

**GAINESVILLE PLANNING AND APPEALS BOARD  
MINUTES OF MEETING  
JULY 10, 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, George Hokayem and John Snyder

**Members Absent:** None

**Staff Present:** Community Development Director Rusty Ligon and Planning Manager Matt Tate

**Others Present:** Council Members Myrtle Figueras, Bob Hamrick and George Wangemann, Fire Marshal Chad Payne, Public Utilities Engineer Myron Bennett and Public Works Engineer Stan Aiken

**MINUTES OF JUNE 12, 2012**

**There was a motion to approve the Minutes as presented.**

Motion made by Board Member Snyder  
Motion seconded by Board Member Fleming  
**Vote – 7 favor**

**NEW BUSINESS**

**A. Rezoning Requests**

- 1) Request from **America's Home Place, Inc.** to rezone a 4.711± acres tract located on the east side of Dawsonville Highway, across from Beechwood Boulevard (a/k/a **0, 1122, 1138, 1162 and 1198 Dawsonville Highway**) from Residential-II (R-II), Office and Institutional (O-I) and General Business (G-B) to General Business (G-B).  
Ward Number: One  
Tax Parcel Number(s): 01-115-001-003A, 004, 005, 006 (Part) and 055 (Part)  
Request: Retail business, restaurant and vehicle services

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

The applicant is proposing to rezone the subject 4.711± acres property to General Business (G-B) for the purpose of creating three, ½ to 2 acre commercial outparcel lots for various retail restaurant and vehicle service uses. The subject property is located within the Gateway Corridor Overlay Zone and includes two existing GDOT approved access driveways, a billboard sign and the property has been graded for commercial purposes. Of the total 4.711 acres, the front 3.0± acres are already zoned G-B. This property was included with the request to assure that the entire outparcel property will have consistent development standards. Proposed building sizes are expected to range from 3,000 to 10,000 square feet in size. Access is proposed from two existing drives located off of Dawsonville Highway and public water and sewer are to be utilized.

Adjacent and nearby properties include a package store, pawn shop, convenience store/gas station, nursing home facility, mini warehouses, various retail and restaurant uses zoned General Business (G-B), Office and Institutional (O-I) and Light Industrial (L-I). Single-family residential uses are located to the northeast and zoned Residential-I (R-I).

GDOT states that it has already issued commercial driveway permits for this development site. Unless substantial changes to the previous reviewed development plans are proposed, they will not require additional review.

Gainesville Public Utilities Department states that there are sufficient water and sewer utilities to serve the development and that the perpetual sewer easement shall remain open and accessible during all times of construction and any relocation of the sanitary sewer main must meet all Public Utilities requirements. Connection to the existing water and sanitary sewer mains will be allowed for up to one year from the date of rezoning approval unless engineered plans have been submitted and approved for issuance of a development permit.

The updated Gainesville 2030 Future Development Map for the City of Gainesville places the subject property within the *Retail Commercial* land use category which includes areas containing or planned for focused retail activity, and are specifically designated to provide for neighborhood, community, and regional needs as defined within the Comprehensive Plan.

As part of the new Gainesville 2030 Comprehensive Plan, the City of Gainesville created thirteen unique Character Areas which are special geographic areas that meet at least one, if not more, of the criteria listed below.

- *Have special characteristics to be preserved or enhanced.*
- *Have the potential to evolve into a unique area with more intentional guidance of future development through adequate planning and implementation.*
- *Require special attention due to unique development issues.*

The character areas have specific community objectives and implementation measures to help achieve the identified vision and goals for the area.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Suburban Commercial* character area which states that this area will continue to grow as a regional retail center for the City and Hall County, but should diversify over time to include multi-family housing and a higher density mix of retail, office, services and high quality employment. In addition, expanding premium retail could offer a variety of shopping options that are currently not available elsewhere in the City.

It is staff's opinion the proposed rezoning request is consistent with the zoning of the adjacent and nearby properties and with the overall vision for the Dawsonville Highway corridor. Therefore, based on the Comprehensive Plan and the surrounding residential and nonresidential land use, staff is recommending **conditional approval** of this rezoning request.

### **Conditions**

- 1. An automotive paint and body repair shop or auto sales facility is not an approved use for the subject property.**

2. **There shall be no junk vehicles or vehicles used for parts stored on the subject property.**
3. **All service bay doors shall face towards the southeastern and northwestern property line as to not be directly visible from Dawsonville Highway.**
4. **A uniform sign plan shall be provided for the entire development as described in Section 9-18-2-7 of the Gainesville Unified Land Development Code.**
5. **The applicant shall re-evaluate with the Georgia Department of Transportation (GDOT) and the City of Gainesville Public Works Director the need for a traffic signal at the median break on Dawsonville Highway in front of the subject property and the private road serving the Olive Garden and Cheddar's restaurants. Any new road improvements required by the Gainesville Public Works Director and GDOT for the development of this property shall be the financial responsibility of the applicant/developer.**
6. **An updated as-built boundary survey/plat of the subject property, indicating existing conditions and all improvements shall be recorded prior to obtaining a Certificate of Occupancy for the future professional office use.**

Mr. Tate stated that staff received a letter of concern from Rachel Bembry which has been provided to the Board.

**Applicant Presentation:** **Jim Walters**, 311 Green Street, Suite 103, representing America's Home Place, Inc., stated that this development, like their recent successful Cheddars and Olive Garden developments, will provide jobs and a larger tax base for the City. The applicant is requesting that the entire subject property be rezoned to General Business (G-B) as only the front 3 acres of the lots are currently zoned G-B. Mr. Walters commented about the previous and future use of the property, noting that the lots are from 400' to 900' from any adjoining property line. Mr. Walters stated that the recommended conditions were agreeable to the applicant.

**FAVOR:** **Tim Evans**, Greater Hall Chamber of Commerce and Gainesville/Hall County Economic Council, 230 E. E. Butler Parkway, stated that this development is about jobs and quality retail. Mr. Evans shared some specific details regarding the Cheddars and Olive Garden developments as they pertain to the generation of sales, jobs and investments in those businesses. He stated that the City invested money in the Dawsonville Highway corridor years ago in an attempt to make Gainesville a destination location for shopping. Mr. Evans states that the investment appears to be paying off as he sees cars in the parking lot of these two businesses from Dawson and Forsyth counties as well as Hall which brings more money to the City and County through SPLOST and LOST funds.

**OPPOSED:** **Michael Proulx**, 1260 Lakeshore Circle, stated that he was opposed to the request for two reasons: 1) the encroachment upon existing residences, placing undue burden and hardship on them instead of the developer; and 2) the stewardship of the long range vision of the City, noting the City has the extra duty of balancing its long range vision while considering the existing environment.

**Rachel Bembry**, 1063 Lakeshore Drive, stated that she provided a letter noting her concerns to the Board and City Council. She felt that Mr. Walters downplayed the distance from the development to her property, adding that 400' is closer than you think when looking out your back door. Ms. Bembry stated that she was discouraged that

there were no conditions relating to noise which is one of her concerns. She concluded that people do live in these homes and this development impacts them closely.

**Rebuttal:** Mr. Walters stated that no one likes change, particularly around your house. He stated there will be noise anytime you have development, however, this development will be a substantial distance from any residence. He felt that this upscale, quality commercial development will be good for the City and the neighborhood, even though there is anxiety about it.

**Planning and Appeals Board Comments:** Board Member Fleming asked about a buffer between the development and the residences. Planning Manager Matt Tate stated there is a natural buffer line between them that would remain. He also commented that the City has an ordinance in place addressing noise concerns in service areas and dumpster pads that they shall not be in operation before 9AM, noting that there may be an enforcement issue where the City should be notified if this ordinance is violated.

Board Member Fleming stated she appreciated the comments by Mr. Proulx about how we should be good stewards when planning and preserving what we have been given. She believes good stewardship is in place with the staff, Planning and Appeals Board and the City Council all involved.

**There was a motion to recommend conditional approval of the request to rezone the subject property from Residential-II (R-II), Office and Institutional (O-I) and General Business (G-B) to General Business (G-B) for retail business, restaurant and vehicle services uses with the following six conditions:**

- 1. An automotive paint and body repair shop or auto sales facility is not an approved use for the subject property.**
- 2. There shall be no junk vehicles or vehicles used for parts stored on the subject property.**
- 3. All service bay doors shall face towards the southeastern and northwestern property line as to not be directly visible from Dawsonville Highway.**
- 4. A uniform sign plan shall be provided for the entire development as described in Section 9-18-2-7 of the Gainesville Unified Land Development Code.**
- 5. The applicant shall re-evaluate with the Georgia Department of Transportation (GDOT) and the City of Gainesville Public Works Director the need for a traffic signal at the median break on Dawsonville Highway in front of the subject property and the private road serving the Olive Garden and Cheddar's restaurants. Any new road improvements required by the Gainesville Public Works Director and GDOT for the development of this property shall be the financial responsibility of the applicant/developer.**
- 6. An updated as-built boundary survey/plat of the subject property, indicating existing conditions and all improvements shall be recorded prior to obtaining a Certificate of Occupancy for the future professional office use.**

Motion made by Board Member Hokayem  
Motion seconded by Board Member Snyder  
**Vote – 7 favor**

- 2) Request from **Jonathan Pope** to rezone a 0.25± acre parcel located on the south side of North Avenue, west of its intersection with Green Street (a/k/a **135 North Avenue NW**) from Neighborhood Conservation (N-C) to Residential and Office (R-O).  
Ward Number: Four  
Tax Parcel Number(s): 01-040-004-001  
Request: Law office

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

The applicant is proposing to rezone the 0.25± acre subject property from Neighborhood Conservation (N-C) to Residential and Office (R-O) in order to convert a 1,800 square foot residential structure into a law office. It is the applicant's intent to maintain the residential appearance and historic character of the property. Exterior changes are to include the addition of a handicapped accessible sidewalk and ramp along the right front side of the structure that will be buffered with landscaping. Other changes are to include widening the existing driveway to 18-feet in order to meet fire and emergency accessibility standards, the addition of four parking spaces to the rear of the structure and a monument sign to match the architecture of the structure. According to the applicant, the proposed law office will consist of two employees (Attorney and Paralegal), and visits from clients will be by appointment only. The proposed hours of operation are from 8:30 a.m. until 5:00 p.m., Monday through Friday.

The subject property is located within the Bradford-Ridgewood Neighborhood Planning Unit (NPU) which was designated in September of 2008 and is located adjacent to but just outside the Green Street Local and National historic districts. As well, in May of 1999, the subject tract was among seventy-one properties of which many in the neighborhood petitioned to be rezoned to Neighborhood Conservation (N-C) in order to protect the historical nature of the neighborhood, preserve the quality of life in the community, promote single-family development and reduce traffic in the area. The subject property is located along North Avenue within an established residential neighborhood that adjoins an office corridor along Green Street near the downtown central core of Gainesville.

The updated Gainesville 2030 Future Development Map for the City of Gainesville places the subject property within the *Low-Medium Density Residential* land use category which includes areas containing or planned for single-family detached or semi-detached housing at densities ranging from two to four dwelling units per acre. Limited light office uses such as a home occupation are acceptable as well.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Traditional Neighborhoods* character area specifically within the Bradford-Ridgewood Neighborhood Planning Unit sub-area. The NPU vision statement affirms the traditional single-family character of the neighborhood through goals of historic preservation and compatible infill development, enhanced walk-ability, increased safety, beautification and protection of the tree canopy. A key objective is to keep any new development (other than single-family infill) to the southern and western fringe of the neighborhood; and to ensure that all development is compatible with the design quality of the existing structures.

Therefore, based on the Comprehensive Plan and the surrounding residential land uses, the staff is recommending denial of this rezoning request. However, should the request be approved, staff would recommend, at a minimum, the following conditions as stated in the staff recommendation report.

**Applicant Presentation: Jonathan Pope**, 3188 Edgewater Drive, stated that he wants to rezone the property for a satellite law office, noting the main office is located in Canton. He stated that this property is adjacent to other Residential and Office (R-O) zoned properties. Mr. Pope shared some information about himself and his law office. He currently works two days per week out of their current Gainesville office; however, he plans to work three days per week out of this location if approved. He stated they would have clients coming to the office at times, but most of the work is done by phone. Mr. Pope stated they would not work nights or weekends at this location. To preserve the integrity of the building, the only changes to be made are required by code; i.e. widen the driveway, add parking spaces, and build a handicap access ramp. Mr. Pope held an Open House on June 26<sup>th</sup> and invited the Board, City Council and residents. He talked with numerous residents that night and many since then. He felt this is the best use for the property rather than rental property or some other use. Mr. Pope disagrees with the staff recommendation of denial. He noted that the property is not vacant (they are renting it out) and has not been for quite some time. He also noted that the 2005 rezoning request was different as it was a larger firm with 3 attorneys, plus staff. He believed some uses allowed under Neighborhood Conservation (N-C) are more intensive than what he has proposed. Mr. Pope stated the Board received a letter in favor of the rezoning from Mr. Zack Pittman (the former owner) who has no interest in the property since he already sold it to Mr. Pope. The building will be maintained as a law office for many years, noting their main office building in Canton was in ruins before they restored it and received a historic preservation award. Mr. Pope states that Gainesville is his home and he wants to be a good neighbor in the community.

**FAVOR:** None

**OPPOSED: Connie Albigese**, 138 North Avenue, stated that she is opposed to the rezoning request, noting she lives directly across the street from the subject property. She felt like Mr. Pope “put the cart before the horse” when he purchased the residential property before asking that it be rezoned. She felt that she has the most to lose as she worked hard to purchase her slice of Gainesville and she didn’t want to live across the street from a lawyer’s office. She stated there are currently no offices along North Avenue, and compared it to Cander Street which is what she does not want for her neighborhood. Ms. Albigese stated this use will negatively impact her neighborhood for the following reasons: 1) increased traffic; 2) parking issues; and 3) it will open up the door for other homeowners in the neighborhood to sell their homes to non-residential homeowners. At the Open House, she asked Mr. Pope what he would do if the request was denied and he told her if it was not approved, he would continue to rent office space.

**Jennifer Ceska**, 310 Ridgewood Avenue, stated that their community has opposed several requests in the past because they want families as neighbors. She stated that she looked online and found 21 properties available for lease in the business districts around their neighborhood so there is no need to unravel their community. She stated that they would love the property to remain a residential rental. She stated that some research shows that crime and vandalism rates go up in mixed use areas within

neighborhoods because of the properties being vacant at night. She asked the Board to consider their concerns.

**Gary Hayes** stated that he owns the property directly next door to the subject property. He said if this request is approved, he would look out his window and see four parking spaces where there is now green space; therefore, he would directly be affected by this use. He also stated that if the four parking spaces were not sufficient, they would park on the street and there is no additional room for parking on the street.

**Gene Lawson**, 311 North Avenue, presented to the Board a petition, signed by 42 residents, requesting denial of the rezoning. He stated that this is a very stable neighborhood, and he does not want North Avenue to become like Forrest Avenue where some changes in zoning were allowed in the past.

**Steven Thomas**, 625 Bradford Street, stated that people within the neighborhood have been consistent with opposing past requests because they want to keep the character of the neighborhood. He stated that historic districts are to the north and east of the neighborhood. Mr. Thomas stated that any approval sets precedence for future requests and asked the Board to come to the same conclusion of denial as in the past.

#### **Planning and Appeals Board Comments:**

**There was a motion to recommend conditional approval of the request to rezone the subject property from Neighborhood Conservation (N-C) to Residential and Office (R-O) for a law office with conditions as recommended by staff.**

Motion made by Vice-Chairman Johnson

Vice-Chairman Johnson stated that he did not believe the concerns stated in opposition were valid. He believed the property should be rezoned because it is surrounded on two sides by Residential and Office (R-O) zoning. He stated that he does not worry about setting precedent as the Board looks at each case individually, noting if the Board went strictly by the Unified Land Development Code, there would be no need for the Board.

Motion died for lack of second.

Board Member Fleming asked what was specifically incompatible with the Bradford-Ridgewood NPU vision and goals. Planning Manager Matt Tate stated that an important part of the vision and goals for the neighborhood was to prevent further encroachment of non-residential uses within the neighborhood.

Chairman Dadisman stated that he doesn't see this request as any different from the last rezoning request for this property when it was denied.

**There was a motion to recommend denial of the request to rezone the subject property from Neighborhood Conservation (N-C) to Residential and Office (R-O) for a law office.**

Motion made by Board Member Snyder  
Motion seconded by Board Member Stanley  
**Vote – 6 favor, 1 opposed (Johnson)**

**ADJOURNMENT**

**There was a motion to adjourn the meeting at 6:40 PM.**

Motion made by Board Member Stanley  
Motion seconded by Board Member Fleming  
**Vote – 7 favor**

Respectfully submitted,

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Dean Dadisman, Chairman

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Judy Foster, Recording Secretary