area. He added that the 5,000 square feet of impervious area came from the model ordinance and he did not know the history behind it.

Mr. Harbison asked if the primary permittee was responsible for the submitting the application for a permit and then secondary permittees can work under the permit.

Mr. Mallon confirmed that there are exemptions from the ordinance which include individual single-family houses not part of a subdivision regardless of the impervious area, agricultural or silvicultural (forrestry) activities, and subdivisions which are not associated with any new road construction or other common feature.

Under this ordinance, Mr. Mallon reported that the developer will have a number of submittals for the Engineering Department, some of which will be required to be submitted prior to the land disturbance permit process. He explained that all submittals must be signed and sealed by a professional engineer. He commented that an existing conditions hydrological analysis to review the entire site and the area which flows onto the site, as well as, where the site flows and the current runoff rates and any existing flooding problems will be required. He added that this exercise is repeated for the developed conditions. He said the details of the stormwater management system will also be required and will include the details regarding permanent wet ponds. He stressed that the outlet control structures get very complicated and are almost impossible to operate efficiently. He added that vegetated open swales are promoted in the manual which also encourages ditches vs. curb and gutter whenever possible and infiltration trenches or a rain garden. He reported that a post-development downstream analysis is also required to see what the impacts may be downstream. He stated that a landscape plan with details of the type of vegetation being used will also be required. Mr. Mallon commented that the Operations and Maintenance Plan will identify what has to be inspected and at what intervals and by what person and the training which they need. He added that a maintenance access easement will also be required to each stormwater facility to be used by the homeowners association or the property owner and possibly the County. He said that Inspection and Maintenance Agreements will be the contractual documents which force the homeowners association to do the work. He remarked that paperwork would also be necessary to ensure that the homeowners association was created as a legal entity and that the tax assessment area is also created and registered with the Tax Assessors Office.

Mr. Harbison asked if the easement requirement needed to be incorporated into the Development Regulations or plat requirements.

Mr. Mallon replied that the language is in place to require the easement to be indicated on the Final Plat.

Mr. Harbison asked if the establishment of a homeowners association would be a requirement under this ordinance.

Mr. Mallon replied yes sir.

Mr. Harbison asked if a tax district could be required instead of the establishment of a homeowners association.

Attorney McNally replied that the idea is to create the same type of document right from the start just like a street light district, however a homeowners association is being required in the ordinance. He added that to the greatest degree possible, the County does not want to get into the maintenance of these items if it could be avoided.

Mr. Powell asked if each homeowner would be required to become a part of the homeowners association.

Attorney McNally replied that the County does not have that ability but the County does have the ability to create the tax area so the active members will have a choice to either handle matters themselves or have it done for them and everyone will have a fee added to the tax bill. He added that the State is requiring the County to get involved in an area which they have chose not to in the past.

Mr. Mallon also noted that the Design Manual offers several credits that can be used to meet the water quality requirements. These credits include: natural area conservation, stream buffers, vegetated channels, and minimum lot sizes over two (2) acres.

Mr. Mallon pointed out that there are also seven (7) points which must be amended: 1) add language for the homeowners association; 2) add language for the tax assessment district; 3) change the sequence of submittals; 4) establish an affective date probably September 1, 2005 but not on the adoption date; 5) 2-4 year bond requirements to protect County and homeowners; 6) review credits; and 7) remove option/reference to a stormwater utility.

Chairman Graw asked Mr. Mallon why he was eliminating civil penalties.

Mr. Mallon replied that in Court the Judge usually does not reference the minimum or maximum penalty and they do what they think is appropriate. He added that the draft ordinance has been changed to match the County's enforcement procedures, consistent with others in the Development Regulations.

Mr. Harbison asked if a C-S zoning district would be considered as a two-acre development in regards to water quality because this may discourage development of C-S zoning.

Mr. Mallon replied that he would need to review the ordinance further.

Chairman Graw stated that another Workshop would be necessary.

Mr. Mallon advised that this item would be on the February 17th Workshop and will probably be advertised for a vote in March in order to meet the April 1st deadline.

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Chairman Graw asked if there was any further business. Hearing none, Bob Harbison made a motion to adjourn the workshop. Al Gilbert seconded the motion. The motion unanimously passed 5-0. The workshop adjourned at 6:43 P.M.

**PLANNING COMMISSION**  
**OF**  
**FAYETTE COUNTY**

**ATTEST:**

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**JIM GRAW**  
**CHAIRMAN**

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**ROBYN S. WILSON**  
**P.C. SECRETARY**

