



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: ZONING MAP AMENDMENT

Property location: 4140 Athens Highway, across from Rainbow convenience store  
Property tax parcel: 024-008  
Acreage: 2.16 acres  
Applicant: Edwin Prior, Jr, 1150 Shockley Road, Madison, GA  
Applicant's Agent: N/A  
Property Owner: Edwin Prior, Jr, 1150 Shockley Road, Madison, GA  
Existing Zoning: General Commercial (C2)  
Proposed Zoning: Agricultural (AG)

#### Summary

Edwin Prior, Jr. has requested the rezoning of 2.16 acres, located at 4140 Athens Highway, from General Commercial (C2) to Agricultural (AG). This is the parcel that was rezoned from AG to C2 last year for Dollar General. Dollar General terminated the project after negotiations with GDOT failed regarding the future widening of Highway 441. Specifically, Dollar General alleged that GDOT would take the majority of the property as part of the widening project. Mr. Prior would like the zoning to return to its prior designation due to concerns regarding tax valuation, particularly if the property cannot be marketed as commercial due to the future road work. It should be noted that the Future Land Use Map was changed to reflect the change in zoning last year. Should the current request be approved, the Future Land Use Map should be amended again to reflect the change.





The zoning map shows the parcel in darker pink, surrounding by AG, which is the darker green.



The Future Land Use Map. The parcel is shown in red, along with the parcel across the highway where the Rainbow convenience store is located. The Future Land Use Map was changed when the rezoning of the parcel was approved last year. Should the current rezoning proposal be approved, the Future Land Use map should be changed again as well.

From the September 25, 2014 Planning Commission meeting

- I. SW Bostwick, LLC is requesting the rezoning of approximately 2.16 acres, located near the corner of Athens Highway and Apalachee Road (across from Rainbow convenience store) from Agricultural (AG) to General Commercial (C2) (Tax Parcel 024-008).

Mr. Jarrell presented the staff report on behalf of Morgan County and confirmed that the applicant intended to locate a Dollar General on the property. He gave a brief history of the property and showed the proposed site plan for the Dollar General. Mr. Jarrell described the August 21, 2014 town hall meeting, including who attended and what concerns were discussed. He showed a photograph of the proposed design, as well as architectural elements from downtown Apalachee that Staff suggested could be incorporated. Mr. Jarrell also informed the Planning Commission that a Future Land Use Map amendment would be necessary if the application was approved.

Colin Edwards from Sullivan Wickley spoke on behalf of the applicant and noted that Dollar General stores typically do not draw more than local traffic. He stated that they were working with Georgia DOT regarding the decel lane, curb cut and turn lane. He stated that the design submitted showed false shutters, but Dollar General would be willing to work with local architectural elements.

Mr. Jarrell noted that one letter of opposition had been received from Ginny Marie Giacchino. The letter was passed to all Planning Commission members.

Faye Jordan, Apalachee Road, spoke in opposition to the application, stating that there was no benefit to a new Dollar General when there were already two dollar stores in Madison. She stated that Apalachee was a farming community and did not need commercialism. She also cited concerns regarding traffic and crime.

The Planning Commission asked Ed Prior, seated in the audience, if the Rainbow convenience store had ever been robbed and he said yes, but that he doubted there was a convenience store that had not been robbed. He explained how he was approached by the company to purchase the land and his initial reluctance. He also explained the drive necessary to pick up small items: 10 miles to Madison or 12 miles to Watkinsville. The Planning Commission discussed the new Dollar General in Rutledge, the possibility of loiterers, and the appropriateness of commercial development on the highway.

Motion: Mr. Cardwell made a motion to recommend approval of the request to rezone approximately 2.16 acres near the corner of Athens Highway and Apalachee Road from AG to C2.

Second: Ms. Booth

Vote: 6:2 The motion to recommend approval of the rezoning request was approved. Ms. Sheppard and Mr. Knight dissented.

Motion: Mr. Cardwell made a motion to recommend approval of the Future Land Use Map amendment for the same parcel (approximately 2.16 acres near the intersection of Athens Highway and Apalachee Road) from Agricultural/Forestry to Commercial.

Second: Mr. Campbell

Vote: 6:2 The motion to recommend approval of the Future Land Use Map amendment was approved. Ms. Sheppard and Mr. Knight dissented.

#### From the October 7, 2014 Board of Commissioners' Minutes

1. SW Bostwick, LLC is requesting the rezoning of approximately 2.16 acres, located near the corner of Athens Highway and Apalachee Road (across from Rainbow convenience store) from Agricultural (AG) to General Commercial (C2) (Tax Parcel 024-008).

Tara Cooner, Senior Planner, provided a report from the Planning Commission meeting. She stated the property is located across Highway 441 from the Rainbow convenience store, which is zoned C1. The history of this property is that it was zoned C2, but was changed with the 2006 zoning atlas adoption. The proposed plan meets the requirements for setbacks and buffers. Dollar General has been talking to DOT about the requirements for the curb cut, decel lane and turn lane. Staff suggested that elements of Apalachee's architecture be added to the design of the building. Colin Edwards from Sullivan Wickley spoke on behalf of Dollar General and explained that the stores typically draw only local traffic and he confirmed that Dollar General would work with the local architectural elements. Ed Prior explained how the company approached him about buying the property and the drive that was necessary to purchase minor grocery items which is 10 miles to Madison or 12 miles to Watkinsville. The Planning office received one letter in opposition which was from Ginny Marie Giacchino, who lives in Bishop, Georgia. She stated that although she does not live nearby, she drives through daily and is concerned about the loss of history in the area and the possibility of additional commercial properties. Faye Jordan, who lives close by the proposed location, spoke in opposition to the application, saying that Apalachee has always been a farming community and does not need commercialism. She cited concerns regarding traffic and crime. A town hall meeting was held on August 21<sup>st</sup> where various concerns were addressed. Only two Apalachee residents were present at this meeting. The Planning Commission asked if the new Dollar General in Rutledge was beneficial. Wes Holt confirmed that it was convenient to pick up small items there instead of driving into Madison. The Planning Commission voted 6:2 to recommend approval of the rezoning. Starr Sheppard and Spencer Knight dissented. The vote was also 6:2 to recommend approval of the FLUM amendment to reflect the zoning change. Two votes are needed.

Chairman Ainslie allowed proponents and opponents to speak. There were no proponents or opponents.

MOTION by Comm. Clack, seconded by Comm. Harris to approve rezoning of approximately 2.16 acres, located near the corner of Athens Highway and Apalachee Road (across from Rainbow convenience store) from Agricultural (AG) to General Commercial (C2) (Tax Parcel 024-008). Unanimously Approved.

MOTION by Comm. Clack, seconded by Comm. Harris to approve amending the Future Land Use Map from Agricultural to Commercial/Estate/Forestry. Unanimously Approved.

### Criteria for Consideration

(Please note that the criteria below are bulleted in the Morgan County Zoning Ordinance. They are numbered here for ease of use.

1. **Compatibility with Adjacent Uses and Districts:** Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
2. **Property Value:** The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.
3. **Suitability:** The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification.
4. **Vacancy and Marketing:** The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.
5. **Evidence of Need:** The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.
6. **Public Facilities Impacts:** Whether the proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks or other public facilities and services.
7. **Consistency with Comprehensive Plan:** Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
8. **Other Conditions:** Whether there are any other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposal.

### Staff Comments

Staff has no concerns regarding the rezoning of the property. Criteria 2 and 8 should be considered. The property value is debatable if the road project renders the land unusable, especially for commercial purposes. GDOT will not provide written confirmation of the future road location. Staff contacted the Morgan County Tax Assessors, who confirmed that the possibility exists for higher taxes to be imposed on the property due to the commercial zoning designation.