



City of Jonesboro City Council
Staff Report – RZ09-04: Hill & Wood Highland Dr. Rezoning
 Huntington Building - 900 W. Monroe
For Consideration by the Council on May 5, 2009

REQUEST: To consider rezoning a parcel of property containing approximately (9.47) acres more or less.

PURPOSE: A request for rezoning from R-1 Single Family Residential to C-4 L.U. Overlay General Commercial, and make recommendation to the City Council.

APPLICANT/ OWNER: Dorothy Hill, 2510 Rosewood Circle, Jonesboro, AR
 Connie Wood, 1401 Highland Dr., Jonesboro, AR

LOCATION: South side of Highland Drive, between Crafts Dr. and Browns Lane

SITE DESCRIPTION: Tract Size: Approx. 9.47 acres +/-
 Frontage: Approx. 329 ft. on Highland Drive
 Topography: Primarily flat.
 Existing Dvlpmt: Vacant & Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	C-4 & R-1	Gas station/Bank/Residential, School
South:	C-3 L.U.O.	Undeveloped
East:	C-3	Restaurant/Condominiums
West:	R-1	Residential uses

ZONING ANALYSIS: City Planning Staff has reviewed the proposed Zone Change and offers the following findings.

COMPREHENSIVE PLAN FUTURE LAND USE MAP

The 1996 Comprehensive Plan Future Land Use Map (page 24) shows the area recommended as Medium Density Residential. This designation includes all future residential uses that are more than three and maximum of ten units per net acre (R-2 Residential). This designation is outdated and is currently being evaluated by the Land Use committee. This site is just west of restaurant, office and multi-family uses, and just south of office, retail uses, however residential uses remain just west of the proposed site. The Land Use Map is currently under restudy.

Pertinent Zoning Ordinance sections include Section 14.44.05(b), ‘change in District Boundary’, beginning on page 104.

Approval Criteria- Section 14.44.05, (5a-g) - Amendments:

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the Planning Commission or City Council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

- (a) Consistency of the proposal with the Comprehensive Plan

- (b) Consistency of the proposal with the purpose of the zoning ordinance.
- (c) Compatibility of the proposal with the zoning, uses and character of the surrounding area;
- (d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
- (e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;
- (f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and
- (g) Impact of the proposed development on community facilities and services, including those related to utilities, streets, drainage, parks, open space, fire, police, and emergency medical services.

MAPC MEETING/RECORD: April 14, 2009:

RZ-09-04 Dorothy Hill and Connie Woods requests a rezoning from R-1 to C-4 LU-O located on the south side of Highland Drive between Craft Drive and Browns Lane.

Applicant's Agent: Attorney Christopher Gardner, Gardner Law Firm, P.A., presented the case stating: We are requesting a change from R-1 Single Family to C-4 L.U.O. for two ()2 tracts. The 10 acre tracts will have permissible uses of: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Restaurant / and Service Retail. We are requesting that tract 1 having frontage on Highland Ave. to allow restaurant and general retail service uses.

Back in December when we met with Mr. Mooney and his clients, it was stated that if a restaurant were permitted on the front tract, it would have liquor served; this was a concern and also the wish for having a buffer between this tract of land and Highland Forest Subdivision.

Mr. Gardner added that the property is approximately 435 ft. from Hill Crest School and several churches. Any concerns would not come into fruition, if any one should apply for a liquor permit through A.B.C. The 10 acres are between commercial property and the subdivision. Mrs. Connie Woods owns that parcel of ground in between the site and the subdivision. We feel that is a substantial buffer. With respect to the restaurant, it will not permit fast food restaurant; and we are looking for the restaurant to be a nice sit-down style only- something like El Acapulco to the east immediately. With respect to the retail on tract 1, it is not large enough for any large retail like a Wal-Mart or grocery store. Something more like a light retail for that property is what we would like to see along the 5 lane arterial.

Opponent: Mr. Charles Mooney, Sr. He congratulated the new officers on the new election. Mr. Mooney stated that Counsel has given you a run-down of outside meetings. I want you to know and understand I represent a large group of opposition.

Mr. Mooney presented a petition signed by 135 different people that live in that area. The opposers stood up (14 stood up) . Mr. Mooney stated that they live in Highland Forest. Mr. Day asked if that is a new petition or the same one from the previous case. He responded that there are new ones added to the old one.

Mr. Mooney stated to have a historical perspective about how the Highland Dr. rezoning has occurred. Highland is one of the major thoroughfares through the City. He can't think of a street

that is more congested. When you get to this intersection, you get into a traffic problem . You also have a school that exits there.

The MAPC has said to me (representing different groups) that we are going to restrict the rezoning on Highland Dr. to what is there now. We will not move it down in an easterly fashion nor westerly direction from where we are now. That is historically what has happen. We have changed Commissioners. The Planning Commission and Council have not been able to hold to that. They have on occasion eased this when the Bank was approved at Raines & Highland. The Advance Auto Parts store was a huge battle; they never straightened that intersection out.

Mr. Mooney added that we have gone further down highland and let Integrity Bank come there. We need to hold the fort and don't come any further down Highland Drive than what we have now. Because there is a huge amount of property in that area. This property is only 300 ft. wide and if you access that property, you will create a problem exiting and getting back on Highland Drive particularly when the school lets out. You can't locate the entrance and tie it in with Hillcrest Drive and align it. You will have an exit coming out this property with a 50 ft. difference there, and you couldn't have a traffic light.

Remember this property is 318 ft. wide and the east property next door having the same width. The property to the west is owned by Mrs. Hill and she resides there, and I am sure she will keep that as a good buffer. If she sells it and rezones this property, how will you ever stop it. You will be fighting the same battle there with different owners. Highland Forest is absolutely a fabulous residential area. They will get in a situation where they can't get out their driveways; rezoning this property will congest it further. Why create a monster of a problem?

The property is absolutely one of the most gorgeous properties located in Jonesboro; it is tree-lined, rolling, with nice landscaping. The only reason it is being rezoned is that it will cause a better financial gain for them to sell it for a higher price. This property is better suited for residential and should not be altered. On that lot they propose putting in restaurants and retail. There is no way to access it without messing up the traffic. Highland is 5 lanes, one of the few that run east to west.

Mr. Mooney concluded, on behalf of these people don't rezone it; protect the rezoning and the zoning ordinance of the City. The people purchased and built their homes with the mind that they built in a highly respected residential area. There is a service station in an R-1 Residential area. It was located there before, and they operate in an R-1. That will go back to residential if it leaves. Counsel mentioned the meetings we have had. We cannot rezone without a fight. I represent 135 people and I have a spokesman for this group.

Opposition: Mr. George Osbourne, 1213 Princeton Dr. in Highland Forest Subdivision represented the home owners there. He added that he and his wife and purchased there 14 years ago with confidence to spend the rest of our life in the home. We had concerns of what could be developed next to us. When we purchased that land, Mr. Hill was still living and he owned all that land we knew it was zoned R-1. He then passed away. And his granddaughter and granddaughter in-law inherited that property.

Mr. Osbourne added that this property which was inherited can be developed into a nice residential area and they could make a nice profit. They want to make a little more money, but at the expense of the present property owners that have built their homes. They want to put in a restaurant and put in stores. You decided that would be R-1. We knew it would be developed

into a residential area. Why have it zoned R-1 if we are going to ignore that. Where does it end? Why have a plan if we are not going to live by it. It concerns a lot of other people that I have talked to, and they have the same concerns in other areas. I am concerned that it is not just the concern that restaurant and retail will effect Highland Forest but we need to be concerned about the impact on the school across the street, and it doesn't need any other traffic burden. It is our opinion that it is not a good plan for the City for the property owners, the school, nor the entire community. We ask that you look at it from a stand point of real people and not from two that want capital gain.

Mr. Gardner shared with the Commission a schematic map that he provided back in December when he met with Mr. Mooney and the property owners. I want everyone to be clear that the Tract 2 we are talking about making access into a cul-de-sac. Tract 1 will be the only access to Highland Drive. There would not be any through - access to tract 2. This is the same thing we presented back in December. I can understand the concern of the property owners when it concerns changes in a neighborhood. Development plans for City are living documents and have to reflect changes. There is a Wal-Mart store there and other retail and commercial in that area. Your decision needs to reflect the needs of the City today and not 14 years ago. Yes, this is a nice piece of property and leaving it residential is not suitable, and has been on the market for 2 years with no offers.

Mr. Mooney added that he wanted the MAPC to know that in the application it asked who's making the application- if the request is in compliance with the land use plan that we have in existence. It is not recommended for commercial, but Medium Density Residential. I don't know how much scrutiny that you put in that plan. People expect us to conform.

MAPC Deliberation:

Mr. Kelton asked was the last drawing handed to the Commission correct? Mr. Gardner responded that Tract 1a is the tract to the east is the property being rezoned. Mr. Roberts asked about the letter stating that there was an agreement to the C-4 LUO by the opposition? Was there an agreement reached? Mr. Mooney stated that no agreement was made. This is a rezoning Mr. Day stated and not a site plan approval. Mr. Kelton asked Mr. Mooney what was his response to the letter? Mr. Mooney responded that we would meet them here.

Mr. Gardner stated we have been working hard here. On April 2nd, we went through great lengths to address their concerns. You said earlier that based on proximity to the school, Lot 1 it will not allow for a alcohol license The ABC takes into consideration its proximity to schools and churches. It is not our intent to sell to anyone that wants to do that. There is a statue on the books that prohibits this in a certain proximity to a school or church.

Mr. Mooney added that our people don't want it there and it will be open to midnight and 2:00 a.m. in the morning.

Mr. Kelton asked City Attorney Phillip Crego, if the applicant wants to proceed and Connie Wood owns property to the west, what assurances can we have that she would never have the ability to change form R-1 to any other classification?

Mr. Crego responded that the owner could put restrictions in the deed records, which can be modified. There is no assurance by the proponent, because a new owner can always come and make a modification/request.

Mr. Tomlinson asked if there has been consideration to put a road through the property and limit access. If you build a road, it would be a limited business corridor and would not be like Browns Lane. Mr. Bare stated that we are limiting the access to Highland Drive only to Tract 1. Mr. Tomlinson stated that there is tremendous traffic on Highland Drive including the school traffic.

Mr. Day asked are you saying the applicant is willing to make it a condition of the site plan approval that this would be only a private drive and not be a through-street? He asked if it was set in concrete that a restaurant will have to be included in the plan in tract 1. Mr. Bare stated that it was one of the options in the application, and it is only one lot. When you put a structure there you only have room for one entity on Highland Drive. Mr. Tomlinson stated that when you rezone this property you are opening it up to the west. There is a piece land to the west that has tried rezoning to commercial for the past 10 years. C-4 is more attractive than C-3.

Mr. Day stated that there is quite a concern about the restaurant and retail part of the limiting use. Whether we want to modify that and limited the uses further needs to be determined by the Commission.

Mr. Bare stated that detention will take up a great deal of Tract 1 and it is the lower point. Mr. Roberts asked if the restaurant is still the hang up on this? Mr. Mooney stated that his clients are opposed to the rezoning. We looked at it and feel we could not live with this unless, the property adjacent she could leave it as a buffer, and that the limited use be for businesses such as medical offices or banks not for restaurant or retail sales; and it would only be residential scale. It is critical that they would leave the strip adjacent to Highland Forest as residential as long as they owned it. They insisted on having the restaurant and retail on the Highland Rd. frontage.

Mr. Mooney stated that we know we don't own those lots we are looking at the best interest of the community not the current owners. If you rezone it for this, you are going to cause a huge traffic problem for the school and people coming out of their residential drive, and you open it up to let commercial in there; the other piece will be the next thing on your plate. We ask you to hold the line where it is; we don't need anymore commercial there. Across the street is a huge restaurant building which has been empty for months. There are other items that can go there to eliminate the general retail items in the back.

Mr. Hoelscher commented on the various options . Mr. Collins asked if we open that door and make it a condition, later on what legal ramifications are we opening the door. They would have to comply with a residential appearance, setbacks, buffers; it would be allowed as long as it complied with the restrictions. All the uses will have to be subject to same restrictions. Mr. Crego added that he did not think that it will be advisable in the conditional use process; either it is allowed or not. Because of all of the elements involved in the site plan we will have it come to the MAPC for review, Mr. Bare added.

Mr. Tomlinson made a motion that the Rezoning be recommend to Council for approval as submitted by the applicant with the following conditions:

1. Adequate buffering/screening (minimum 30ft.) should be provided for all surrounding residential uses.
2. Property access should be aligned with Hillcrest Drive and future parcel subdividing shall be reviewed and approved by the MAPC.
3. That a final engineered site development plan be reviewed and approved by the MAPC prior to permit releases for future development.
4. The architectural design shall be of a residential scale and character only.

5. A through- street from Highland to Tract 2 shall be prohibited.
6. Uses listed under a Limited Use Overlay as prescribed by the MAPC excluding restaurant:

Tract 1: Limited Uses including: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Retail and Service Retail.

Tract 2: Limited Uses including: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Service

Roll call Vote: Mrs. Norris- Aye; Mr. Tomlinson- Aye; Mr. Roberts- Aye; Mr. Halsey- Abstain; Mr. Dover- Aye; Mr. Collins- Aye; Mr. Kelton- Aye; Mr. Hoelscher- Aye; Approved 7 to 0.

Staff Findings:

The applicant has proposed to use the property for a number of businesses under C-4 limited use overlay including the following: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Restaurant / and Service Retail. The MAPC and City Council recently approved contiguous property owned by Dorothy Hill for acreage south of this tract fronting on Browns Lane to C-3 L.U.O. This site lies within the area serving as the west boundary of commercial activity long Highland Rd. extending from the central retail core of the City.

Commercial uses in the immediate vicinity include a gas station just north/west of the site, which is a nonconforming Conoco service station in an R-1 District, a financial institution, insurance claims center, restaurant, and multi-family uses. The proposed site is surrounded by residential uses and should be developed at a scale with low intense office or professional service oriented uses. This site, if approved for commercial should be limited to *neighborhood-scale* uses such as service oriented office uses.

In the 2008 Case which was the same acreage was submitted, Staff suggested a lesser intense district request than C-3 uses, given the history of this area. The applicant is now requesting a C-4 Limited Use would be better served for this site, to provide a transition/buffer to the more intense restaurant use immediately east of the site.

If approved, this may provide for more or future proliferation of more of the same to the west. Staff recommends that the MAPC considers the harmony with the remaining residentially used properties abutting and to the west. Particularly, buffering and protection from light spillage should be stipulated if this request is approved. Access management should be a high priority in the approval and development of this property request. Hillcrest School is accessed just above this site and should be given attention for safe route purposes.

From a land use perspective, if this area is to serve as a transition zone to prevent further commercial growth to the west, a limit should be placed on the style and type of neighborhood commercial that is attracted to this site. Retail commercial should be limited to the services type and support office and medical uses at a residential scale.

Conclusion:

MAPC and the Planning Department staff finds that the requested zone change submitted by Dorothy Hill and Connie Wood should be evaluated based on the above observations and criteria in making recommendation to the City Council. Staff feels the request to rezone property from R-1 to C-4 L.U.O. given the above analysis and would follow good land use design principles if all of the above concerns are addressed.

The following conditions of approval are suggested if recommended for approval by the MAPC:

Motion was made that the Rezoning be recommend to Council for approval as submitted by the applicant with the following conditions:

1. Adequate buffering/screening (minimum 30ft.) should be provided for all surrounding residential uses.
2. Property access should be aligned with Hillcrest Drive and future parcel subdividing shall be reviewed and approved by the MAPC.
3. That a final engineered site development plan be reviewed and approved by the MAPC prior to permit releases for future development.
4. The architectural design shall be of a residential scale and character only.
5. A through- street from Highland to Tract 2 shall be prohibited.
6. Uses listed under a Limited Use Overlay as prescribed by the MAPC excluding restaurant:

Tract 1: Limited Uses including: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Retail and Service Retail.

Tract 2: Limited Uses including: Automated Teller Machine, Bank or Financial Institution, Medical Service / General Office, General Service

Respectfully Submitted for Council Consideration,

Otis T. Spriggs, AICP
Planning & Zoning Director

Site Photographs



AERIAL MAP



View looking East along Highland



View looking south at project site



View looking west on Highland



View looking South towards site



View looking from site towards Highland- Gas Station North of Site