

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF SPECIAL CALLED MEETING
DECEMBER 4, 2012**

CALL TO ORDER Chairman @ 9:00 a.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, Planning Manager Matt Tate and Recording Secretary Judy Foster

Others Present: Mayor Danny Dunagan, Council Members Bob Hamrick and Myrtle Figueras, and Interim Fire Chief Jerome Yarbrough

NEW BUSINESS

A. Annexation Request

- 1) Request from the **City of Gainesville** to annex and to establish zoning for 115 unincorporated island parcels and right-of-way comprising a total of 197.07± acres currently located within the jurisdiction of Hall County. A copy of the unincorporated island properties and maps are available for viewing in the office of the Community Development Department located at 311 Henry Ward Way or on the City of Gainesville web site at www.gainesville.org.

Staff Presentation: Community Development Director Rusty Ligon gave the following staff presentation:

In accordance with State Law, specifically O.C.G.A. §36-36-92, municipal governing bodies are given the authority to annex all or any part of unincorporated islands contiguous to their existing municipal limits.

The City of Gainesville is proposing to annex unincorporated islands that exist along the City's gateway corridors as well as all of those island properties that are commercially zoned or have a commercial use. Staff has identified a total of **115** properties that meet these criteria.

The total acreage of this proposed annexation is **197.07±** acres including property and associated right-of-way.

The proposed zoning designations assigned in the City would match as closely as possible to their existing zoning designation or use currently in Hall County.

In order to meet the state requirements, the City has followed its standard procedure regarding annexations. This includes filing an official application, notification of all island property owners, advertising and conducting a *special-called* public hearing for the Planning and Appeals Board, as well as a regular scheduled City Council public hearing.

It is important to note that the effective date of this annexation would be January 2, 2013. This would result in island property owners not paying City taxes until 2014.

The following six conditions have been recommended.

Conditions

1. **The effective date of the ordinance shall be January 2, 2013, in order for the City to provide an orderly transition and provision of services.**
2. **All current legal uses within the subject unincorporated island properties shall be grandfathered in the City under the current Unified Land Development Code.**
3. **All legal nonconforming uses shall not be re-established if abandoned for a period of 12-months and shall not be allowed to change to another nonconforming use, provided that the use itself remains unchanged. (Example: An auto body shop could be sold to another individual and retain its privileges as a nonconforming use, so long as the use was the same “auto body shop” and not expanded or changed.)**
4. **A nonconforming building or sign will be grandfathered in as a legal non-conforming structure unless deemed to be unsafe and shall not be rebuilt, altered, replaced or repaired beyond 60% of its replacement cost as determined by the City Building Official.**
5. **The unincorporated island properties listed within Section II of this ordinance shall be exempt from Gainesville Public Utilities sewer tap and administration fees for a period of 1 year from the effective date of this ordinance.**
6. **The unincorporated island properties listed within Section II of this ordinance shall be exempt from an Occupancy Permit fee for a period of 1 year from the effective date of this ordinance for any legal existing use.**

FAVOR: None

OPPOSED: **John Jones** with Office Pros stated that they own a property on the corner of Hilton Drive and Browns Bridge Road. He stated that this tax increase amounts to 25% for their business according to City statistics which is a significant part of their income, a growing business concern. He felt it would diminish the value of the building, noting they have no choice in the matter as he does not live in the City and cannot vote, so they do not have any representation regarding the tax increase. He said when they bought the building and it wasn't in the City, they felt that added value. He doesn't understand why this is being considered except that it concerns money and every budget, including theirs, is at a stand still. He felt since the City needs money, this was a good way to take money from the County and put into the City coffers. Mr. Jones stated that besides the dual taxation, licenses, fire inspections, and City inspections, it is cumbersome and will cost them money in compliance down the road. He felt it was a real bad move which amounts to half of their profits, noting they made \$45,000 last year and this tax increase would jeopardize their business moving forward. He does not see the business sustaining with the tax increase if they are annexed into the City. He stated this was like European government, redistribution with no voice in the matter as he cannot vote. Finally, he stated that they would not like to annex into the City.

Abb Hayes with Hulseley, Oliver & Mahar, 200 E. E. Butler Parkway, stated that he represents SC Gainesville Georgia LLC, who owns the shopping center on Browns Bridge Road where Big Lots and about 15 other businesses are located. He stated they had two main concerns with the island annexations which dealt with process and the result. In regards to process, this is the third time they have opposed the annexation of their property. He stated this time varies greatly from the other two, noting that in 2008 there were two public hearings held over a several week period and the City planned to annex all 560 islands and there was a lot of time for public comment. After a lot of public outcry, the City abandoned those plans. In 2009, the City again sent out notices proposing to annex islands with a much smaller list of properties which was similar, but not identical, to the list proposed at this time. However, the City also abandoned those plans in September 2009. He stated that this time, they received a letter dated the Monday before Thanksgiving notifying them of two public hearings to be held the same day. He believed the timing of the notices was calculated to lead to as little public notice and comment as possible. He stated that when he talked to Community Development Director Rusty Ligon, Mr. Ligon stated that according to the law, the City needed to give 15 to 45 days notice to the property owners. He felt that it was not consistent with the normal City process to go with the 15 days notice rather than the longer time period. He has a great deal of concern with the process. Mr. Hayes stated that as for the result, this is a \$16,000 per year tax increase to his client. He stated that this will affect the large and small businesses within their shopping center. He stated that he came before the Planning and Appeals Board recently with an annexation request on Athens Highway. He stated that it was a typical annexation request where the property owner wanted to come into the City and there were discussions between City staff and City Council regarding some water issues, noting it was a great partnership and cooperation between the City and the property owner which resulted in annexation and establishment of zoning within the City. He stated that this request was different in that the property owner has no desire to come into the City because it would not benefit them at all. They have not sought this annexation, but have actively opposed it. He stated that there was no attempt to reach out to the property owners to see if they wanted to come into the City prior to sending the notices out before Thanksgiving. He felt it was a one sided process which is different than any other process where people want to be annexed. He stated it was a solution to a problem which does not exist. He stated there was no reason to annex the shopping center into the City and it is nothing more than a tax increase. Mr. Hayes stated that when he talked to Mayor Dunagan and Council Member Hamrick, they both mentioned that the shopping center might benefit from the insurance rating. He stated that would not come close to catching up to a \$16,000 tax increase. Finally, Mr. Hayes requested the annexation of his client's property be scrapped.

Kenneth Neidenbach owner of Village Pets, 1500 Browns Bridge Road, stated that he has been in business in Gainesville for 39 years and is now located in the Big Lots Shopping Center. He talked to his landlord (SC Gainesville Georgia LLC) and his share of the tax increase would be \$159 per year as the merchants pay for the taxes and common area maintenance of the shopping center. He stated that he would save less than \$17 per year for the insurance deduction. He stated his water bill would come down about \$180 dollars per year. His business license increase would be \$200 more per year. Inventory taxes would be \$250 or more per year. He estimated it would cost him an additional \$1,800 per year by coming into the City. He stated that the City wants to help out Lakeshore Mall which will take tax dollars to do and it appears the City wants him to contribute and he cannot afford it. He stated it has been a bad four years business wise, noting the big boxes get the attention instead of small independents. He

stated that he did not want to discuss the benefits he did not get while he was in the City before. He stated that he was required to have two state licenses to stay in business, noting they have increased. He stated that he owns a building two blocks away which doesn't even have plumbing and it is overtaxed. He stated the City and County rolled back taxes this year because they were not able to increase the taxes and he felt this was just another way to make more money for the City. He referenced the "bridge to nowhere" and a walking path behind his building which prostitutes, pimps and drug dealers use. Mr. Neidenbach stated that he is definitely not in favor of being annexed to the City as he has "been there and done that".

Jennifer Dimo stated she represented her father, Cidmon Dimo and her brother Robert Dimo who could not be present today. She stated that they own two properties on Browns Bridge Road which are proposed to be annexed, one of which is leased by O'Reilly's who plan to send representation later on, and the other property is a vacant lot. She stated that the last time they had any interest in the vacant lot was three years ago. She believes that during these hard economic times is the worst timing for any tax increases. She stated that as business owners, they have borne the hit from the economy and believed we are still in a great recession. She stated that it saddens her that they are here again as this was proposed in 2009. She felt this was a political move against the property owners to try to break up the grassroots movement and separate them by characterizing some parcels as gateway corridors. Because of this, she felt that there is a misconception that there are not as many people opposed to the annexations. However, she believes there is just as much opposition as before.

Planning and Appeals Board Comments: **Board Member Stanley** compared annexation to marriage, noting it can be good or bad. However, he felt like an arranged or forced marriage is wrong and unethical and he cannot support it.

Board Member Snyder stated that this Board hears annexations requests on a regular basis and he felt that all of the islands will eventually come into the City. He stated this was a way to do it all at once, noting it was fair and equitable to all the businesses along the gateway corridors. He stated that the area along Browns Bridge Road is a little different with established businesses, however, they are in a pocket surrounded by City properties and everyone else around them are already paying City taxes, business license, and other fees associated with businesses. He felt the request was reasonable, noting the staff has given a lot of time and effort on the issue.

There was a motion to recommend conditional approval of the request to annex and establish zoning of the 115 unincorporated island parcels and right-of-way as proposed, with the six conditions as presented by staff.

Motion made by Board Member Snyder

Motion died for lack of second.

Board Member Fleming stated that she prefers to live in the City because she believes it adds value to her property, noting this was her choice. She felt it was a bad time to ask for more from small businesses by raising their taxes. She would like to see these island annexations happen because it is logical and the property owners would benefit, but she does not want to force people to annex.

There was a motion to recommend denial of the request to annex and establish zoning of the 115 unincorporated island parcels and right-of-way as proposed.

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

ADJOURNMENT

There was a motion to adjourn the meeting at 9:25 AM.

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

Respectfully submitted,

Dean Dadisman, Chairman

Judy Foster, Recording Secretary