

**THE FAYETTE COUNTY PLANNING COMMISSION** held a **Workshop** on June 16, 2005 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:** Jim Graw, Chairman  
Douglas Powell, Vice-Chairman  
Bill Beckwith  
Al Gilbert  
Tim Thoms

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Aaron Wheeler, Director of Zoning/Zoning Administrator  
Chris Venice, Interim County Manager/Director of Planning/  
Community Development Division Director  
Pete Frisina, Acting Director of Planning  
Bill McNally, County Attorney  
Migel Abi-hassan, Director of Animal Control  
Delores Harrison, Zoning Technician  
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

**Welcome and Call to Order:**

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

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Chairman Graw made a motion to hold an Executive Session consisting of the P.C. members and Attorney Bill McNally to discuss one (1) legal item. Doug Powell seconded the motion. The motion unanimously passed 5-0. Chairman Graw adjourned the Workshop for Executive Session at 7:03 P.M.

Chairman Graw reconvened the Workshop at 7:42 P.M. No action was taken by the P.C.

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**1. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article III. Definitions, Section 3-60. Kennel (amend), Section 3-62. Livestock (amend), and add definitions for Animal and Mammal, Large Exotic as presented by the Zoning Department.**

Aaron Wheeler explained that since the last Workshop a definition for “Animal” and “Large Exotic Mammal” had been added to the proposed amendments. He pointed out that the definition of “Kennel” had also been revised to include any location where more than three (3) dogs are kept but deleted “cats other animals” from the definition. He added that he had also extended the definition of “Livestock” to include pot bellied pigs, emu/ostrich, and buffalo. He confirmed that the number of animals allowed to be kept was limited to four (4) not exceeding three (3) dogs. At this time, he introduced Migel Abi-hassan, Director of Animal Control.

Migel Abi-hassan said he was a card carrying member of the Humane Society of the United States, the AKC, and the ASPCA who oppose limit laws because they believe there are regulations which can circumvent the idea of telling someone what they can and can't have. He explained that there is a certain number of animals which someone can have before you take on certain risks. He stated that one risk is pack mentality which is based upon dominant acts from one dog to another. He confirmed that this dominant act is based on one animal proving to another animal that it is the alpha animal, the top dog. He commented that this exists in negative behavior such as barking and aggression. He explained that when you pair a dog which never barks with a dog which does bark, that the nonbarking dog will begin to start barking. He noted that the absence of a behavior is not trainable but the presence of one is. He remarked that packs begin to bark, wander, and attack

together. He said that there is no licensing system in Fayette County which makes it difficult to have an accurate count on the number of animals per household. He stated that complaints are driven by home owner complaints which are forwarded to the Marshal's Office. He commented that the clear issue is the allowable pet limit.

Chairman Graw recognized an unidentified lady who asked if a special rescue license could be issued with a limit to the number of animals allowed. She stated that her oldest animal is twelve (12).

Attorney Bill McNally asked the lady how many animals she had and she replied five (5).

Chairman Graw stated that with five (5) animals fell under the definition of a kennel.

Mr. Wheeler replied that a kennel is not permitted in the R-40 zoning district where the lady resides. Chairman Graw expressed concern that the definition of "animal" and "large exotic mammal" should be more general due to possibly leaving out some type of animal.

Mr. Wheeler stated that he and Mr. Abi-hassan tried to cover as many animals as possible.

Mr. Abi-hassan suggested to use family and not species.

The unidentified lady asked if "house cats" could be omitted from the definition.

Doug Powell suggested to amend the ordinance to read domestic dog or domestic cat.

Tim Thoms pointed out that the number of animals allowed does not fit in the definition and should be placed elsewhere because it is a regulation.

Mr. Wheeler stated that he would branch this out to another section.

Mr. Thoms asked if every exotic animal has to be approved by DNR.

Mr. Abi-hassan replied no.

Chairman Graw asked why cats were deleted from the definition of kennel.

Mr. Wheeler replied that he was unsure why it was removed but believed it was based on a recommendation by Mr. Frisina or someone else.

Mr. Powell suggested to clarify where the animals can be kept. He asked why the count was raised from three (3) animals to four (4).

Mr. Abi-hassan replied that there is no benefit or sacrifice to adding one (1). He stated that he was more concerned about the number of dogs.

Mr. Thoms commented that he had talked to several vets this week and a lot of their clients have more than three (3) animals. He remarked that some people may not know that they are in violation. He added that one barking dog was worse than having many dogs even if they are on a large tract of land.

Mr. Powell said that it is difficult to find a way to address nuisance vs. number. He commented that the County has a Noise Ordinance to address nuisance dogs and probably a Health Ordinance to address other health conditions that would apply to having too many animals. He stated that he had read an article in "Free Speech" on Wednesday which was interesting. He recalled a lady talking about three (3) animals and she said, three (3) on the left, three (3) behind me, and three (3) on the right, which is nine (9) dogs and they are all barking and I am going crazy. He noted that he lives

on a unique piece of terrain, the way it was cut because there are three (3) cul-de-sacs which back up to his yard and he is adjoined by six (6) lots which means there could be eighteen (18) dogs back there

barking, however there are only two (2) barking and they still drive him nuts. He added that if he had eighteen (18) he did not know what he would do. He explained that he was dealing with it, not through numbers, but through the Noise Ordinance with the Marshal's Office.

Attorney McNally explained that the County has certain parameters that we can enforce as a County government and other parameters which we can't. He confirmed that the way to control the number of dogs is through the Zoning Ordinance. He stated that if you have thirty (30) dogs on A-R property that you must meet the kennel requirements, which means you have to have certain setbacks and other qualifications upon your property and meet health conditions for a kennel. He noted that there is not a large number of enforcement personnel and therefore, enforcement is complaint and nuisance driven. He added that Animal Control did not have enough personnel to go door to door so this is why the issue is handled the way that it is.

The unidentified lady asked if house cats could be omitted from the count.

Mr. Powell explained that the proposed ordinance allowed a total of four (4) animals.

Another unidentified lady asked if the animals had to be spayed or neutered.

Mr. Abi-Hassan replied that there are two (2) State mandated provisions which require animals to be spaced or neutered; 1) if an animal is caught running at large twice and 2) if the animal is adopted from a shelter.

Attorney McNally suggested to have Mr. Abi-hassan and Mr. Wheeler rework the proposed amendment and work out the details prior to presenting the revised amendment at the next Workshop.

Mr. Powell advised that the Workshop would be held on July 21, 2005.

The P.C. concurred.

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**2. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1.B. Conditional Uses Allowed, 8. Church, Temple, or Place of Worship, e. (specifying the types of accessory uses allowed for a church) as presented by the Zoning Department.**

Attorney Bill McNally requested to withdraw the proposed item from the agenda at this time to allow the Zoning Staff time to revise the proposal.

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**3. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-1. A-R Agricultural-Residential District, B. Permitted Uses, 2. Recreation centers and similar institutions owned by non-profit organizations so designated by the Internal Revenue Code, as amended (delete) and renumber the remaining Permitted Uses and C. Conditional Uses, 16. Recreation centers and similar institutions owned by non-profit organizations so designated by the Internal Revenue Code, as amended (add) and renumber the remaining Conditional Uses and Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1.B. Conditional Uses Allowed, 31. Recreation centers and similar institutions owned by non-profit organizations so designated by the Internal Revenue Code, as amended (add) and renumber the remaining Conditional Uses as**

\_\_\_\_\_ **presented by the Zoning Department.**

Attorney Bill McNally requested to withdraw the proposed item from the agenda at this time to allow the Zoning Staff time to revise the proposal.

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**4. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-2. EST Estate Residential District as presented by the Planning Department.**

Pete Frisina stated that he had revised the EST to be the same as C-S in regards to an approved yield plan with 40% open space. He added that he was deleting the requirement of two and one half (2.5) acres of open space must be set aside for each residential dwelling lot under I.,2., Size since a yield plan would be required. He explained that the EST was proposed for the area designed as Agricultural Residential in the southern end of the County on the Land Use Plan Map. He confirmed that the yield would be one (1) lot on five (5) acres (2.5 acre lot with 2.5 acres of open space). He reported that the property should be designed to comply with the A-R zoning district including any floodplain or watershed restrictions in order to establish the number of allowable lots. He added that the C-S is working well and that there are four (4) approved and two (2) pending.

Attorney Bill McNally stated that the EST will control density while arriving at a more finished product and it gets away from the A-R uses such as livestock in a subdivision.

Chairman Graw asked Mr. Frisina if he had spoken with any developers regarding the proposed EST.

Mr. Frisina replied yes and that they like the concept.

Aaron Wheeler commented that one (1) developer is waiting to see if it is adopted.

Doug Powell asked if the open space could be utilized as a golf course.

Mr. Frisina replied no but it would be allowed under the PUD.

Mr. Powell asked if the EST could be a fly-in community with hangers.

Attorney McNally replied not in a conservation subdivision. He added that horses and related activities should be deleted from the proposal because it is too active of a use and do not belong in a conservation subdivision and it will be an enforcement problem.

Mr. Powell stated that horses should be added to a PUD and deleted from the EST.

Mr. Frisina pointed out that under 6-2.,B.1. he was proposing to delete “the location or dimensions of streets” because this would require someone to come back through the entire process and hold up a developer for two (2) months.

Tim Thoms asked if this item was also going to be deleted from the C-S.

Mr. Frisina replied yes but it would be done at a later time and added that he would also be deleting horses and horse stables from the C-S.

Mr. Frisina pointed out that he was also revising the minimum house size from 2,500 square feet to 3,000 square feet. He reported that the average house size in Fayette County is 3,300 square feet.

Bill Beckwith asked what would happen to the open space should the home owners association cease to exist.

**Page 5  
June 16, 2005**

Mr. Frisina replied that the County would get the possession of the property because no one will want to purchase it because it is a liability.

Mr. Powell asked if the home owners could be charged on a pro rata basis.

Mr. Frisina replied that someone has to own the open space and pay the taxes.

Mr. Thoms asked Mr. Frisina to explain the yield plan again.

Mr. Frisina explained that a yield plan is basically a preliminary plat without the field work with roads which complies with the A-R zoning district which will give the number of lots that could be developed should the property be rezoned to EST.

Mr. Thoms confirmed that the EST would not increase the density.

Mr. Frisina replied that this is correct.

Al Gilbert stated that the EST would have less roads and would cut down on the amount of impervious surfaces.

Mr. Thoms asked how the EST would affect rezoning of a typical subdivision.

Attorney McNally replied that no one would be entitled to any more density.

Chairman Graw instructed Robyn Wilson to advertise the proposed EST for the July Public Hearing.

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**5. Discussion of proposed amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, B. Conditional Uses Allowed, 14. Developed Residential Recreational/Amenity Areas.**

Aaron Wheeler explained that a developer was proposing a pavilion instead of a club house, however, the ordinance does not permit a pavilion except for a church. He also stated that the Development Regulations have a parking requirement for a pavilion. He said that since a pavilion was permitted for a church, why shouldn't it be permitted for a developed residential recreational/amenity area.

Bill Beckwith questioned why the times were different for activity lighting and the pavilion.

Mr. Wheeler replied that he prepared the proposed ordinance in haste, however he could delete item f.

Doug Powell suggested to change the time on item g. from 10:00 p.m. to 10:30 p.m.

Attorney Bill McNally stated that the time limitation should correspond with the Noise Ordinance which he believes is 10:00 p.m.

Chairman Graw asked if item f. should be revised to state: No activity and lighting permitted after 10:00 p.m. so item g.(1) could be deleted.

Mr. Wheeler stated that item f. was already in the ordinance, however he did not have a problem revising it. He suggested that item g. should state: The construction of one (1) open air pavilion up to 900 square feet utilized for picnic and social gatherings.

**Page 6**  
**June 16, 2005**

Chairman Graw instructed Robyn Wilson to advertise the proposed amendment for the July Public Hearing.

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**6. Discussion of approval of Workshop Agenda items.**

Chairman Graw stated that he had requested Aaron Wheeler to place this item on the Workshop Agenda because the P.C. has discussed the number of agenda items, what is being put on the agenda, and who develops the agenda.

Attorney Bill McNally said that the number one priority has got to be the rezoning requests which have time constraints. He remarked that he had personally asked the B.O.C. about limiting the number of rezonings, however they do not wish to limit the number of rezonings. He commented that it is his understanding that the items with more latitude be put off if there is a heavy rezoning agenda.

Al Gilbert stated that in regards to the Workshop Agenda, if an item is not pressing and there are already five (5) or six (6) Workshop items, then put the item off until the next month. He said that the longer a meeting goes, he starts getting tired and irritable and it is to no one's benefit to be reviewing a six (6) or seven (7) item Workshop Agenda that takes two and one-half (2.50) hours. He requested that stuff not just be thrown on if there is already a long Workshop Agenda. He commented that he would prefer to have four (4) or five (5) items every month than to have six (6) or seven (7) items this month and none the next.

Attorney McNally advised that Robyn Wilson evaluates the time for rezonings at the Public Hearing, so the P.C. must abide by the time restraints and not let people go over the time limit.

Chairman Graw replied that he had stuck by the time restraints pretty well. He pointed out that the Workshop tonight would have probably been longer than two (2) hours if two (2) items had not been removed from the agenda. He stated that he did not know if the P.C. felt that this was too long or not.

Mr. Gilbert replied that it was close.

Chairman Graw commented that the items needed to be discussed tonight and nothing could be put off.

Bill Beckwith remarked that the P.C. needs to get done what needs to get done no matter how long it takes.

Chairman Graw concurred.

Mr. Beckwith added that everything does not have to get done all at once.

Tim Thoms said that Staff puts the agenda together so they would be the ones to know how much the P.C. could get done.

Pete Frisina commented that the P.C. needed to keep in mind that sometimes Staff needs to get things done in a timely manner.

Mr. Beckwith replied that this is why the P.C. trusts Staff.

Mr. Frisina explained that if Staff happens to put a lot of items on the agenda that it is because they are looking for input or they need to get something done and some items can't be put off for two (2) months.

**Page 7**  
**June 16, 2005**

Chairman Graw replied that this was not a problem and if an item needs to be placed on the agenda and discussed then do so.

Mr. Beckwith said that there does not have to be six (6) or eight (8) short items such as administrative changes on the agenda because they can be put off to some other time.

Mr. Frisina explained that when Staff sees a change that needs to be made that they try to make them as promptly as possible. He said that Staff tries to keep the Workshops to two (2) hours.

Mr. Beckwith commented that if there are items which need to be discussed to forget the clock and the P.C. will do what they have to do.

Mr. Frisina remarked that if there are pressing items that Staff will present them to the P.C. even if everyone has to stay to 10:00 p.m. or 12:00 a.m. He added that there are times when Staff has to slip things in especially when working on a deadline such as for the State mandated ordinance.

Attorney McNally advised the P.C. that they need to understand that the County is hemmed in with State mandated ordinances which place a burden on the County and even though we don't like them we have no choice. In regards to environmental protection, Attorney McNally said that he must forward a certification which states that the ordinances adopted by the B.O.C. complies with the State mandate.

Mr. Powell asked if an explanation could be provided as to why the amendment is being presented.

Attorney McNally replied that Staff could address why at the Workshop.

Mr. Thoms said that since he had been on the P.C. that there have been tons of changes and it is hard to keep his copy of the Zoning Ordinance up-to-date.

Robyn Wilson stated that copies of the adopted section of the ordinance have been forwarded to Mr. Thoms after being adopted by the B.O.C. She advised that copies of the Zoning Ordinance, Sign Ordinance, Development Regulations, and Subdivision Regulations would be prepared for the P.C. and four (4) copies of each would be prepared for the County Attorney's Office. She remarked that the updates with the holes already punched in them will be given to the P.C. in a separate envelope after adoption by the B.O.C.

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Chairman Graw remarked that he had received a copy of the Fayette County Board of Commissioners Rules of Procedure. He said that he needs to ask each P.C. member to say yea or nay and raise their hand when a vote is taken. He referenced the Action Chart and asked if he had to look at the chart for each type of action.

Attorney McNally advised that until a member on the P.C. says they do not like the way the Chairman is presiding over the meeting. He said that the Chairman needs to stay within the confines and if all members are happy, he is happy.

Chairman Graw stated that actually he is calling for a second on some items which according to the chart do not need a second and asked if he could continue doing so.

Attorney McNally replied that if there is no second, the member which made the motion can state that a second is not required and the Chairman must comply.

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**Page 8**  
**June 16, 2005**

Chairman Graw asked if there was any further business. Hearing none, Doug Powell made a motion to adjourn the workshop. The motion unanimously passed 5-0. The workshop adjourned at 9:05 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**