

**Minutes
City of Milton Planning Commission
Regular Meeting
February 24, 2009 7:00 PM**

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COMMISSION MEMBERS PRESENT

Paul Moore
Curtis Mills
George Ragsdale
Fred Edwards
Cary Schlenke
Jennifer Fletcher

NOT PRESENT

Joe Creamer

CITY STAFF

Robyn MacDonald, Community Development
Matt Zyjewski, Community Development Intern

AGENDA

- I. Invocation
- II. Call to Order
- III. Pledge of Allegiance
- IV. Public Comment
- V. Approval of Minutes
- VI. New Rezonings
- VII. Adjourn

INVOCATION

Lead by Commission Member Cary Schlenke.

PLEDGE OF ALLEGIANCE

MEETING CALLED TO ORDER

Meeting called to order by Chair Paul Moore.

RULES AND PROCEDURES OF MEETING

Chair read the Rules and Procedures of the City of Milton Planning Commission, including procedure for filing out public speaker cards and time allowance for speaking.

CONDITIONS AND STATEMENT OF COMMISSION

Chair read the conditions and statement of the Commission.

PUBLIC COMMENT

There was no public comment.

Motion and Second: Fred Edwards made a motion to close public comment. The motion was seconded by Jennifer Fletcher. There was no discussion. Vote: 6-0. The motion to close public hearing was unanimously carried.

APPROVAL OF MINUTES

Motion and Second: George Ragsdale made a motion to approve the December 18, 2008 Special Called meeting minutes as written. The motion was seconded by Curtis Mills. There was no discussion. Vote: 5-0-1, with Paul Moore abstaining as he had not had the opportunity to review the minutes. The motion carried.

Chair Paul Moore called for Staff to present U09-01/VC09-01

Staff Robyn MacDonald presented the intent for U09-01/VC09-01 to the Commission stating the case before the Commission was to obtain a use permit for a landscaping business on 1.74 acres at a density of 3,908.04 square feet per acre (Article 19.4.27). Applicant is also requesting 3-part concurrent variance:

- 1) To delete the 50' buffer and 10' improvement setback along the west property line from the right-of-way for a distance of 140' (12H.3.1 Section C.1).
- 2) To delete the 50' buffer and 10' improvement setback along the east property line from the right-of-way for a distance of 140' (12H.3.1 Section C.1).
- 3) To allow a sign located less than 10' from the right-of-way (Article 33 Section 21.C).

Staff Matt Zyjewski presented the case from the Petition to the Commission stating the subject site is a 1.74 acre tract of agriculturally zoned land located on the southern side of Arnold Mill Road. The subject site is developed with an 800 sq. ft. house which is used as an office and a 6,000 sq. ft. warehouse.

Staff's Conclusions: [Read Article 12H.3.1 Section C.1 to Commission]. Staff finds that the proposed landscape business use might be compatible with other uses in the surrounding area if all the buffer standards were met. However, it is Staff's opinion that the site plan could be reconfigured in a manner to reduce the impact on required landscape buffers. Therefore, Staff finds that the use as proposed on the site plan is too intensive for the site and recommends **Denial of U09-01** and **Denial of Parts 1-3 of VC09-01**. The Public Works Department requires that the applicant relocate the property entrance to the western side of the property. The relocation of this entrance would allow for a portion of the concrete pad to be removed on the eastern side of the property. If council desires to approve this use permit then staff recommends that Part 1 of VC09-01 be approved along the west property line, subject to the applicant removing portions of the concrete pad within the 50 ft. buffer and replanting the eastern side of the property to buffer standards.

Applicants:

- 1) **Applicant Frank Shaeffer, 13120 Arnold Mill Road, Roswell, GA**
- 2) **Applicant Richard Brown, 4730 Atlanta Highway, Alpharetta, GA**

Applicant Frank Shaeffer discussed their landscaping business with the Commission (**referencing their presentation board**). Mr. Shaeffer stated they had made some improvements from when they first bought the property. He said they made some changes to the front entrance and landscaped the entire front of the property and on the sides. The City Arborist had been consulted about the types of plantings and they used those from his plant list. Mr. Shaeffer said they are a landscape company and want to use the grounds as their showplace.

Chair Paul Moore stated Staff had made some recommendations but also recommended denial of some of those portions. He advised applicant they may want to address Staff's suggestion for denial of those portions and what they could do to either mitigate or change it so the Commission would have reason to consider the things they are doing and perhaps be able to overcome Staff's recommendation for denial.

Applicant Richard Brown discussed with Commission (**referencing their site plan**) the setbacks pointing out the position of the house and the reason for the location of the driveway and entrance. He stated some of their problem is being able to provide the best way for the trucks to come in and exit and that the space was very tight. Mr. Brown said they had talked in their last meeting about eliminating quite a bit of impervious surface of over 1,000 feet.

Applicant Frank Shaeffer advised the Commission that since their last meeting, they spoke to their neighbors on the east side who advised them that they had no problem with the business. They also spoke to two other neighbors that attended their meeting and they were happy to see someone come in and improve the property. Mr. Shaeffer said they have landscaped the front of the property, but not a lot of plantings have been done as of this time.

Applicant Richard Brown stated there was a substantial difference in how the property looked a year ago and currently. He said that after the property is finished out it will definitely be a showpiece.

Applicants showed Commission before and after pictures of the business.

Chair Paul Moore asked if there was anyone in opposition present to speak and there were none. Called for a motion to close the public hearing.

Motion and Second: George Ragsdale made a motion to close public hearing. The motion was seconded by Cary Schlenke. There was no discussion. Vote: 6-0. The motion to close public hearing was unanimously carried.

Chair Paul Moore opened up floor for Commission to ask questions of applicants and Staff.

George Ragsdale had a question for Staff about the building setbacks referenced on page 8 of the analysis. Mr. Ragsdale asked whether applicants were meeting the front setback as well as the building setback of 60 feet. He stated the drawing shows 60 foot setback being right through the middle of the house.

Staff Robyn MacDonald stated it meets the front setback requirement. (Ms. MacDonald took some time to review the plans) and stated it would be the same way with the side and the front.

Chair Paul Moore asked if the neighbors that had been spoken to had been present at the public meetings or had signed any affidavits stating their approval.

Applicant Frank Shaeffer stated the neighbors had not attended any public meetings, but there were some letters submitted with the photos presented.

Additional Commission Discussion about the neighbors.

Cary Schlenke questioned applicant about other property owners.

Applicant Frank Shaeffer stated they could not get in touch with some of the land owners but they were sent a letter but did not receive any response.

George Ragsdale asked about the elevation difference between the parking area shown in the front of the office and parking area in the rear (**referencing site plan**). Talked about the topography and the slope of the property relating to the driveway with applicants.

Applicant Frank Shaeffer stated the elevation difference was approximately 10 feet.

Applicant Richard Brown advised the driveway was easily 15% slope or more (**referencing area on site plan**).

Chair Paul Moore asked approximately how many trucks come and go each day. Mr. Moore also asked if any materials were delivered to the site.

Applicant Frank Shaeffer stated there is currently one truck, but during busy season they hope would be 3-4 trucks. They go out in morning and return in the afternoon. He said they have no materials delivered, as usually have everything delivered to the landscape jobs.

Chair Paul Moore asked about the primary use of the large warehouse.

Applicant Frank Shaeffer said the warehouse is primarily used for dry storage for pipes, mowers and equipment. He stated it came with the property and not used that much. The vehicles used are about 40 ft. with the trailer attached. Indicated from site plan where vehicles would be parked.

Chair Paul Moore asked Staff if the neighbors could see the trucks.

Applicant Richard Brown advised Commission nothing is visible because of the slope of the property and with the trees and vegetation that will be planted, probably will not be able to even see the building.

Applicant Frank Shaeffer responded the neighbors probably could not be able to see the trucks. He said about 100 feet on the east side between property line and the house and it is wooded. The other side is vacant.

Cary Schlenke asked Staff if the south end of the property would not be their jurisdiction.

Staff Robyn MacDonald said that part of the property south of the subject site is located in Roswell.

George Ragsdale asked Staff to go over the site plan with Commission to show them what Staff is recommending.

Staff Robyn MacDonald stated that since the Transportation Department asked that the main entrance be relocated to the west, they said in their report they would like to see the full 50 ft. to be replanted.

Discussion with Staff and Commission referencing area from site plan which portions they would like buffered.

George Ragsdale asked Staff how vehicles would get out with that plan.

Staff Robyn MacDonald stated she did see how turnaround in one area might be difficult (**referencing site plan**). Staff could be somewhat flexible in that one area for the turnaround.

George Ragsdale said would only have to disturb the buffer back to the front of the warehouse on the west.

Staff Robyn MacDonald stated the applicant could make a decision not to access the property from the back then the buffer could start up again just south of where the turnaround would be.

Chair Paul Moore said the parking area that is being provided in the suggested area would be replanted as buffer so could not have parking and access to the building from the same area.

Staff Robyn MacDonald stated on the entrance toward Arnold Mill there should not be a reason to fill it in as there is no parking there.

George Ragsdale asked applicants how much of what Staff was talking about that is shown as paved in front of the warehouse is paved today? Is the slope in that area severe? Could it be kept on the west side?

Applicant Frank Shaeffer stated just that one little corner (**referencing site plan**) where the drive is located. Mr. Shaeffer said the slope is severe.

Staff Robyn MacDonald stated on topo it is more severe on the left of the property than it is to the right.

Discussion with Commission and Applicants about the severity of the topo of the property referencing the site plan.

Chair Paul Moore stated Staff had recommended denial for a variety of reasons and the Commission has heard a number of challenges with the property as being presented. Mr. Moore said that it appears the “suicide” drive would not be a bad thing to not use or do away with. He said if you comply with the 50 ft. buffer it would have to go away. He asked what the applicants would be willing to do to mitigate along with Staff’s recommendations and what could not be done.

Applicant Richard Brown (discussion with Commission referencing site plan). Mr. Brown showed the Commission members how difficult it would be for the vehicles to have to turn in the area shown on the site plan, stating it would impossible because the stream is back there and it slopes about 10 ft. down.

Applicant Frank Shaeffer said they could eliminate the concrete area Staff talked about. He said they would prefer to keep it, but to run their business they could live with that. They have been trying to run their business for the past several months with the restrictions and setbacks and have been able to do it. Stated the screening is appropriate and the warehouse would basically disappear. He further stated that the way it would be landscaped as shown on the plan would be an asset to the City of Milton. If they had to re-implant the 50 ft. buffer in the back they may not be able to run the business.

George Ragsdale asked applicant if they needed the 40 ft. in order to do what they need to or could they live with 25 ft. (**referencing site plan**).

Applicant Frank Shaeffer stated the plans were done in accordance with how their business is run. He said they could do away with what was discussed in the front, but that they would need the 40 feet. Mr. Shaeffer said they want it to be a pretty place and their showcase.

Chair Paul Moore stated they were trying to help but they are also charged with ensuring that the people on either side of the business whether developed or undeveloped today are entitled to their land rights as well. He explained to applicants that is the reason for the setbacks. The Commission is charged with being a defender of the ordinance unless there is a true hardship. Mr. Moore stated there was a business there that was not originally granted the use permit and now we are trying to help with your business.

Applicant Frank Shaeffer explained when they bought business they did some research and saw it was AG-1 and they could have a landscape business. They believed the property would work for their purposes with some minor changes which they have done. Stated there is an elevation change (**referencing site plan**) which hides a good deal from the neighbors, stating there is probably a 6 or 7 foot drop if not more.

George Ragsdale stated as he looks at topo it appears all the topo lines appear to be running perpendicular to the lot line.

Applicant Frank Shaeffer topo may be off some.

Additional discussion with Commission and Applicants about the topo.

Applicant Frank Shaeffer said if the well house was not situated in the middle of the property that would change things somewhat, and that the difficulty is in turning around their landscape trucks.

George Ragsdale asked if there was city water or did the well provide their water.

Applicant Frank Shaeffer stated the well is their water source.

Fred Edwards asked Staff if applicants came in on the left side (**referencing site plan**) with the driveway at the beginning at Arnold Mill, how much buffer Staff was suggesting from the property line in. He said it looked like 40 ft. would put them right at the corner of the deck.

Staff Robyn MacDonald stated that would largely be determined by the Transportation Engineer, but she thought they wanted it to be as far to the left as possible. They could kill some of the landscaping next to the deck and try to pull it as close as possible. It would not be as pretty, but would help.

George Ragsdale advised the Chair that instead of making a motion he would like to suggest a proposal to see if is workable for them. He said his thought was *they would have a 50 ft. buffer on the right side from the street to the rear of the house, a 10 ft. buffer on the right side from the rear of the house to the rear of the warehouse, and a 50 ft. buffer on the right side from the rear of the warehouse to the rear of the property. On the left side a 10 ft. buffer from the street to the front of the warehouse and a 50 ft. buffer from the front of the warehouse to the rear of the property, except where it encroaches and all planted to buffer standards.*

Mr. Ragsdale asked Applicants if this would work from the standpoint of operating the site.

Applicants stated that would work for them.

Staff Robyn MacDonald stated that she wanted to clarify that where it shows on the plan the centerline of drain ditch, it is actually a blue line stream. She stated it was determined by the City Arborist, Mark Law. She said the first 25 ft. away from that would be the state buffer and the warehouse was built before and was grandfathered in. She said that area on the right side of the warehouse, they still need to have a full 50 foot undisturbed buffer.

(Reviewed area from the site plan with the Commission)

George Ragsdale said going back to his original question, if it needs to be buffered on the right hand side of the warehouse, how is Staff suggesting they access the back of the warehouse?

Staff Robyn MacDonald stated that was why she was correcting herself. Unless there is a variance, if they want to defer it and asked for a variance to the stream buffer, you could do that. Right now there is no variance for the stream buffer.

Cary Schlenke asked if the warehouse area was in the stream buffer.

Staff Robyn MacDonald stated it was in a portion of it. It was built when it was only a 25 ft. buffer.

Fred Edwards stated as he looked at the property, there really is no way to get to the shed.

George Ragsdale asked Staff that even if what he proposed was workable and even if they suggested or they approved that as a motion, the applicants would still have to come back and ask for a variance on the stream buffer.

Staff Robyn MacDonald stated that was correct and that if the stream was not there that would work.

George Ragsdale said then whatever they proposed the applicant should take a deferral and try to represent a plan that deals with the stream buffer variance as well as the setback variances.

Fred Edwards stated that on the front that is pretty much concrete all the way across, and would applicants be maintaining that so if they came in on the left side, would the parking for customers be on the front.

George Ragsdale asked applicants where the customer parking places would be.

Applicant Frank Shaeffer said they really do not have customers as they go to their clients because they are not retail. Mr. Shaeffer said that all of the vehicle parking would be in the back.

Fred Edwards asked if the concrete would remain there and if they took out the driveway would it basically be a circle drive?

Applicant Frank Shaeffer stated that was correct.

Staff Robyn MacDonald wanted to note that if the plan is revised, the parking would have to be relocated out of the right side somewhere else in an allowable area and behind the house or the fence. The parking would have to be repositioned if that area will be used for a turnaround. **(Discussion with applicants regarding parking area referencing site plan).**

Chair Paul Moore stated the other request being made was for a change to the sign ordinance for the placement of their business sign. He stated currently the ordinance requires it be set back 20 feet from the right-of-way and the request is for 10 feet.

Applicant Richard Brown referred to the existing landscape plan and showed Commission where the existing wall is located. Showed Commission **(referencing site plan)** where they would like to place it between the maple trees.

George Ragsdale asked applicant how far off of the right-of-way was from the wall.

Applicant Richard Brown stated it was 10 feet.

Commission discussion with applicants about location of the sign.

Chair Paul Moore inquired as to the type of sign being proposed.

Applicant Richard Brown stated similar to the Sweet Apple Veterinarian Clinic where upright and set on two posts.

Chair Paul Moore said so it would be perpendicular to the road. Mr. Moore asked Staff if that would present any visible or line of sight issues.

Staff Robyn MacDonald stated Staff would have to look at it after it was submitted.

George Ragsdale asked why it could not be back another 10 feet from the shown location.

Commission discussion with applicant about the buffers and driveway locations.

Applicant Frank Shaeffer said it would be set back too far because of the trees. He said based on the criteria for the landscape strip they would need to provide some room for those. This was the best determined spot based on the line-of-sight.

Curtis Mills asked a question about the parking, stating that the minimum parking spaces are based on factors related to the square footage of the space. Mr. Mills asked how many people would be on a truck and would there be enough parking room and for turnaround.

Applicant Frank Shaeffer stated 2-3 people.

Curtis Mills asked how many employee vehicles would be there during good business days.

Applicant Frank Shaeffer stated most of the employees ride together, but approximately 5 or 6 employee vehicles. He said they are working on that and have determined there would be enough room. He said it would be tight, but workable.

Commission discussion with applicant regarding parking.

Chair Paul Moore summarized discussion, stating Staff's recommendation currently is for denial based on what was presented to the Commission. Mr. Moore stated a lot of hypothetical situations had been discussed tonight that could improve this opportunity including Mr. Ragsdale's comments about exploring the reduction of buffers in some area. Furthermore, Mr. Moore stated there has been some new information presented tonight by Staff pertaining to some issue to the right of the warehouse because of the stream setback. The Chair stated there were a number of actions that could be taken tonight. (1) Support it and vote for approval, (2) vote for approval with conditions, (3) suggest a deferral or a deferral could be requested allowing applicants, to have more time to go back, still operate the business, and see how some of these issues would play out, then applicants could come back to the Commission and make a presentation with some of those things concluded, or (4) the Commission could deny it based on the current information.

George Ragsdale stated for clarification that if the Commission were to recommend approval, the approval by definition would have to maintain the stream buffer, because no variance was requested and they still would not have access to that side of the warehouse.

Chair Paul Moore stated he could not suggest what the applicants should do and advised it was totally their decision on how they wished to proceed. He stated that if the Commission went to a vote tonight, there would be a lot of things they would have to consider in their votes. Mr. Moore advised that the applicants had the option to request a deferral to get some additional time and that deferrals generally run thirty (30) days.

Discussion with Staff about the process, procedure and timeframe for applicants if they deferred.

George Ragsdale asked if applicants could go before the BZA.

Staff Robyn MacDonald stated she could advertise in time for the Planning Commission, but would not recommend taking it to the Board of Zoning Appeals, as Council would never approve of this if they wanted the stream buffer, as that was the whole argument in this process. She stated she believed she could advertise for a concurrent variance to be back on the PC calendar for the meeting on the 24th of March and then it would go back to Council in April. She further stated that technically variances do not have to have a CZIM, but it could still go to the Design Review Board for another courtesy review and then back to the Planning Commission and on.

Commission reiterated their reasons and why they thought the applicants best option would be to defer to allow time to work out some of the issues and continue to run their business.

Chair Paul Moore explained that the stream buffer issue was out of their hands because it was not part of the application before them to request that variance.

Staff Robyn MacDonald stated that after checking some dates, advised they were fine and could advertise and make it happen. She recommended making the motion to defer it until the March 24th meeting.

Applicant Frank Shaeffer asked if by deferring it to the March 24th meeting, would that be the meeting that this would all be addressed again for resolution.

Chair Paul Moore stated yes, and that they would not have to go into the entire issues, but the things that could and could not be worked out.

Staff Robyn MacDonald advised she would need the revised plans by Friday as the Design Review Board was meeting next Tuesday the way they plan to present it.

Chair Paul Moore called for any last questions and there were none.

Applicant Frank Shaeffer requested from the Commission that they be granted a deferral.

Motion and Second: George Ragsdale made a motion to defer U09-01/VC09-01 for thirty (30) days. The motion was seconded by Curtis Mills. There was no discussion. Vote: 6-0. The motion unanimously carried.

Fred Edwards advised applicants that when they re-present, they may want to say "Milton" instead of "Roswell."

Applicant Richard Brown said their mailing address was Roswell.

Staff Robyn MacDonald stated that was true, there are different mailing addresses.

Staff Robyn MacDonald asked the Commission if they could re-do their motion so it did not state the deferral was for thirty (30) days, but make the deferral date to March 24th, as thirty (30) days would go past the meeting date.

George Ragsdale asked Staff if they needed to formally amend their motion.

Staff Robyn MacDonald said she would like for the motion to be amended as she had stated it should be to the 24th.

Amendment to Motion: George Ragsdale moved to amend the prior motion to have the applicant come back on March 24, 2009, instead of thirty (30) days. The motion was seconded by Fred Edwards.

Discussion on Motion:

Chair Paul Moore asked Staff if what they were about to do was procedurally correct.

Curtis Mills stated he did not think they could amend the motion after a vote, but needed to state another motion and have another vote.

Staff Robyn MacDonald stated she thought they would need to make a motion to rescind the previous motion.

Motion and Second: George Ragsdale made a motion to rescind the previous motion and said the new would be that the Commission approve the deferral of the application until March 24th. The motion was seconded by Fred Edwards. There was no discussion. Vote: 6-0. The motion unanimously carried.

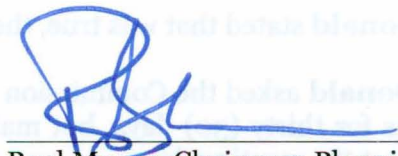
Chair Paul Moore called for any other business. There was none.

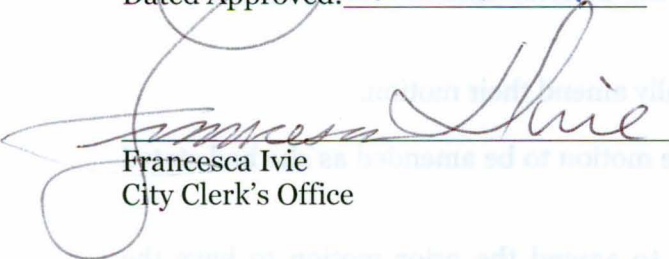
ADJOURNMENT:

Motion and Second: Fred Edwards made a motion to adjourn the meeting. The motion was seconded by Jennifer Fletcher. There was no discussion. Vote: 6-0. The motion unanimously carried.

The Planning Commission meeting adjourned at 8:37 p.m.

Dated Approved: 2-24-09


Paul Moore, Chairman-Planning Commission


Francesca Ivie
City Clerk's Office