

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF MEETING
MARCH 13, 2012**

CALL TO ORDER Chairman @ 5:30 p.m.

Members Present: Chairman Dean Dadisman, Vice Chairman Doyle Johnson and Board Members Dexter Stanley, Jane Fleming, Connie Rucker and John Snyder

Members Absent: Board Member George Hokayem

Staff Present: Community Development Director Rusty Ligon, Planning Manager Matt Tate and Recording Secretary Judy Foster

Others Present: Council Member Myrtle Figueras, Public Utilities Engineer Myron Bennett and Public Works Engineering Inspector Glenn Austin

MINUTES OF FEBRUARY 14, 2012

Motion to approve the Minutes as presented.

Motion made by Board Member Snyder
Motion seconded by Board Member Fleming
Vote – 6 favor, 1 absent (Hokayem)

NEW BUSINESS

A. Variance Requests

- 1) Request from **The Norton Agency Insurance, LLC** to vary the minimum driveway width standards and the maximum number of parking spaces allowed on a 0.61± acre tract located on the east side of Boulevard, north of its intersection with Park Street (a/k/a **424 Boulevard NE**), having a zoning classification of Residential-II (R-II).
Ward Number: Two
Tax Parcel Number(s): 01-038-003-011
Request: Professional office

There was a motion to approve the withdrawal of the above request.

Motion made by Vice-Chairman Johnson
Motion seconded by Board Member Stanley
Vote – 6 favor, 1 absent (Hokayem)

- 2) Request from **America's Home Place, Inc.** to vary the stream protection buffer requirement on a 22.0± acres property located on the east side of Dawsonville Highway, across from Beechwood Boulevard, south of its intersection with Ahaluna Drive (a/k/a **0 Dawsonville Highway, 1232 Ahaluna Drive, 1162 Lakeshore Circle**), having a zoning classification of Residential-I (R-I) and Office and Institutional (O-I).
Ward Number: Five
Tax Parcel Number(s): 01-114-001-002A; 01-115-001-007B and 055
Request: Future shopping center

Staff Presentation: Planning Manager Matt Tate gave the following staff presentation:

The applicant is proposing to vary the 75-foot stream protection buffer requirement in order to construct a shopping center. The subject portion of property consists of three parcels approximately 22.0± acres in size. The property is partially vegetated and contains one stream located on the southeastern side of the property. Of note, a land disturbance permit for the proposed shopping center was issued on September 20, 2010, which consisted of the installation of a temporary detention facility.

Adjacent and nearby properties include commercial and office uses to the south and west. Single-family residential uses are located to the north and east off of Ahaluna Drive and within the Lakeshore Heights neighborhood.

Specifically, the applicant is asking approval from the Planning and Appeals Board to vary two buffer encroachments. The first portion of the buffer is located just outside of the state required 25-foot buffer and includes 18,557 square feet or a 0.43 acre area. This portion of the City 50-foot buffer requires the area to remain undisturbed and must be kept free of all impervious cover. The second portion of the buffer which is located farthest from the stream includes 21,110 square feet or a 0.48 acre area of the City 75-foot non-impervious stream buffer. This portion of the buffer may be minimally disturbed but must be kept free of all impervious cover. As well, the applicant has applied for an encroachment of 17,612 square feet (0.40 acre) within the State mandated 25-foot buffer which is currently being reviewed by the EPD.

The applicant is basing the hardship on the property's topography and the location of an existing sewer line. The applicant states the variance will allow for better positioning of a large detention pond to the rear of the site which will handle storm water from the subject property as well as adjacent property. The applicant states that proper pre and post on-site mitigation will be provided and details are included with the supporting documentation.

Comments were received from the Public Utilities Department which states that the existing 8-inch sanitary sewer line and 30-foot perpetual easement shall remain open and accessible during all times of construction. Should any development conflict with the existing 8-inch line, the owner shall coordinate with Public Utilities for the relocation of the sanitary sewer line to meet all Public Utilities requirements.

The Ordinance states the Planning and Appeals Board may grant a variance where the shape, topography or other existing physical condition prevents land development, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel. The Code also states that a variance shall not be granted as a convenience to the applicant or as a way to gain any advantage over similarly zoned properties.

It appears the development of the subject property is impacted by the varying topography as well as the presence of an existing sanitary sewer line. The applicant states that if encroachment into the stream buffer is not granted, the property cannot be developed to its intended use as a retail development. If the request were to be denied, it appears the proposed development would need to be scaled down in size to maintain construction activities outside the 75-foot stream protection buffer.

Based on the topography of the subject property, the location of existing sewer utilities and the proposed storm water management plan, the Planning Division staff is recommending **approval** of this stream buffer variance request.

Applicant Presentation: Keith Brown, representing America's Home Place, 2144 Hilton Drive, requested approval of the variance noting they have already received approval from the Corps of Engineers and are awaiting execution of the EPD approval for encroachment. Mr. Brown elaborated on two issues regarding the existing sewer line in relation to the topography of the land; and their proposal to move and enlarge the existing detention pond to the right of the stream to help with existing erosion issues.

Upon inquiry by Board Member Fleming, Mr. Brown clarified where the stream was located and where the runoff was coming from adjoining properties, noting that the only time there was water in the open ditch was when it rained. Mr. Brown stated that the existing temporary detention pond is not shown on the proposed site plan but indicated its approximate location. He stated that this site plan was one of several options; however, this proposed site plan, with the larger detention pond, would be better served for everyone since it would minimize silt and be less expensive.

Upon inquiry by Vice-Chairman Johnson, Mr. Brown explained how the detention pond would work to control the volume of water running down the stream.

FAVOR: None

OPPOSED: Rachel Bemby, 1063 Lakeshore Drive, stated that her property backs up to the subject property. She clarified that there was indeed water in the stream as she drives the street on a daily basis. Ms. Bemby had written a letter to the Board addressing her environmental concerns and hoped that everyone read it. She stated that the stream buffer area is visible from the main street leading into their neighborhood, noting that some mitigation measures are extremely unattractive and would change the appeal of the neighborhood and devalue their homes. She stated that she represented a good portion of the neighborhood, many of whom were not able to attend the meeting.

Howard Page, 1280 Lakeshore Circle, stated his main concern was runoff, noting that the water in his cove has gone from 14-feet to 4-feet since he built his home there 39 years ago. He blames runoff from developments for this problem and stated that detention ponds are not adequate because there is red mud in the cove whenever it rains. He stated that he reports this to the Corps of Engineers and to the City whenever it occurs, but nothing is ever done. He stated he was not as close to the development as those on Lakeshore Drive, but he is still impacted and therefore opposed to the request.

Linda Hawkins, 1445 Lakeshore Circle, stated that she was speaking in opposition of the buffer variance. She disagreed with Mr. Brown, noting there was water in the runoff daily. Mrs. Hawkins stated that she was not a tree hugger and does believe in a green economy as much as possible. She questioned why the buffer requirements should be changed at this stage when this is just a proposal and not official plans, noting the shopping center could still be built without the variance. She also commented on the following: the buffer was there for a reason; a lot of trees could be saved; and the existing runoff needs to be addressed which cannot be done by minimizing the buffer. She asked the Board to protect the neighborhood, the City and their properties.

Mike Proulx, 1260 Lakeshore Circle, stated that it is not a ditch, but a natural stream since no one dug it out. His main concern was the garbage and debris which is dumped into Lake Lanier by existing developments. His experience with detention ponds is that

they will overflow and what is in place now is not working, even in non rainy seasons. He stated that in the Park area, they recommend you don't swim in the water because of the concentration of runoff from the Lakeshore Mall area. He stated this was a residential area, and putting in another development would place further strain and burden on the natural area that was not meant to be.

Robin Martin, 1025 Lakeshore Drive, stated that his home is located right behind the proposed detention pond. He stated that when he received his public notice letter two weeks ago it was vague and didn't mention a detention pond, noting he found out about the pond last week. He felt that the grading which has already been completed on the property destroyed the natural beauty of the area. He asked the Board not to take final action on this matter tonight as they need more time to study this proposal. He stated that even Keith Brown didn't know where the detention pond was going to be when they walked the property together.

Rebuttal: **Mr. Brown** stated that litter runs into the storm drains and into the lake because of old developments where drainage systems were not done properly. Mr. Brown stated that the proposed detention pond will catch most of the trash and keep it from going into the lake which would be a benefit to the neighborhood. He stated that he was not debating whether it was a ditch or a stream and apologized for bringing it up. He stated that Mr. Martin was correct in stating that he didn't know where the detention pond would be because this was a proposal and they are simply asking for the stream buffer variance right now. He noted that they have applied for rezoning of the property which will come before this Board next month and they could discuss what is going to be built and where the detention pond will be at that time, but right now it is all tentative.

Planning and Appeals Board Comments: Upon inquiry by Board Member Fleming, Planning Manager Matt Tate clarified that without the variance, it would severely limit the options for actual development of the property. Mr. Tate stated that the Board had three options; approve, deny or table the request in an effort to get more detail next month with the rezoning request.

Upon inquiry by Vice-Chairman Johnson, Planning Manager Matt Tate confirmed that the applicant is proposing to build over the portion of the stream buffer shown on the proposed site plan leaving no buffer at all.

Board Member Stanley stated that this request was premature since there is no plan and the property is currently zoned Residential-I (R-I). He stated that if there was a zoning change it would be a different issue.

There was a motion to deny the request to vary the stream protection buffer requirement on the subject property for a future shopping center.

Motion made by Board Member Stanley
Motion seconded by Board Member Snyder
Vote – 6 favor, 1 absent (Hokayem)

A. Annexation Request

- 1) Request from the **Gainesville Truck Center, Inc.** to annex a 14.03± acres tract located on the east side of Athens Highway, south of its intersection with Wilson Drive (a/k/a **0 and 2145 Athens Highway**) and to establish zoning as Light Industrial (L-I).

Ward Number: Three

Tax Parcel Number(s): 15-022D-000-005, 006 and 008

Request: Sewer for the existing truck center

Staff Presentation: Planning Manager Matt Tate gave the following staff presentation:

The applicant is proposing to annex the subject 14.03± acres property into the city limits of Gainesville for the purpose of utilizing sewer services for the existing Mack Truck sales and service center. The applicant is proposing no other changes at this time as all buildings and access will remain.

The subject property contains three tracts of land and is zoned Light Industrial (I-I) within unincorporated Hall County and is located within the Gateway Corridor Overlay Zone. The property is adjacent to the city limits to the north and west as well as to the south across Athens Highway (US 129).

The Gainesville Public Utilities Department states that the City currently owns and operates an existing 10-inch sanitary sewer main located on the northwest side of the subject property that can serve the existing development. If the annexation request is granted to the applicant, connection to the existing sanitary sewer main will be allowed for up to one year from the date of approval.

The Future Land Use Map for the City of Gainesville places the subject property in the *Retail Commercial* land use category, which generally includes commercial service activities such as grocery stores, banks, restaurants, theatres, hotels, and automotive related businesses. As well, the projected uses fronting along Athens Highway are expected to remain nonresidential in nature, which would be consistent with the applicant's request.

Therefore, staff is recommending **approval** of this annexation request with Light Industrial (L-I) zoning, based on the Comprehensive Land Use Plan and the surrounding nonresidential land uses.

Applicant Presentation: None

FAVOR: None

OPPOSED: None

Planning and Appeals Board Comments: None

There was a motion to recommend approval of the request to annex the subject property and establish zoning as Light Industrial (L-I) for sewer for the existing truck center.

Motion made by Vice-Chairman Johnson
Motion seconded by Board Member Rucker
Vote – 6 favor, 1 absent (Hokayem)

ADJOURNMENT

There was a motion to adjourn the meeting at 6:08 PM.

Motion made by Board Member Stanley
Motion seconded by Board Member Fleming
Vote – 6 favor, 1 absent (Hokayem)

Respectfully submitted,

Dean Dadisman, Chairman

Judy Foster, Recording Secretary