

OFFICE OF THE COUNTY ATTORNEY

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ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

TO: Commissioner Emma I. Darnell, District 6

CC: Remaining Members of the Board of Commissioners
Richard "Dick" Anderson, County Manager

FROM: Patrise Perkins-Hooker, County Attorney *PH*

DATE: September 4, 2018

RE: Zoning Resolutions and Amendments in the areas of "Environmental Protection" including "Distance Requirements" and "Noise Provisions."

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You have my office to advise on Zoning Resolutions and Amendments in the areas of "Environmental Protection" including "Distance Requirements" and "Noise Provisions." A search of Fulton County records reveals the following responsive items in reverse chronological order:

1. **Developments in or near Transmission Line Easement.**

The Board of Commissioners approved this text amendment on June 4, 2014 to the Zoning Resolution to revise Article 34-5-10 which established certain setback requirements between petroleum pipeline easements and residential properties as well as other properties involved in the manufacturing or storage of hazardous materials. The amended added a graduated series of zones to have more scrutiny the close a development gets to a pipeline easement.

2. **Petition to Amend the Fulton County Zoning Resolution – Article 4.18 Environmentally Adverse Use Distance Separation Requirements from Vulnerable Residential Communities.**

The Board of Commissioners approved this text amendment to the Zoning Resolution on July 17, 2013 as Agenda Item 13-0175. The approval of Agenda Item 13-0175 is the culmination of the Boards of Commissioners' directive to staff to prepare and process a Text Amendment promoting environmental justice. Specifically, Article 4 of the Zoning Resolution was amended by adding Article 4.18 which is designed to protect Environmentally Stressed Communities from land uses deemed to be an Environmentally Adverse Use by establishing acceptable separation distance requirements between certain land uses and citizens of Fulton County.

3. **Resolution Directing County Staff to Prepare and Process a Text Amendment to the Fulton County Zoning Resolution Promoting Environmental Justice by Establishing Distance Requirements Between Certain Environmentally Adverse Use.**

This Resolution was adopted on October 3, 2012 as Agenda Item 12-0883. The purpose and substance of Agenda Item 12-0883 is to direct the County Manager and the Department of Planning and Community Services to research, develop, and present to the Board of Commissioners amendments to the Zoning Resolution establishing distance requirements between certain land uses deemed to be environmentally adverse to the natural resources, environment and citizens of Fulton County.

4. **Resolution Establishing a Fulton County Environmental Justice Working Group to Develop Recommended Policies and Projects to Enhance Environmental Justice in Fulton County.**

This Resolution was adopted on August 15, 2012 as Agenda Item 12-0702. The purpose and substance of Agenda Item 12-0702 is to establish the Fulton County Environmental Justice Working Group that is tasked with recommending environmental justice policies and initiatives to the Board of Commissioners for consideration, among other things.

5. **Resolution Urging the Environmental Protection Division of the Georgia Department of Natural Resources to Develop, Adopt and Enforce Regulations and Policies to Promote Environmental Justice for the Citizens of Fulton County and the Entire State of Georgia.**

This Resolution was adopted by the Board of Commissioners on May 2, 2012 as Agenda Item # 12-0369. The purpose or substance of Agenda Item 12-0369 is to urge the Georgia Environmental Division Department of Natural Resources ("EDP") to take swift action to develop, implement and enforce regulations and policies to promote environmental justice for the citizens of Fulton County and the entire State of Georgia. These recommendations are in furtherance of a March 2012 Greenlaw Report discussing the lack of environmental justice regulations for Georgia.

6. **Noise Study Report and Noise Regulations set forth in the Zoning Resolution**

The BOC adopted within the County's Zoning Resolution a noise study requirement on March 5, 2006 (Article XXXVIII, Section 28.4.6) to require that a noise study be performed by a state registered professional engineer or noise professional if a proposed site is located within 1,000 feet of an expressway, within 5 miles of Hartsfield-Jackson International Airport, among other things. The BOC also adopted and included a section to address noise relating to site acceptability noise standards for new residential developments within 5 miles of Hartsfield-Jackson International airport (Article IV, Section 4.18).

7. **Resolution Establishing a More Comprehensive Review of Environmental Impacts of Development during the Re-Zoning Process within Unincorporated Fulton County, Georgia.**

The Board of Commissioners approved this resolution on September 15, 1999 as Agenda Item 98-1243. The purpose and substance of Item 98-1243 was to ensure that during the rezoning process, air and water quality impacts are reviewed, and mitigation efforts were included, and the recommendations and recommended conditions placed before the Board of Commissioners.

8. **Resolution Creating the Environmental Justice Committee for Purposes of Implementation of the Fulton County Environmental Justice Strategy Program.**

The Board of Commissioners approved this resolution on November 18, 1998 as Agenda Item 1482. The purpose and substance of Item 1482 established an Environmental Justice Committee in order to coordinate and facilitate implementation of Environmental Justice Comprehensive Plan Policies adopted by the Board of Commissioners on March 6, 1996.

9. **Resolution Establishing an Environmental Review Process to Evaluate Proposed Land Use and Other Projects and Contracts to Protect the Natural Resources, Human Health and Wildlife of Fulton County.**

The Board of Commissioners approved this resolution on October 21, 1998 as Agenda Item 98-1379. The purpose and substance of Item 98-1379 required the Office of Environment and Community Development to review contracts and proposed purchases by Fulton County as well as all applications for development approval to determine whether such contract, development would pose an adverse environmental effect on the community.

10. **Resolution Implementing an Environmental Justice Strategy Program for Fulton County.**

The Board of Commissioners approved this resolution on February 18, 1998 as Agenda Item 98-0273. The purpose and substance of Item 98-0273 was the adoption of a Proposed Strategy for

Environmental Justice which directed the then Office of Environmental Affairs, Department of Environment and Community Development to implement the strategy.

11. Application initiated by the Board of Commissioners of Fulton County to include an amendment to the Comprehensives [land use] Plan by expanding its present policies to insure that the placement of both private and public uses and infrastructure which may be considered environmentally adverse are not concentrated in minority and low income neighborhoods.

The Board of Commissioners approved this amendment to the Comprehensive Land Use Plan on March 6, 1996 as Agenda Item 96-300. The purpose of Item 96-300 established policies that Fulton County was committed to environmental justice to ensure that the location of private and public uses would not be adverse to low income communities or areas of minority concentration.

12. Resolution Calling for Report and Recommendations on Environmental Justice.

The Board of Commissioners approved this resolution on August 16, 1995 as Agenda Item 95-0908. The purpose and substance of this resolution expressed Fulton County's support and commitment to action to address environmental justice in minority and low income communities.

13. Request approval of a Tree Preservation Ordinance and administrative guidelines to provide standards for the preserving of trees as part of land development, building construction and timber harvest process; Application initiated by the Board of Commissioners to Amend Zoning Resolution regarding removal of trees.

The Board of Commissioners approved Agenda Item 99-1566 (amendment to Zoning Resolution) and Agenda Item 99-1612 (adoption of Tree Preservation Ordinance) on December 1, 1991 to provide environmental buffers based on the preservation of trees.

I hope this is responsive to your request.

PPH: dj

Attachments

xc: Jerolyn Webb Ferrari, Deputy County Attorney
Denval A. Stewart, Senior Assistant County Attorney
David Clark
Randy Beck