

**NEWTON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING  
July 20, 2004  
MINUTES**

Newton County Historic Courthouse  
Covington, Georgia  
Chairman Aaron Varner Presiding

Present: Chairman Varner, Commissioners' Mort Ewing, Ronnie Dimsdale, Ester Fleming, Jr., J.C. Henderson, and Monty Laster; Administrative Assistant John Middleton, County Attorney Tommy Craig and Clerk Jackie Smith

Newspaper: Will Whitehorn, Covington News

Staff: Marian Eisenberg, Director Planning & Zoning  
Mark Stewart, Zoning Administrator

Chairman Varner called the meeting to order and welcomed all present. Rev. Roy Kiser of Calvary Baptist Church gave the invocation and the chairman expressed appreciation to Rev. Kiser and his congregation for the beautiful prayer and positive influence they have on Newton County.

**APPROVAL OF BOC MINUTES DATED JULY 6, 2004**

**Motion:** To approve the Minutes as submitted.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner Monty Laster, District Five

**Motion Carried Unanimously**

Commissioner Ronnie Dimsdale requested the agenda be amended to consider a library appointment representing his district.

**AMEND AGENDA TO CONSIDER LIBRARY APPOINTMENT**

**Motion:** To amend the Agenda to consider Library Appointment representing District Two.

**Proposed by:** Commissioner Ronnie Dimsdale, District Two

**Second by:** Commissioner J.C. Henderson, District Four

**Motion Carried Unanimously**

## **LIBRARY APPOINTMENT – DISTRICT TWO**

Commissioner Dimsdale told the board that district two representative to the library, Deborah Anderson, was moving and unable to serve. He said that Ms. Anderson did an outstanding job while serving on the board and very sorry to see her go. He also stated that he had given a great deal of thought about serving on the board himself and has a strong desire to learn more about the system. He met with the director and received very positive feedback. Also, there is no compensation for this service. He stated there should not be any problems with him serving as a commissioner as well as serving on the library board.

**Motion:** To appoint Ronnie Dimsdale to serve on the Newton County Library Board representing District Two. Term will expire on June 30, 2007.

**Proposed by:** Commissioner Ronnie Dimsdale, District Two

**Second by:** Commissioner J.C. Henderson, District Four

**Motion Carried Unanimously**

## **WOODLAND PARK CONNECTOR ROAD REQUEST**

Chairman Varner noted the petitioner asked that this request be withdrawn from the agenda. Duly noted.

## **PUBLIC DEFENDER'S BUDGET REQUEST**

Executive Assistance John Middleton apprised the board of his meeting with Public Defender John Strauss and the positive results of that meeting. He noted the following:

- Funding available through 2005 Budget process within framework of existing Public Defender budget.
- New Attorney will come on board in October.
- Upgrade of one Attorney
- Attorney I annual salary: \$39,268 – with benefits \$52,494
- Requests to state for additional funding. If additional funding were received, the Public Defender would like for it to be allocated for temporary clerical use.
- Dollar amount to be reallocated at this time is \$55,560.00

**Motion:** To approve a budget amendment of \$55,560.00 to be reallocated toward an Attorney I and upgrade for Attorney II to Attorney III. This reallocation is to be funded through the existing FY2005 Public Defender Budget.

**Proposed by:** Commissioner Ronnie Dimsdale, District Two

**Second by:** Commissioner Monty Laster, District Five

**Motion Carried Unanimously**

**ZONINGS – 7:30 P.M.**

Chairman Varner noted that ten-minutes would be allotted to those in favor of the petition as well as those opposing the petition. He then introduced Planning & Zoning Director Marian Eisenberg who presented the following zonings:

**04-012**

**CMC PARTNERS/WANDA BRISTOW**

**HODGES CIRCLE**

A (Agricultural) to AR (Agricultural Residential)

Parcel Size: 46 acres

Tax Parcel: 135, Parcels 1, 56, 57

District One

Request: Zoning Change

Purpose of Request: Develop a sixteen (16)-lot AR (Agricultural Residential) subdivision.

Present FLUM: Rural Residential

Present Land Use: Vacant

Applicant's Intent: Subdivision of sixteen lots, with a minimum lot size of two (2) acres (Little River Protected Watershed).

Planning commission Recommendation: Approval, with conditions.

Subject Site: Property is situated just west of the intersection of Hodges Circle and Cooper Road (46 acres).

Neighboring Zoning:

North: Use: Stanton Springs (Technology Park/Atlanta); Zoning: Multi-County Mixed Use Business Park

South: Use: Single Family Residence; Zoning: A (Agriculture)

East: Use: Single Family Residence; Zoning: A (Agriculture)

West: Use: Vacant; Zoning: A (Agriculture)

Staff Recommendation (if approved)

1. 2,000 minimum square foot houses.
2. All houses should be three sided brick, other masonry, or stucco.
3. 50 foot buffer around perimeter of property, which should be common area (not included in the individual lots).
4. Provide a mandatory Homeowners Association.

Petitioner Representative: Attorney Jimmy Alexander

Mr. Alexander addressed the board, provided a handout of summary of zoning conditions. He noted the following:

- Met with neighboring homeowners
- Subdivision will consist of **no more than 16 lots** on the tract.
- Average density is 2.875 acres per residence.
- Consistent with other recent re-zonings in the area.
- Minimum lot size of **2.0 acres** of total land area.

- Protective Covenants (provided a sample) will be placed on the property prior to sale of lots, which will include:
  1. **2600 square foot minimum** home sizes for single story, **3000 square foot** for two story.
  2. Architectural approval of all house plans
  3. Establishment of the buffer easements described in item 4.
  4. **Four sided Brick Construction** on all homes and
  5. Other usual and customary restrictions for subdivision of this type.
- Subdivision Plat will include:
  1. **60' undisturbed buffer** around the perimeter of the tract except along the entrance roadway and along the north lines of lots 1 and 16 where they abut existing lots on Hodges Circle. This buffer will be established using a conservation use easement to Newton County permitting use of the buffer area for secondary septic system installation, if necessary.
  2. **A planted evergreen screen** to be established along the north lines of lots 1 and 16 so as to provide an effective continuous visual screen as the screen matures (suggestion: Leyland Cypress; Virginia or other variety Pines, as recommended by Arborist).
  3. Letter of the existence of these buffers will inform Lot purchasers.
    - Construction of Entrance Roadway substantially in accordance with drawing (including traffic-slowing circle shown on drawing).
    - Property is presently zoned A, which effectively precludes development as a residential subdivision. Any refusal to re-zone to a use consistent with the area would likely result in effectively depriving the owner of any economically feasible use of their property, and constitute a taking.
    - Covenant similar to River Cove Subdivision
    - Four sided brick approved by developer for house plans
    - Planted buffer intended to be a buffer on rear lots that face Hodges Circle
    - Evergreen Buffer (Arborist will determine type of tree)
    - Kind of subdivision that county wants
    - Designed to meet current population in Newton County
    - Planning Commission approved unanimously (5-0)

Board Discussion:

Chairman Varner questioned if there was anything legally to keep a new owner from removing the buffer? County Attorney Craig said the zoning conditions should be to construct and maintain the buffer. Also, put conditions on the deed.

Mr. Alexander stated that they planned to use the Conservation Easement, which protects and gives county the right to enforce any disturbance of that buffer, which is not within the bounds of buffer.

Commissioner Ewing suggested that conditions be included in the final plat.

Opposition:

Mr. Ed Elmore

Charlotte Gibbs (speaking on behalf of Karen Rhodes)

James Tingle

Tommy Walton

Rachel Weems

- Suggested 60 foot buffer instead of 50 foot buffer
- 3 acre minimum
- Developers agreed to a 3 acre average density
- Nice subdivision plans
- Covenants
- Guarantee houses would range in price from high \$300,000 to \$500,000
- Petition with 65 homeowner's names against rezoning.
- Good project – objection is lot size
- Case sheet misleading re lot size from P&Z
- 4 lots in front of Hodges Circle & 3 lots behind Hodges Circle
- Houses are comparable to River Cove, but not lot sizes
- No reason why property cannot be developed at current zoning.
- No known reason why it cannot be used in current zoning.
- Properties that it borders average 11 acres and does not include farm across the street from property.
- 91% of lots in area are larger than this proposed development
- First subdivision approved without county water.
- Water concerns
- 15 wells close together
- Requesting developer to run water lines to subdivision
- Buffer on entrance of both sides of road was first talked about.
- Concerned about quality of life
- Larger lot sizes

Commissioner Ewing commented one issue he discussed with developer was entrance and it was his understanding that there would be a 100-foot r.o.w. at entrance and narrow as it goes back and would never be less than 60 feet. Mr. Alexander commented that instead of a visual screen buffer...it should be a row of trees on each side to buffer and beautify the area. Suggested trees to be 10-15 feet in height. Arborist will determine trees.

Commissioner Ewing worked very hard to be a mediator trying to bring about a plan that would be good and fair to all parties. He expressed appreciation for the people in the community for talking and meeting with the developer and Mr. Alexander regarding this zoning request.

**Motion:** To uphold the recommendation of the Planning Commission and approve 04-012 CMC Partners/Wanda Bristow with the following conditions:

- a. No more than 15 lots on the tract
- b. Minimum 2.0-acre lot size.
- c. Average density is 2.875 acres per residence.
- d. Mandatory Homeowners Association
- e. Protective Covenants, which will include:
  - a. 2600 square foot minimum home sizes for single story,
  - b. 3000 square foot for two story.
  - c. Architectural approval of all house plans
  - d. Four sided Brick Construction on all homes
- f. Subdivision Plat will include:
  - a. 60' undisturbed buffer around the perimeter of the tract except along the entrance roadway and along the north lines of lots 1 and 15 where they abut existing lots on Hodges Circle. This buffer will be established using a conservation use easement to Newton County permitting use of the buffer area for secondary septic system installation, if necessary.
- g. A planted evergreen screen to be established along the north lines of lots 1 and 15 so as to provide an effective continuous visual screen as the screen matures. This will be determined by County Arborist.
- h. Letter of the existence of these buffers will inform Lot purchasers.
- i. Construction of Entrance Roadway substantially in accordance with drawing (including traffic-slowing circle shown on drawing).
- j. Planted buffer along R.O.W. going into the subdivision. Type and size of trees will be determined by County Arborist.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner Monty Laster, District Five

**Motion Carried with Commissioner Dimsdale voting in opposition to the motion.**

**04-013**

**CUONG NGUYES**

**4276 HIGHWAY 138**

AR (Agricultural Residential) to CG (General Commercial)

Parcel Size: 6.5 acres

Tax Parcel: 36-21A

District Three

Request: Zoning Change

Purpose of Request: To allow the development of a tractor sales and repair facility.

Present FLUM: Commercial Node and Low Density Residential

Present Land Use: Single-Family Residence

Applicant's Intent: Display tractors in front portion of property and convert existing buildings into repair shop and office.

Planning Commissioner Recommendation: Denial

Petitioner or representative was not present.

Opposition: None

**Motion:** To uphold the Planning Commission recommendation to deny Zoning Request 04-013 Cuong Nguyes located at 4276 Highway 138.

**Proposed by:** Commissioner Ester Fleming, Jr., District Three

**Second by:** Commissioner J.C. Henderson, District Four

**Motion Carried Unanimously**

**04-014**

**LYNETTE & BRUCE BYNOM**

**2429 CHRISTIAN CIRCLE**

Conditional Use Permit – Day Care Facility

Tax Parcel: 6.33

District Two

Proposed Use: Day Care Facility

Applicant's Intent: To operate a group daycare home consisting of eighteen (18) children upon 1.1. acres.

Planning Commissioner Recommendation: Denial

Representative: Lynette Bynom

- Day Care Home
- Addressed P/C John Head's concern about parking.
- Planned to move driveway back and reduce parking spaces.
- Trees planted and flowers would be planted to maintain residential look.
- Letter of support from some of the neighbors.
- Case Fact Sheet from P&Z says site is large enough to have a Day Care Home.
- Property can support group Day Care Home
- 4 Foot Privacy Fence
- Will follow all applicable regulations from P&Z
- Met with Commissioner Dimsdale
- Specializes in infant to 3 years old.
- Believes this will be a service to community

Mrs. Banks spoke in favor of petition:

- Keeps her child presently
- Excellent Care
- Takes pride in teaching as well as caring for children.
- Growth in county indicates great need for Day Care Homes

Opposition:

Betty Taylor

- Lived in neighborhood for 25 years
- No small children live in neighborhood currently
- Desires to enjoy life without Day Care Center in neighborhood
- Traffic concerns

- Dangerous
- Petition from neighbors who are opposed to this request.

Commissioner Dimsdale expressed appreciation to Ms. Bynom for her love and dedication to children and her desire to make a difference in their lives. He explained to her that the state looks at safety and health issues, but **local government must look at land use.**

**Motion:** To uphold the recommendation of the Planning Commission and deny 04-014 Conditional Use Permit request by Lynette & Bruce Bynom at 2429 Christian Circle.

**Proposed by:** Commissioner Ronnie Dimsdale, District Two

**Second by:** Commissioner Ester Fleming, Jr., District Three

**Motion Carried Unanimously**

**04-019**

**ALAIN BOUZOUBAA**

**5228 HIGHWAY 20 SOUTH**

CN (Neighborhood Commercial) to (CG (General Commercial)

Parcel Size: 0.72 acres

Tax Parcel: 7A-28

District Two

Planning Director Marian Eisenberg told the board that Mr. Bouzoubaa had requested 04-019 be deferred until August Zoning Meeting.

**Motion:** To table request 04-019 until August 17, 2004 Board of Commissioners Meeting.

**Proposed by:** Commissioner Ronnie Dimsdale, District Two

**Second by:** Commissioner Mort Ewing, District One

**Motion Carried Unanimously**

**04-021**

**DALE MILLER**

**GEORGIA HIGHWAY 212**

A (Agricultural Residential) to CG (General Commercial)

Parcel Size: 3 acres

Tax Parcel: 91-45, 45A and 45B

District One

Request: Zoning Change

Purpose of Request: Car Wash

Present Zoning: AR (Agricultural Residential)

Proposed Zoning: CG (General Commercial)

Present FLUM: Development Node

Applicant's Intent: To allow a car wash

Planning Commission Recommendation: Approval for CG (General Commercial)

Petitioner: Dale Miller and Mark Walton of Patrick & Associates

- Site sketch shows car wash
- Mr. Miller & his family own most of land around this property.
- Family owns most of the land in surrounding area

Board Discussion:

Commissioner Dimsdale questioned surrounding zonings:

1. Property across the road: neighborhood commercial (Mark Stewart said zoned for a specific project, but never built.
2. CN is vacant
3. OI (also never built out)
4. CG: Across Hwy. 36 – Tackle Shop and Chevron Station.

Petitioner: Dale Miller and Mark Walton of Patrick & Associates

- Site sketch shows car wash
- Mr. Miller & his family own most of land around this property.
- Commissioner Ewing asked Mr. Miller to reiterate what he owned? He replied that they own everything on left side of Hwy. 36, except trailer that Johnny Potts owns.
- Mr. Miller said they own a number of divided parcels on GA 212
- He said the run off would go directly into his pond and then into Jackson Lake.
- Commissioner Ewing questioned the 75 foot buffer/
- Mr. Miller stated buffers will automatically be there per Newton County Ordinance and would abide by the ordinance.
- Commissioner Dimsdale asked if the Car Wash would be served by a reclaim system. Mr. Walton said that is why they requested 3 acres to be rezoned. The reclaim system chemically scrubs the impurities out of the wastewater.
- Commissioner Dimsdale voiced concern about the chemicals and Mr. Walton told the board that the chemicals are biodegradable and it also hits the creek before it hits the pond. There is 200 feet to creek and then pond.
- Commissioner Ewing questioned the type of buffer along GA 212. Mr. Miller said they planned to landscape and grass the entrance and they will also have a decel lane. He noted the entrance would beautify the area.

Opposition: None

**Motion:** To follow the recommendation of the Planning Commission and approve 04-021 as requested, and to include zoning plat Mr. Miller provided with 75 foot undisturbed buffer.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner Ester Fleming, Jr., District Three

**Motion Carried Unanimously**

**04-022**

**ANGELA THOMAS-NEWTON**

**2501 FAIRVIEW ROAD**

Conditional Use Permit – Day Care Center

Tax Parcel: 12-2A

District Three

Existing Zoning: R-1 Single Family Residential

Applicant's Intent: To operate a group Day Care Home consisting of eighteen (18) children upon .60 acres.

Planning Commission Recommendation: Denial

Petitioner: Angela Thomas-Newton

- Previously worked for Newton County DFACS
- Currently offers afterschool program
- House 18 children
- Property meets county ordinance requirements
- No change in physical appearance of property
- Does not think it will impede traffic on Fairview Road
- Has homeowner support

Opposition: None

**Motion:** To uphold the recommendation of the Planning Commission and deny 04-022 Conditional Use Permit for a Day Care Center located at 2501 Fairview Road.

**Proposed by:** Commissioner Ester Fleming, Jr., District Three

**Second by:** Commissioner Mort Ewing, District One

**Motion Carried with Commissioner Henderson voting in opposition to motion.**

**04-025**

**J. MICHAEL MCCUNE**

**FAIRVIEW ESTATES SUBDIVISION**

RMF (Multi-family Residential)

Tax Parcel: 12-5A & 6A

District Three

Request: To modify conditions of zoning

Purpose of Request: Reduce the minimum house size for 18 of 44 homes and modify the requirement for two-car garage.

Present Land Use: Single family attached and detached, currently under development.  
Applicant's Intent: To modify the conditions of zoning to allow 7 homes to be 1,200 square feet with a 1 car garage, 11 homes to be 1,340 square feet with a 1 car garage, 12 homes to be 1,500 square feet with no garages, and remaining 24 homes to be subject to existing conditions of 1,500 minimum square footage and 2 car garages.

Planning Commission Recommendation: Denial

Ms. Eisenberg noted that the Planning Commission stated, "Abide by original zoning".

Petitioner: Attorney Brian Daughdrill

- Part A reflects houses already constructed.
- Withdrawing Part B
- 2004 recorded final plat and it firmly represents that 1100 sq. ft. houses can be built.
- Spoke with Zack Melvin and he assured them it could be done.
- R&B is just the builder.
- Final Plat should state 1500 sq. ft and not 1100 sq. ft.
- Neighbors have not complained.
- Have paired down as small as they can on the project
- Neighbors were unhappy with 1999 zoning
- No room to make houses any larger
- In every instance houses are going to be moved back closer to residents who are in opposition to this modification.

Opposition:

Kirk Rogers

James C. Garner

Robyn Lyons

Ilene Slaughter

- Lives across the street from development
- 1999 zoning allowed Bentley high density, but we got one small thing out of zoning and that was a house had to be 1500 sq. ft. and double car garage with masonry siding.
- Suppose to be buffer down Fairview Road
- Court records show masonry siding and two houses already are vinyl siding
- Developer has 9 pads already poured
- Neighbors notified P&Z that pads poured look like it does not conform to zoning.
- Developers do not live in our neighborhood
- Congested area
- 1100 sq. ft. homes...small and no room to add on
- Not enough day care in county presently
- Check the records and build by what the records say.
- It is not the resident's fault that the people who they purchased the property from not tell them about the conditions.
- Lived in area since 1972
- People need to be able to trust a board's decision

- This could set a precedent and open up the floodgates for other developers to request their original decisions to be modified.

Petitioner: Brian Daugdrill

- Regardless of '99 zoning, according to the law you can ask for a zoning change every six months.
- Final plat signed off on by chairman of planning and zoning.
- When client checked he was issued building permits
- Developed 9 more pads – applied for 1500 sq. ft.
- Density issue: no change in density.
- Zoning conditions are not listed at closing.
- Closing attorneys do not check the minutes of meeting.
- Asked for approval

Commissioner Ester Fleming addressed the petitioner and pointed out that he was not aware of “working anything out” and does not know where that came from. He said that he expects the **houses to be 1500 sq. ft.** and duly made a motion to deny.

**Motion:** To uphold the recommendation of the Planning Commission and deny petition 04-025 J. Michael McCune, Fairview Estates Subdivision. Also, houses are to remain at a minimum of 1500 square feet.

**Proposed by:** Commissioner Ester Fleming, Jr., District Three

**Second by:** Commissioner Mort Ewing, District One

**Motion Carried Unanimously**

### **CHECK APPROVAL**

**Motion:** To approve checks as read.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner Monty Laster, District Five

**Motion Carried Unanimously**

### **EXECUTIVE SESSION**

Time: 9:00 P.M.

**Motion:** To enter into Executive Session for the purpose of discussing threatened litigation.

**Proposed by:** Commissioner J.C. Henderson, District Four

**Second by:** Commissioner Mort Ewing, District One

**Motion Carried Unanimously**

**REGULAR SESSION**

Time: 10:20 P.M.

**Motion:** To enter into Regular Session.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner Monty Laster, District Five

**Motion Carried Unanimously**

**NUISANCE ABATEMENT UPDATE – HIGHLANDS MEADOWS**

**Motion:** To authorize identification and retention of such experts deemed necessary by the county building office to assist in the evaluation and resolution of this matter. To authorize the county building office and county attorney to immediately institute such legal proceedings as might be appropriate to abate the nuisance in question.

**Proposed by:** Commissioner Ester Fleming, Jr., District Three

**Second by:** Commissioner Mort Ewing, District One

**Motion Carried Unanimously**

**ADJOURN**

Time: 10:25 P.M.

**Motion:** To adjourn.

**Proposed by:** Commissioner Mort Ewing, District One

**Second by:** Commissioner J.C. Henderson, District Four

**Motion Carried Unanimously**

Respectfully Submitted,

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Jackie B. Smith  
County Clerk