

At this time Baur asked that all cell phones be turned off or put on vibrate. This includes members of the Planning Commission. She reminded the Planning Commission members to please state their name before speaking for the benefit of the audience as well as for the benefit of the city staff recording the minutes for this meeting.

## **REZONING**

**RZ09-01**

**CHERDON PROPERTIES LLC/CHERIE O'KEEFE**

**55 Crossville Road (Animal Hospital)**

**Land Lot: 393**

**C-3 (Highway Commercial) conditional to C-3 (Highway Commercial)**

Jackie Deibel stated that the property size is 1.78 acres. The existing zoning of the property is C-3 (Conditional). The proposed request is for C-3 Highway Commercial. The applicant wants to remove a condition from a 1979 rezoning. Back in 1979, the property was rezoned from C-2 (Central Commercial) or actually, Neighborhood Commercial to C-3. During the rezoning the applicant indicated that a veterinary clinic would be restricted. That's how the mayor and city council restricted its use to a veterinary clinic only. This property is located in the Parkway Village zoning district, the overlay and there are a lot of other uses that are allowed in Parkway Village. These include office, retail, multi-family residential. However, this property itself is only allowed to be a veterinary clinic. To the north of the property, as one will notice on the zoning map, is the Roswell Green residential subdivision zoned R-3. South of the property is the Village Festival shopping center, zoned C-1. To the east of the property is the office complex zoned C-2 and west of the property is vacant land and some little houses zoned O-P.

The applicant's request is to remove the condition of restricted it only as a veterinary clinic in order for in the future to either combine with vacant property to do a larger development or to allow that to be used as dental or doctor's office or something in that regard.

The staff has recommended approval with four conditions:

1. The subject property shall be limited to a veterinary clinic and all permitted uses in the Parkway Village district except for the service station .
2. The owner/developer shall be required to submit for a land development permit for all changes to the site.
3. Prior to the establishment of a new business, the stone piers and white fencing as shown in the Parkway Village district design guidelines shall be placed in the front streetscape.

4. Any exterior changes to the site or building must be approved by the Design Review Board.

Deibel stated that the permitted uses in the Parkway Village district are as follows: corporate headquarters, churches, horticulture or agriculture, parks, playgrounds, public buildings such as libraries or museums, single-family residential, condominiums and town homes, banks and other financial institutions, business and professional offices-medical, dental, legal, financial, personal service establishments, service stations, retail establishments except the following: No auto dealerships, no motels, no liquor stores or no drive-in theatres. Restaurants, grills and similar eating establishments, nursery schools and kindergartens and day care center, continuing care retirement communities, institutional residential living and care facilities and an adult care center.

Staff has recommended approval restricting it to Parkway Village uses except for the service station and also allowing for the veterinary clinic to remain.

Loren Conrad inquired when the property was rezoned last time, what was the rationale? It was zoned C-2 and they couldn't put veterinary medicine in there so they had to go to C-3? Deibel stated that was correct. Conrad stated that his question would be why would they go all the way to C-3 when everything around it is either O-P or C-2 or C-1 or residential? Deibel stated that city council does have the authority to rezone it to something else if they choose to do so. If one wants to change it back to C-2. However, veterinary clinics are not allowed uses in any other zoning classification other than C-3. That is why back in 1979, they chose the C-3 classification. But if council chooses to zone it back to C-2, which is what it was back in 1979 before it was rezoned and restrict it to the Parkway Village uses and possibly allowing the veterinary clinic to remain, they have that option to do that. Conrad clarified that they could go to C-2 and allow the...Deibel stated that city council would be able to grant that, yes.

Sarah Winner inquired if they changed this to C-2 would any of the uses that Deibel described be taken off the books? Jackie Deibel stated that they would not because they are still in the Parkway Village district and any of these uses are allowed in Parkway Village. Winner clarified that the Veterinary clinic would be grandfathered in basically. Jackie Deibel stated that if they condition it that way, yes however mayor and city council decides to allow it.

Susan Baur asked if there were any other questions for staff. Hearing no more questions, Baur stated that the Commission will now hear from the applicant.

Cherie O'Keefe presented the application. Basically what she is trying to do is get that stipulation taken off of the zoning so that she can hopefully split the property. She will keep her business where it is and sell the other acre. That is her goal. The property as it is right now is a lot bigger than she needs and the adjacent

property is currently for sale so she thought if someone wanted to take her acre with the other three acres they could develop something bigger. But as it is right now, it can only be a veterinary hospital, the whole 1.8 acres.

Loren Conrad asked O'Keefe if she would have any opposition to going to C-2 with the vet clinic included. O'Keefe stated that as long as she is grandfathered in...Conrad stated that his concern is C-3 is a pretty broad spectrum of uses and everything around this is less dense use than that. If she has no problem with it maybe that is the way to go.

O'Keefe stated that as long as it doesn't ever come up that someone tries to remove the animal hospital because it is C-2. Loren Conrad stated that they could not do that to her. To him this is a little unusual because usually if one were going to sell that other piece of property he would put it up...someone would get a contingency on it to buy it considering it rezoned to another level of some sort and it would be...maybe if that other piece of property is up for sale they would include those two together and say are going to build this on here, so they want to take this restriction off. That would come before the Commission and they would have a site plan and it would all look like one big piece to work with.

O'Keefe stated that her problem right now is the property is too big. It is too expensive for a veterinarian to own it. So she is trying to split it and sell off half of it. The adjacent property is zoned office-professional so O'Keefe does not know if that has any bearing on which way they go with the...

Cheryl Greenway asked O'Keefe if the part of the land that she wants to break off separate and sell is actually bordering the office-professional zoning not the C-2 zoning. O'Keefe stated that was correct.

There were no further questions from the Commission to the applicant. At this time Susan Baur opened the meeting up to public comment. She asked if there was anyone present to speak in favor of this application. No one came forward. She asked if there was anyone present to speak in opposition to the application.

Hearing no comments from the public, Susan Baur asked if there was anything that the applicant would like to say before she closes the public hearing portion of the meeting.

Cheryl Greenway stated that she would like to ask the city representatives a question. She would be interested in Jackie Deibel's input regarding what is being discussed here because originally the application was just to remove that one restriction about veterinarian practices. If they go from C-3 to C-2, she does not know how much that is going to help or hurt because then if someone is really looking at that adjacent property they are still going to have to come back

before the Planning Commission because if they are wanting office-professional,,,,,

Jackie Deibel stated that Greenway was forgetting that they are in Parkway Village. Parkway Village allows those uses without going through a rezoning. That O-P is to the west. Someone could develop that with town homes if they chose to do so. As long as they had seven acres or more they would go straight to the Roswell Design Review Board. If they have less than seven acres then they would go to city council. They do not have to back through a rezoning. The Parkway Village overlay takes care of that for them. Cheryl Greenway clarified that would override the zoning issue. Jackie Deibel stated that it would.

Karen Geiger asked Jackie Deibel if she sees any benefit in the Commission recommended C-2 versus C-3 or O-P. Jackie Deibel stated that the original zoning was C-2, if Geiger wants to go back to the original. Or O-P as long as the veterinary clinic is allowed to remain. Either one is fine.

Karen Geiger clarified that office-professional zoning could use all that array of uses that Deibel just outlined on O-P as well. Deibel stated that was correct because those are permitted uses in the Parkway Village district, which is the overlay for this corridor.

Mark Renier if the veterinary clinic, were they talking about it being the current one being grandfathered or just a vet clinic being an allowable use. Jackie Deibel stated that they weren't with the current being grandfathered.

Sarah Winner clarified that if O'Keefe chose to sell her practice she would want that ability, so she is not asking for that particular practice. She is saying that that piece of property can continue to be a veterinary clinic regardless of what it is called or who owns it. Winner believes that was her intention. Correct? Winner stated that she does not know if she is allowed to direct the question to O'Keefe but if she were a veterinarian she would not want to be only for her building, her practice, her name. She would want it to be for any veterinarian down the road.

Cherie O'Keefe stated that if someone could afford, if she was able to split up and someone could afford the veterinary clinic on the .8 acres, then yes. She would be open to selling it to another veterinarian.

Winner clarified with Jackie Deibel that when they grandfather in that it can remain a veterinary clinic that is not also requiring it to be O'Keefe's clinic, her name, her practice, her building. They could renovate the building; they could rename it as long as it remained a veterinary clinic.

Jackie Deibel clarified that Winner meant like if O'Keefe sold it and someone else came in. Winner stated that was correct. Deibel stated that the current structure

there, yes. Winner clarified that they could not renovate the building? Deibel stated that they could renovate it and make it into a vet clinic. But what she thought Winner meant was could they build another one. Winner stated that she did not mean that but on O'Keefe's piece of property where her current establishment is...Jackie Deibel stated that that can stay. Winner clarified that it could change in name, it could change in ownership, the building itself could be altered or renovated or added onto, but a veterinary practice can continue to exist on that .8 acres. Deibel stated that is what they are conditioning to, yes. Winner clarified that is what O'Keefe's intention was. O'Keefe stated that was correct.

Susan Baur asked if there were any further questions for staff.

Loren Conrad stated that he was a little confused still. Assuming they would do the C-2 with the grandfathered vet clinic. That other half of the property would also be C-2 but it wouldn't still be vet clinic only. Is that right?

Jackie Deibel stated unless the applicant chooses to subdivide. If she subdivides and sells it off to someone then no. It would still be C-2 or O-P or whatever one chose to zone it to or whatever council chooses to. But that portion would basically no longer be the vet clinic property. So, one could not build another veterinary clinic on it. Basically, that is where Deibel is going with that.

Loren Conrad stated that is what he was trying to get at. Deibel stated that one could build an office building; he could build a little town home development, whatever he wants to do in Parkway Village permitted uses. But he cannot build another veterinary clinic on that portion of the property.

Susan Baur asked Deibel if that does not need to be somehow specified that a single clinic...she thinks Loren Conrad has a valid point. If they subdivide the property, does the condition that one can still have a veterinary practice exist on both subdivided pieces of property or does the Commission need to clarify that in the motion that they are putting forward?

Jackie Deibel stated that they probably need to have a condition regarding that should they subdivide the property. That the veterinary clinic that is existing can remain on the portion, once it is subdivided.

Susan Baur clarified that if the property is ever subdivided the sections that are subdivided off will not have the condition grandfathered in for a veterinary clinic. Jackie Deibel stated that was correct.

Loren Conrad stated that is what was making this kind of difficult. They don't have it subdivided yet. Deibel stated that it was not subdivided; it might not be

subdivided for five, 10 years. She does not know. Conrad stated that they have to condition it properly.

Cherie O'Keefe stated that her goal is to open it up to where she can sell it. As it is right now she cannot sell it.

Sarah Winner stated just for clarification that she could but what someone would do then is come forward and say that they are going to make sure they can get the zoning they want before they close on it. Loren Conrad's point is that normally that is the process that happens because nobody goes through the bother of rezoning something until they are ready to sell it and that is what they want to do with it.

O'Keefe stated that it is on the market right now.

Susan Baur asked if there was a member from the public who would like to speak in favor of the application.

#### **Lisa Pever**

Lisa Pever stated that she knows the chairman closed public comment portion of the meeting but then things kind of went off on another tangent and it made her think that she really did want to express a couple of thoughts.

Pever stated that she lives just behind Parkway Village about a mile or less, almost exactly a mile west of this property. She has dealt with a lot these issues along the way as Parkway Village has evolved over the years. That is part of where her concern comes in because there are several uses that are permitted under C-3 that would not be permitted under O-P/C-2. But for the Parkway Village overlay, and she guessed that was part of her concern is if it O-P could one really put a C-3 permitted use on that property?

Brad Townsend stated only if it is listed under the Parkway Village.

Pever stated for instance if a property that is currently O-P surrounded by residential property within the Parkway Village can be developed as a C-3 property as allowed under Parkway Village. No. Pever stated that then begs the question if they are going to let this remain as C-3 with the understanding that it could be anything that is allowed under Parkway Village.

Loren Conrad stated that there is nothing more dense than C-3.

Pever agreed. There are some uses that are permitted under C-3 that may not be appropriate for where this particular location is within Parkway Village. There

are some things that one would not put surrounded by residential properties where this has residential backing up to it.

Susan Baur asked Pever if there was anything in the list that Jackie Deibel described that she thinks would be inappropriate there. Pever stated that there are certain things that she knows are permitted. For instance, not that one could actually do it on that property but one could have a big box in a C-3 that he could not have in O-P within Parkway Village.

Jackie Deibel stated that this was Parkway Village and this was restricted to the vet clinic in 1979, which means if council approves it and conditions and restricts it to only these uses in Parkway Village then if somebody ever wanted to do something not listed on these uses they would have to come back through the rezoning process.

Lisa Pever stated that her concern was with the actual C-3 aspect of it because there are undeveloped properties adjacent to it, is someone going to try to make that C-3 for a more dense use within Parkway Village than would be allowed under O-P as it currently stands if one tried to assemble those two pieces.

Jackie Deibel stated that if someone wanted to make that C-3 they would have to go back through a whole rezoning. Pever clarified that if they allowed this one to stay C-3 when it is really kind of a conditional C-3, it is a pretend C-3. But if they make it a real C-3 for the piece that is not O'Keefe's clinic, which is adjacent to the undeveloped property that is currently O-P then someone might come in and try to make C-3. Her concern regards not only that particular property but others along there that are still undeveloped along that corridor. That is the concern that she wants to raise. It is not just this particular property because it is then a domino effect.

Loren Conrad stated that he thinks the Parkway Village overlay restricts the uses to those only allowed in Parkway Village.

Pever stated that she understands that.

Conrad stated that some of those C-3 uses couldn't be used there. Pever asked for instance if big box stores are not allowed in Parkway Village. Kohl's is there.

Jackie Deibel stated that falls under retail and it has a specific....a big box is not an allowed use in Parkway Village. It is not under the permitted uses. Pever clarified that that would require a whole separate....it's an exception to the Parkway Village. She stated that her concern was for other properties in C-3. It gives her a little bit of fright along that residential use.

Susan Baur stated that to follow up she has a question because it is confusing. She is still learning. Every time they have a meeting as they go through all of this in Roswell and all this zoning there are all of these pieces of property that are on the zoning map, O-P, C-2, C-1, R-3 all over this area. Then there is this overlay. She thinks it goes to Lisa Pever's question, she needs a quick bit of education on this and how this works because it is confusing. Pever was up here saying that it doesn't matter if it is C-3 or C-2 or O-P if it is part of the Parkway Overlay District. She understands what that is, but it is confusing to see these things on the map and then say that it doesn't matter what one picks it is part of the overlay district.

Mark Renier stated that he always thought of the overlay as if one took a piece of paper and that is an overlay. If one puts it top of all this, it doesn't matter what the others are, the overlay controls. It doesn't matter if it is C-2, C-3, O-P against the overlay.

Jackie Deibel stated yes and no. The Parkway Village extends basically from Mansell, a little past Mansell all the way to the Cobb County line. Within that most of the underlying zoning is residential, E-2, R-1, E-1. Some of the properties are C-3, C-1, O-P. Those are from rezonings back in the 1970's and 1980's that were there before Parkway Village was established, which was in 1992. For example just to clarify Renier's question, the Quik Trip gas station on the corner of Crabapple and Crossville Roads used the underlying zoning of C-1 in order to establish their service station at that location. But service stations are also still a permitted use in Parkway Village. So basically the underlying zoning, one can use either or. If he wanted to develop an O-P project and he has O-P zoning with the overlay of Parkway Village, he can do that. If he has E-2 zoning with the overlay of Parkway Village that gives one the right to use commercial or office or a multi-family residential. That is what Parkway Village gives one, if he has seven acres or more, to not have to go to city council. He can go straight to the Design Review Board and do his village development. That was the goal of Parkway Village when it was created. It was designed to do large developments in order to create villages. A lot of that has been done along that corridor. However there are small pockets left now that are less than seven acres that go to city council for what they consider a small tract where one wants to do office development or a little commercial development.

That is the best way that Deibel can describe Parkway Village. One does not normally see Parkway Village requests because for the most part they don't have to go through a rezoning. She does not know if she clarified that or confused the Commission more.

Susan Baur stated that it helps but in this particular piece wouldn't it make sense to recommend O-P since the planned \_\_\_\_\_ store is O-P and that is the land that O'Keefe.... Jackie Deibel stated that she could. If the Planning Commission would like to recommend O-P zoning then she has the right to recommend O-P zoning

and put any additional conditions on there. If someone in the future five years from now, next year decides to develop and maybe put all of those properties together, four or five acres, and wants to do a development they can do that in Parkway Village with maybe a retail or some type of office development going to council.

Susan Baur clarified that it is her understanding that one can develop with the zoning, if he is within Parkway Village. He can develop with the zoning and conditions that he has for his particular piece of property or he can choose the zoning that goes along with the overlay. One can do either or. So the lady who expressed concern that if they gave it a C-3 even though there were conditions on it, someone developing that property potentially could develop it with the C-3 conditions plus the conditions that have been put on it or they could develop to the overlay. Jackie Deibel stated that was correct

Susan Baur stated that logically if what she stated was that she would like assemblage with the property next door, which is already zoned O-P, logically Baur thinks it would make some sense if she is not opposed to it to propose it as an O-P and grandfather in the veterinary clinic. Is there a reason why staff chose the commercial as opposed to the office-professional? Or is that what the applicant requested?

Jackie Deibel stated that is what the application came in as but there was no reason why staff chose C-3 or did not recommend O-P.

Jackie Deibel asked if there were anymore questions for staff.

Hearing none, Susan Baur closed the public hearing portion of the meeting so that the Commission can discuss the application and make a motion. She asked if there was any discussion from the Commission.

Loren Conrad stated that it is his opinion that the Commission ought to take this to something less than C-3. Everything surrounding this is other less dense zonings. Maybe O-P is...there is C-2 on one side and O-P on the other side and the overlay district is in there. Conrad thinks that C-2 might be the appropriate one since they are already at commercial. They could just drop it down to C-2 and give the exemption for the vet clinic. With the right wording it says that if this is ever subdivided that the vet clinic would stay with the site that the building is currently on. That would be his recommendation. He would like to hear other folk's ideas.

Sarah Winner stated that she would suggest that perhaps given that the applicant's stated intention is to potentially apply for assemblage having everything listed as O-P might be more eye-catching. It would certainly be more attractive to Winner only because she thinks they are inundated with commercial

zoning already in the city of Roswell. And if someone ever wants to apply for things they can come in under the Parkway Village zoning, which would give them the ability to do some of the things that they might want to do under one of the C zonings. Her suggested would be that the Commission pursue the O-P zoning. Either way they have to do a condition for the veterinary clinic and as Loren Conrad mentioned, go ahead and put the condition in there that if the property is ever subdivided that the exception for a veterinary clinic can only remain on one parcel regardless of how many parcels are subdivided off of it.

Cheryl Greenway stated that she goes along with what Sarah Winner is saying. The only thing that she wants to be sure to mention is she does think they need to be sure they include in their motion all four of the items that were addressed by staff regarding additional issues relating to the property.

Mark Renier asked staff if the buffers or setbacks any different with O-P versus C-2 or C-3 being adjacent to that R-3 in the back. Jackie Deibel stated that for Parkway Village and realistically for O-P, C-2 and C-3 there is a 40-foot buffer and a 50-foot setback for regular zoning, O-P, C-2 and C-3. For Parkway Village they have a 40-foot buffer so they are basically the same.

### **Motion**

Karen Geiger made a motion that the Planning Commission approve RZ09-01 with the following conditions:

1. That it be rezoned O-P.
2. That the four conditions outlined by staff be conditions on the property.
3. A fifth condition is added to the effect that if the property is subdivided that the allowance for a veterinary clinic will not run with the subdivided piece but will only remain with the building that has already been established.

Loren Conrad seconded the motion.

The motion passes unanimously. This recommendation will be forwarded to the mayor and city council.