

**MINUTES  
CITY OF SUWANEE, GEORGIA  
PLANNING AND ZONING COMMISSION  
MAY 6, 2008**

**PLANNING AND ZONING MEMBERS:** Present: Earl Mitchell, Anthony Manners, Joy Mitchell and Pete Charpentier. Absent: Jodi Nevels. Staff members present: Josh Campbell, Wes Rogers and MaryAnn Jackson.

**CALL TO ORDER**

Chairman Pete Charpentier called the meeting to order at 6:40 pm.

**ADOPTION OF THE AGENDA**

*Anthony Manners moved to approve the agenda as presented, second by Joy Mitchell. Motion carried 4-0.*

**ADOPTION OF MINUTES: April 18, 2008**

*Joy Mitchell moved to adopt the minutes as presented, second by Earl Mitchell. Motion carried 4-0.*

**PROCEDURES FOR PUBLIC MEETING**

Pete Charpentier read the procedures for the Public Meeting for the record.

**OLD BUSINESS**

**NEW BUSINESS**

**RZ-2008-001** – Applicant: James C. Morris, Jr. Owner: James C., Jr. and Brenda Morris. Requests rezoning from R-140 to R-100 to allow for the creation of an additional residential parcel. The site is located in Land Lot 192 of the 7<sup>th</sup> District at 138 Timberlost Trail and contains approximately 1.38 acres.

Josh Campbell presented the staff analysis as follows: The applicant requests a rezoning on 1.38 acres of an approximately 3.46 acre tract from R-140 to R-100 to allow for the creation of an additional residential single family lot. The subject property is located on Timberlost Trail off Smithtown Road. The applicant proposes to subdivide the property into two lots, one R-140 zoned lot and one R-100 zoned lot.

The R-140 zoning district requires a minimum lot size of 30,000 square feet with 140 foot wide lots. The proposed R-100 district requires a minimum lot size of 22,000 square feet for a septic tank lot and a minimum lot width of 100 feet. The applicant proposes a single family residence of 2,000 square foot in size for the new lot.

The subject property is an approximately 1.38 acre, heavily wooded parcel located along Timberlost Trail. The subject property is located in Timberlost Acres subdivision and is surrounded by single-family residential uses (zone R-140).

The subject property is located in a low density residential single family area. To the north of the subject property are two lots that front onto Westbrook Road developed with single family residences. They are both zoned R-140 and are 4.5 and 3.8 acres. To the east of the subject property, along Timberlost Trail, is a 5.1 acre lot developed with a single family residence and zoned R-140. To the south of the subject property, across Timberlost Trail, are two single family residential lots developed with homes on 2.69 acres and 2.9 acres. Both lots are zoned R-140. To the west of the subject property is a single family residence zoned R-140 located on a 2.86 acres lot. All of the lots with frontage on Timberlost Trail are zoned R-140 and average 3.39 acres. The only three lots along Timberlost Trail that are less than 2.0 acres are located closest to the entrance to the street off of Smithtown Road. The Character of the street is consistent with the adjacent Leaf Lake Lane and Suwanee Creek Court. The proposed rezoning is not consistent with the character of the surrounding large lot single family lots.

The 2020 Comprehensive Plan anticipates single family residential uses for the subject property. The proposed rezoning does not directly conflict with this recommendation.

During the course of the 2030 Comprehensive planning process significant input was received regarding the preservation of the character of established neighborhoods, such as Smithtown Road. A new Smithtown Road character area is proposed in the 2030 Comprehensive Plan which includes all of Timberlost Trail. In discussing the vision for development in this area, the plan states that “future development in this area should be limited and should reinforce the existing residential and institutional nature that is predominant. The suburban residential character should be maintained. Future lots should not be dramatically different than those in the area at this time.” The proposed request is inconsistent with this vision.

In conclusion, rezoning from R-140 to R-100 for a 1.38 acre portion of a 3.46 acre residential lot would be not appropriate for this area. Those properties zoned R-100 in the area have frontage on a collector street. The surrounding area has been historically zoned R-140 and contains large lots in a rural setting. Subdividing the portion of the tract into a smaller R-100 lot is inconsistent with the future land use plan for the area. Additionally, the 2030 Comprehensive Plan states that “future lots should not be dramatically different than those in the area at this time”. Therefore, the Planning Department recommends denial of the RZ-2008-001.

Anthony Manners asked Josh Campbell if there is a home on the adjacent property. Josh Campbell explained from aerial photos it appears the residence crosses over the property line. The applicant provided a survey and it shows the residence is just barely located on the adjacent property.

Earl Mitchell asked Josh Campbell how the wetland area impacts the property. Josh Campbell explained there is a lot of flood plain in this area. There is a requirement that the 22,000 square feet requirement for an R-100 lot would have to have half of that outside of the flood plain. It appears that the applicant would be able to get at least 11,000 square feet outside of the flood plain.

Anthony Manners asked if increasing the density in this area impact Suwanee Creek. Josh Campbell stated it will depend on how much the density is increased.

Pete Charpentier called upon the applicant.

Mr. Jim Morris, 138 Timberlost Trail, Suwanee, GA. Mr. Morris is an attorney and a certified public accountant in Suwanee. Mr. Morris stated he will suffer economic harm if he is not able to divide the property. When he purchased the land in 1984 the County had it zoned R-100. When the City of Suwanee annexed the property it was rezoned to R-140. Mr. Morris received a letter from MaryAnn Jackson stating the Planning Department's recommendation. The letter seemed to support Mr. Morris argument. The properties on Morning Glen Drive are zoned R-75. The homes on Avonlea Trail are zoned R-60. 1.38 acres is not a small parcel of land. Mr. Morris offered to sell the adjacent property owner part of the land. The property owner declined. There is 210 feet outside of the flood area. In the analysis it states, "The only 3 lots along Timberlost Trail that are less than 2.0 acres are located close to the entrance to the street off Smithtown Road." The County has stated the property was zoned R-100. Mr. Morris is unaware of the reason for the change in zoning. The flood plain is in the back of the property so it will not be a problem. Mr. Morris indicated there is a statement in the 2030 Comprehensive Plan that says, "the problem Suwanee is going to have is providing residential property." Dividing the property will help with this problem and will also help with the tax base. If another home is built on the property the homeowner will pay taxes. Mr. Morris does not have any issues with conditions proposed by staff.

Pete Charpentier asked Mr. Morris about the zoning of the property when he purchased it. Mr. Morris stated his original plat showed two tracts of land side by side, 600 feet deep. When he bought the property he was under the assumption he could build two homes.

Anthony Manners asked Mr. Morris if the property was in the City of Suwanee or Gwinnett County when he bought it. Mr. Morris stated he believed the property was still inside Gwinnett County.

Earl Mitchell asked Mr. Morris if there were other homes in the area when he built his home. Mr. Morris indicated there were other homes in the area. He did not move into his home until 1986.

Pete Charpentier called for opposition.

Martha Madigan, 117 Timberlost Trail, Suwanee, GA. Mrs. Madigan presented an exhibit to the Planning Commission. She built her home in 1983. There are lots of trees on the lots. Some homes cannot be seen from the street. All lots were sold and it appeared the street was as developed as much as possible. Mr. Morris has indicated to the owner of the property adjacent to him that he needs to reduce the size of his home site in order to make a deal on a new piece of property in another city. If the property is rezoned and a home is put on it the buffer will be removed and the property owner will

lose his privacy. All residents on Timberlost Trail have enough land to build a second home. Mrs Madigan stated she is opposed.

Earl Mitchell asked Mrs. Madigan if she had considered the fact that Mr. Morris' property has a lot of frontage. Mrs. Madigan stated all the residents on the street have a lot of frontage. The trees will have to come down in order to build a home.

Anthony Manners stated based on the road frontage requirement only half of the homes would be eligible to rezone.

Jeff Reichel, 197 Timberlost Trail, Suwanee, GA. Mr. Reichel stated he is in favor of the request.

Robert Neibling, 158 Timberlost Trail, Suwanee, GA. Mr. Neibling stated he will be most directly impacted by the rezoning. When he purchased his home he was told the lots could not be subdivided. When Mr. Neibling closed on his property in 1993 he was told the garage was less than 6 feet off the property line. The current surveys state the garage is less than 6 inches off the property line. If another home is constructed on the Morris property Mr. Neibling would not be able to walk beside his garage.

Pete Charpentier asked Mr. Neibling if there are covenants for his subdivision. Mr. Neibling stated there are not covenants.

***Anthony Manners moved to approve RZ-2008-001 with the following amended conditions, second by Earl Mitchell (additions = bold italics). Motion carried 3-1 (Pete Charpentier opposed).***

- 1) The minimum lot size shall be 1.3 acres.
- 2) The minimum heated floor area for any residence shall be 2,000 square feet.
- 3) The minimum setback for a yard abutting a public street shall be 100 feet.
- 4) An HLP and RDP shall be provided prior to the issuance of a building permit.
- 5) ***No clearing, grubbing, or grading shall be allowed within 25 feet of the property line adjacent to 158 Timberlost Trail.***

**SUP-2008-005** – Applicant: Zebra Construction Company, Inc. Owner: Zebra Holdings, LLC. Requests a special use permit to allow executive quarters in the M-1 zoning district. The site is located in Land Lots 196 and 209 of the 7<sup>th</sup> District at 3620 Swiftwater Park Drive and contains approximately 2.43 acres.

Josh Campbell presented the staff analysis as follows: The applicant requests a Special Use Permit on an approximately 2.4-acre site to allow for an approximately 990 square foot executive quarters suite in an M-1 (Light Industrial) zoning district. The subject

property is located within the Swiftwater Industrial Park and contains an approximately 33,000 square foot office building and an approximately 6,300 square foot warehouse building, both nearing completion. The applicant proposes to use a portion of the interior of the office building as an executive quarters suite. The proposed suite takes up a approximately 3 percent of the overall building and is proposed to be located on the second floor. The property location is 3620 Swiftwater Park Drive.

The Special Use Permit process allows the City to review whether an Executive Quarters Suite is an appropriate use for an interior portion of an existing facility. A Special Use Permit does not change the underlying zoning of property, but grants the property an additional specified use.

The Special Use Permit process was created by the City Council in 2001 to better handle certain land uses.

Special Use Permit is commonly used when a special use under the zoning district is desired for development, but it may also be used when no zoning district contains that proposed use as a use by right.

An executive quarters suite is different from a residential unit or hotel. Executive quarters suite is defined as follows: an accessory residential use within a non-residential building that is clearly subordinate and incidental to the primary use of the building, is not used as a permanent residence, is used only by employees or clients of the primary building occupant, no traditional hospitality services are provided, the structure is built to the same standards as the rest of the building and no rent or fees are charged, collected or paid for its use. Because this type of use is not specifically listed in a zoning district a special use permit is required.

The proposed Executive Quarter Suite is a 990 square foot suite composed of a living room and kitchenette combination, a den / study, and a bedroom with a full bathroom. The applicant states that the proposed kitchenette is not equipped with any range or stove and no "cooking" will occur in this suite. The executive suite will only be used on an occasional and infrequent basis and then by only Zebra Construction Company's management employees who work late or visiting executives.

The subject property is located within a business park and is surrounded by a mixture of uses.

The City's Future Land Use Plan recommends light industrial uses for the property. The existing zoning on the site is consistent with this designation. The proposed special use is an accessory use that is incidental to the primary use of the property. Therefore, the proposed special use is not necessarily inconsistent with the designation.

In conclusion, the requested special use permit is an accessory or incidental use and located in a 33,000 square foot building. The applicant clearly states that they do not intend to use the structure as a permanent residence, to charge rent or a fee, and are not

providing any cooking facilities. The proposed Executive Quarters Suite would be appropriate at this location. Provided the suite meets the requirements of the Gwinnett County Fire Marshall and the City of Suwanee Inspectors, approval would be warranted. Therefore, staff recommends approval with conditions of the Special Use Permit request.

Pete Charpentier called upon the applicant.

Rick Thacker, Zebra Construction Company, Inc., 1275 Buford Highway, Suwanee, GA. Mr. Thacker stated he agrees with the conditions proposed by staff.

Pete Charpentier called for opposition. There was none.

***Joy Mitchell moved to approve SUP-2008-005 with staff conditions, second by Anthony Manners. Motion carried 4-0.***

1. The special use is limited to an Executive Quarters Suite, defined as follows: an accessory residential use within a non-residential building that is clearly subordinate and incidental to the primary use of the building, is not used as a permanent residence, is used only by employees or clients of the primary building occupant, no traditional hospitality services are provided, the structure is built to the same standards as the rest of the building and no rent or fees are charged, collected or paid for its use.
2. Executive quarters suite shall be limited to a maximum of 1,000 square feet of the primary structure.
3. No cooking appliances shall be provided with the quarters.

**AMD-2008-001** – The City of Suwanee will consider an amendment to “Article XVI Signs” of the City of Suwanee Zoning Ordinance. A proposed amendment would modify the regulations regarding exempt signs, window signs and other related changes as may be necessary.

Josh Campbell presented the staff analysis as follows: The proposed sign ordinance amendment would increase the size of exempt signs from 2.5 feet to 5 square feet. The reason for this change is that the standard size for a yard sign or real estate sign is up to 5 square feet. This amendment would also eliminate the required 10 foot setback for exempt signs. This would simplify code enforcement implementation related to exempt signs. This amendment also addresses an inconsistency in the requirements for window signs.

***Earl Mitchell moved to approve AMD-2008-001, second by Anthony Manners. Motion carried 4-0.***

**AMD-2008-002** – A proposed amendment to the City of Suwanee Zoning Ordinance to modify Article V. Zoning District Development and Use Regulations including, but not limited to, Section 500. R-140 Residential Single Family District, Section 501. R-100 Residential Single Family District, Section 501A. R-85 Residential Single Family District, 502. RMD Residential Multi-Family Duplex District, 502A. R-75 Single Family Residence District, and 512.2 IRD Infill Residential District to regulate the scope and scale of certain uses in residential zoning district by incorporating standard for Special Use Permit requirements and procedures for such uses and other related changes as may be necessary.

Josh Campbell presented the staff analysis as follows: Input received during 2030 Comp Plan process reflects a consensus to minimize change in certain areas defined primarily be their single family residential character. Many existing single family residential districts are created to allow primarily single family residential uses, but also allow for certain non-residential uses. As land is being consumed in Suwanee, growth pressure is increasing in residential areas. This pressure could result in more intensive non-residential uses than originally anticipated and the assemblage of lightly developed residential lots with the intent to subdivide at a more intensive level. Therefore staff recommends amending the Zoning Ordinance to require projects that meet certain threshold in single-family residential districts obtain a Special Use Permit. Projects that would exceed the threshold would include: Projects with buildings totaling more than 20,000 cumulative square feet, projects with disturbed acreage exceeding 5 acres, subdivisions with more than 7 lots. Examples of Non-residential uses in single family districts include: churches, community clubs, golf courses, family day cares, neighborhood recreation centers, Swim and Tennis centers, schools and parks. Districts that are impacted: R-140, R-100, R-85, RMD, R-75, and IRD. The special use permit process allows projects to be reviewed in more detail by the Planning Department, Planning Commission and City Council and make determinations about the appropriateness of the level of intensity of development, recommend conditions to mitigate potential adverse impacts or deny projects that are not appropriate.

Pete Charpentier called for support of the amendment.

Roy Cannon, 5035 Meadowbrook Circle, Suwanee, GA. Mr. Cannon stated he is in favor of the amendment. Mr. Cannon stated he has 10 years experience dealing with real estate developments and government bodies. He wants to make sure all parties affected by the amendment would be allowed to participate in a process that would identify criteria.

Trisha Cross, 4974 Medowbrook Circle, Suwanee, GA. Mrs. Cross has lived in her home for 22 years. She is concerned about the preservation of her neighborhood. Suwanee Farms is a subdivision. The 2030 Comprehensive Plan does not recognize that fact. A school coming into the neighborhood would not be fair to the residents.

Pete Charpentier called for oppositions.

Ed O'Connor, 1002 Tarry Post Court, Suwanee, GA. Mr. O'Connor is representing Notre Dame Academy. Notre Dame Academy has been searching for a permanent location for several years. They identified 37 acres on Moore Road to build a permanent campus. Mr. O'Connor stated he notified Josh Campbell on February 26, 2008 to verify that the property was zoned for a private or public school. Josh Campbell indicated the property was zoned for a private school. Notre Dame Academy put the property under contract. The City of Suwanee passed a moratorium on February 29, 2008 to block Notre Dame Academy's use of the property. It seems very coincidental that the moratorium was passed at that time. There would be a bigger foot print from houses instead of the school. The citizens of Suwanee would welcome having a private school in the city limits. Mr. O'Connor asked that the amendment not be approved. It seems that the City of Suwanee is purposely trying to keep Notre Dam Academy out of Suwanee.

Pete Charpentier asked Mr. O'Connor if he is a resident of the City of Suwanee. Mr. O'Connor stated he is not.

Mr. Anderson, attorney with Mahaffey, Pickens and Tucker, LLC. Mr. Anderson is representing Suwanee Farms LLC who owns the 37 acres. This amendment is proposed to specifically attack the property owner and Notre Dame Academy. This was not a generalized amendment. As a result of this proposal Suwanee Farms LLC is set to lose an untold amount of money. This amendment constitutes the taking of the property with which the owner will need to be compensated. The procedure in which it was proposed simply allows the owner due process rights. The concerns that are associated with the development do not apply to the school.

Robert Wheeler, 145 Silverwater Court, Suwanee, GA. Mr. Wheeler is a parent of a Notre Dame student. He is a 10 year resident of Suwanee. The City of Suwanee would be lucky to have Notre Dame Academy in the city limits. The City of Suwanee, neighbors and the school should come together to address any issues.

Benji Wood, 4700 Prestbuy Drive, Suwanee, GA. Mr. Wood has lived in Suwanee his entire life. Mr. Wood stated the school will be an asset to the City of Suwanee. Pete Charpentier explained the amendment to Mr. Wood as follows: If 10 people in a subdivision wanted to sell their homes, he could buy the homes, remove them, and put up a school. Mr. Wood stated he understands the amendment and is opposed to it.

Denise Phillips, 4985 Meadowbrook Circle. Ms. Phillips stated she is in favor of the amendment.

Adrian Brautigan, 4750 Prestbury Drive, Suwanee, GA. Ms. Brautigan stated her children attend Notre Dame Academy. She is opposed to the amendment.

***Anthony Manners moved to approve AMD-2008-002, second by Earl Mitchell. Motion carried 3-1 (Joy Mitchell opposed).***



**OTHER BUSINESS**

**ANNOUNCEMENTS**

**ADJOURNMENT**

*Anthony Manners moved to adjourn at 7:50 pm. Motion carried 4-0.*