

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF MEETING
JANUARY 13, 2015**

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

Members Present: Chairman Doyle Johnson, Vice-Chair Jane Fleming and Board Members George Hokayem, John Snyder, Eddie Martin, Sr. and Zack Thompson

Members Absent: Board Member Connie Rucker

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

Others Present: Council Members George Wangemann, Myrtle Figueras and Bob Hamrick

MINUTES OF DECEMBER 9, 2014

There was a motion to approve the minutes as presented.

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

PRESENTATION TO BOARD MEMBER DEXTER STANLEY

Chairman Johnson presented former Board Member Dexter Stanley with a plaque in appreciation of his service of over 15 years on the Planning and Appeals Board. Planning Staff and Board Members also expressed words of appreciation. Mr. Stanley stated that he enjoyed working on the Board and thanked everyone for their kind words.

OLD BUSINESS

A. Rezoning Request

- 1) Request from **David P. Johnson** to rezone a 1.458± acres tract located on the southwest side of the intersection of Virginia Circle and Thompson Bridge Road (a/k/a **1537 and 1551 Thompson Bridge Road NW; 135 Virginia Circle NW**) from Residential-I (R-I) to Neighborhood Business (N-B), with a special use.
Ward Number: Two
Tax Parcel Number(s): 01-088-002-004, 005 and 006
Request: Restaurant with drive thru and retail building

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

This request was referred back to the Planning and Appeals Board by the City Council for further consideration due to proposed changes made by the applicant. The original request was given a recommendation of denial by the Planning Staff and Planning and Appeals Board in November of 2014. The proposal included the rezoning of the subject 1.458 acres tract from Residential-I (R-I) to Neighborhood Business (N-B), with a special use for 7,362 square feet of retail space and 1,800 square feet restaurant. The request

included a two-way driveway off of Virginia Circle, 61 parking spaces and a 25-foot wide landscaped buffer.

The revised request now includes a slightly smaller retail building, but proposes a one-way (enter only) drive off of Virginia Circle, 57 parking spaces and a 50-foot landscaped buffer. In addition, revised statistics from the Gainesville Parks and Recreation showed that between September of 2013 and September of 2014, the adjacent Roper Park (field, pavilion and tennis courts) held 24,194 participant hours of events with an estimated attendance of 11,928 people. The previous statistics showed a much lower 612.5 participation hours of scheduled events but with a much higher estimated attendance of 35,096 people. Much of the attendance was generated by baseball, football and cheerleading practices. These totals do not include unscheduled activities.

The Gainesville 2030 Future Development Map for the City of Gainesville places the subject property both within the *Mixed-Use General* land use category and the *Low-Medium Density Residential* land use category. Specifically, the front two parcels touching Thompson Bridge Road are within the *Mixed-Use General* land use category which includes areas containing or planned for a mixture of land uses including office, neighborhood retail, and residential. The rear parcel fronting Virginia Circle is located 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 or other similar light office uses are acceptable as well.

The Character Area Map of the Gainesville Comprehensive Plan locates the property within the *Traditional Neighborhoods* Character Area and the vision for this area anticipates minimal change guarding against incompatible infill development and the threat of encroaching urban sprawl. Commercial encroachment should be minimized and should respect and mirror the small scale of the surrounding neighborhoods, while preserving the purity of the landscape and quality of housing. The area is not a primary destination for business; however neighborhood serving business development is encouraged.

The Planning staff believes the applicant's updated concept plan is an improvement over the previous plan but remains inconsistent with the Future Development Map of the Comprehensive Plan. The revised plan shows two dumpster areas and small portions of the restaurant and retail buildings, drive-thru lane and commercial parking areas located within the *Low-Medium Density Residential* land use category. Given the proximity of the property to the established single-family neighborhood and Roper Park, the proposed retail and restaurant use would be out of character. Therefore, based on the Comprehensive Plan and the above findings, the Planning Division staff is recommending **denial** of this request.

If the request was considered for approval by the Planning and Appeals Board, staff would recommend the following six zoning conditions:

1. The subject property shall be limited to the proposed retail and restaurant with drive-thru uses and all other uses permitted within the Neighborhood Business (N-B) zoning district excluding a convenience store, coin laundry or tattoo parlor.
2. The exterior architecture of the proposed building shall be generally consistent with the elevation rendering submitted with the application to be constructed with a minimum of 50% of brick, stone or rock materials on the exterior walls.

3. The subject property shall contain a minimum 50-foot wide perimeter buffer area along the westerly property line adjacent to the single-family residential property. The buffer shall consist of an 8-foot tall black vinyl coated fence and the combination of existing and new vegetation in order to provide for a solid buffer. The new vegetation shall consist of a mixture of Cryptomeria trees, Leyland Cypress trees and other similar evergreen vegetation at a minimum height of six feet (6') upon installation. The final number, type and location of trees shall be subject to the approval of the Community Development Department Director.
4. Sound emitted from any outdoor speaker devices shall be regulated in a manner to have no impact on the adjacent residential properties.
5. All access point design along Thompson Bridge Road and Virginia Circle must be reviewed and approved by the Gainesville Public Works Director in conjunction with the Georgia Department of Transportation. The proposed driveway along Virginia Circle shall be limited to a one-way, enter only access and shall be clearly marked with appropriate signage. Any required traffic improvements associated with the proposed development shall be at the full expense of the developer/property owner.
6. The proposed monument sign located along Virginia Circle adjacent to the single-family property shall not exceed five (5) feet in height and twenty (20) square feet in size.

Applicant's Presentation: Steve Gilliam, 301 Green Street, attorney representing the applicant, stated they are back here upon referral by the City Council after they made serious improvements to the proposal and asked for approval from the Board. Mr. Gilliam stated the first slide of his presentation shows what the buildable area would look like if it was developed as Staff recommended, noting you are left with a 6,120 square foot building after the buffer areas and setbacks are met. He felt that it would be obsolete and you couldn't do anything with a long narrow building which is why the back lot needs to be included in the concept plan. He also stated that because of this configuration, public safety traffic would not have access behind the building because there would not be enough room. Mr. Gilliam showed the second slide which was the revised concept plan. He stated that the revised plan shows the existing back property lines for the front two lots and noted most of the restaurant and the majority of the retail anchor is located within the front two lots. He felt that the revised plan should be approved since Staff has no problem with the front two lots being commercial. He stated they have included a 50-foot landscape buffer to the adjoining residential property, the stormwater retention would be underground, and access on Virginia Circle would be 170-feet from Thompson Bridge Road and would be an entrance only, all of which are big improvements. He stated there are two access points on Virginia Circle at the BB&T Bank across Roper Park. He stated that no one would be exiting the property onto Virginia Circle and the width of the back lot is only 109.51 feet along Virginia Circle and only 101.73 feet along the Wal-Mart property where the retail anchor is proposed. Mr. Gilliam stated that law requires that you must balance the owner's interest in the property to the effect on the neighborhood. He stated that there would not be an effect on the neighborhood with an entrance only access on Virginia Circle because there will not be any traffic beyond the driveway. He stated there are eight houses behind the subject property, one of which Dr. Johnson owns and two other rental homes. Mr. Gilliam stated after the last meeting when the numbers of activity for Roper Park were presented from Parks and Recreation, he questioned the numbers and submitted an open records request and now the numbers are about a third of what was stated previously. He stated that the vast majority of those numbers are within a seventeen week period, seven weeks for Little League from February to April, and then football and

cheerleading from July to October, and only lasts for less than two hours in the afternoon for three to four days per week. He stated that the restaurant traffic would mostly be in the mornings and mostly coming off Thompson Bridge Road instead of Virginia Circle so he felt there wouldn't be any impact on the neighborhood. In conclusion, Mr. Gilliam stated that the Comp Plan is not zoning, it is simply a suggestion for future land use and he didn't feel that a long skinny building such as a strip center is something the City would like to see on that property. Mr. Gilliam asked for time for rebuttal.

FAVOR: None

OPPOSED: **Linda Roseberry**, 565 Honeysuckle Road, stated that the plan is sterile looking because you don't see the park, children, families or homes. She stated that there are games held at Roper Park, but the daily practices were omitted from the calculations presented and the park is well used daily. She stated that the 2030 Comp Plan is very clear on how the Thompson Bridge Corridor should be developed. The City is weighing the request and desires of one person, the applicant, against the full scope and need of the traffic flow and impacts on Virginia Circle, Roper Park and Thompson Bridge Road. She stated that when you alter the plans for one individual to change the Comp Plan's definition of the development along Thompson Bridge Road, you open the door for all the other properties that are for sale, or will become for sale, to follow suit. She stated that Roper Park is tucked inside Virginia Circle and is a highly used and beloved small neighborhood park. The only available parking for all these activities is along Virginia Circle which surrounds the park. She stated that the proposed entrance only access to the subject property is directly across from the park and where cars are parked in order to utilize Roper Park. Mrs. Roseberry stated that Roper Park was designed to protect the neighborhood and invited the applicant to visit the park to see how it is enjoyed by youth sports leagues and families who use the playground and shelter. The ambiance and protectiveness of the park cannot be recaptured once business intrudes on it and she asked that the request be denied.

Brenda Coursey, 493 Mountain View Drive, stated that the revised rezoning still goes against the Comp Plan, is still beside a highly utilized park, there will still be parking along both sides of Virginia Circle, regardless of what group is using the park, and only one car can get through at a time. She stated that because of the on-street parking, children run from the park to their parents who are in their cars parked along the road while their child is at practice. She stated that some people do not observe signage, and felt the entrance only signage may be ignored and people will travel through the neighborhood. She stated that there will still be bright lights and a speaker from the drive thru restaurant, and the proposal still encroaches too deep into the R-I neighborhood, even more so than the BB&T Bank, and there will be more traffic which becomes a safety issue. She asked the Board to preserve the integrity of Roper Park as well as the R-I neighborhood.

John Fuller, 210 Oakland Drive, stated that he was not opposed to development in general, and he realized that properties along Thompson Bridge Road may become commercial. However, he does not want to see commercial developments encroaching into neighborhoods. He stated that he has enjoyed Roper Park for 58 years and would like to see the neighborhood maintained. He felt the neighborhood was a poster child, so to speak, for a neighborhood because of the diversity of the residents who live there and would like to keep it that way. He suggested a City parking lot for Roper Park or another mini park be developed on the subject property instead.

Julie Butler, 164 Virginia Circle, stated that she lives directly across from the park and across from the house Dr. Johnson would like to demolish. She stated that she and her husband purchased their home ten years ago because of the park, the neighborhood, and the convenience for their two children. She said they could have bought a much larger house in the County but chose to invest their money in the City. She stated that they would like to improve their house and live there for a long time, but can't stand the thought of living across from a drive thru restaurant which would have continuous traffic. The BB&T Bank was already there when she moved into the neighborhood but they bought in spite of it because they knew the hours it would be open and the limited amount of traffic. She stated it was going too far and asked what is next if businesses keep encroaching into their neighborhood and would she have to move or sell. She appreciated Dr. Johnson's investment but she appreciates her family more and respectfully asked the Board to deny the request.

Jerry Tankersley, 243 Mountain View Drive, stated that he is very familiar with the park as he coached Little League for about 14 years and Roper Park was their practice field. He stated that the park is used by some youth sports team practicing there every day that it is not raining or snowing. He felt the proposed development would be an encroachment on the neighborhood and warned that if it was approved, the same thing will likely happen at the intersection of Thompson Bridge Road and Mountain View Drive since the precedent would be set.

REBUTTAL: Mr. Gilliam stated that something commercial will be built on the front two lots as the Comp Plan suggests, and they are simply asking for 100-feet more in order to put something decent on the property. He stated that the restaurant is almost entirely within the front two lots, and the retail anchor is about two thirds within the front two lots. He stated that they are requesting the back lot be used for a landscape buffer which would not be encroaching into the neighborhood and the rest of the lot would be used for underground stormwater and a driveway. Mr. Gilliam stated that the park may be utilized everyday but it breaks down to 1.75 hours, three to four times a week in the late afternoons. He stated that people using the pavilion would not be affected by this development. He stated that the bright lights and drive thru speaker noise are addressed by the ordinances and the zoning conditions. He felt that with the zoning conditions recommended by Staff and the revised plan improvements, this request should be granted.

Vice-Chair Fleming stated that she agreed that something will be built on the front two lots and she agreed that it should be commercial. She asked if Mr. Gilliam could share any information regarding the drive thru restaurant, such as the hours of operation.

David Kelly, 203 Tennessee Avenue, Signal Mountain, TN, stated that he cannot state who the tenant would be because they like to make those announcements themselves. He stated that the majority of their business is done in the breakfast time slot, and he was unsure of how late they would be open. Vice-Chair Fleming asked if they would be open all night. Mr. Kelly stated no and estimated that they may close around 9:00 to 10:00pm and also estimated that maybe 70% of their business is done before noon.

Planning and Appeals Board Comments: Board Member Hokayem asked Mr. Gilliam if his revised proposal incorporates the zoning conditions as recommended by Staff. Mr. Gilliam stated the conditions are acceptable to the applicant.

Vice-Chair Fleming asked what could be done to minimize the drive thru speaker noise. Planning Manager Matt Tate stated that there are ordinances in place which address that issue such as the positioning of the speaker as well as the volume so they do not disturb residential neighborhoods. He stated that there is also a non-spill lighting ordinance in place to control lighting issues.

Vice-Chair Fleming stated that she lives in the neighborhood too so she can sympathize with the other residents. However, she did like the revised plan but felt it was still invasive. She would like to see only one business on the property but understands the profit margin won't allow it. Ms. Fleming stated that Roper Park is used a lot by people who don't register and just go so she felt that the park is used more than the City records indicate. She wished that it all could work together and the people visiting the park would use the restaurant too. However, she stated the neighborhood should be preserved.

Board Member Martin stated that he lives on the other side of Thompson Bridge Road and he felt that both sides should be developed commercially. However, he doesn't want to see any further encroachment into the neighborhoods on either side of the road.

There was a motion to recommend denial of the request.

Motion made by Board Member Martin

Motion seconded by Board Member Snyder

Vote – 4 favor, 2 opposed (Hokayem, Johnson), 1 absent (Rucker)

NEW BUSINESS

A. Variance Request

- 1) Request from **Greg Loyd** to vary the side yard setback requirement on a 0.9± acre property located on the northwest side of the intersection of Atlanta Highway and Memorial Park Drive, having road frontage on Second Street (a/k/a **1830 Atlanta Highway**), having a zoning classification of General Business (G-B).

Ward Number: Five

Tax Parcel Number(s): 08-009-003-010

Request: Supermarket expansion

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

The applicant is proposing a side yard setback variance from 35-feet to 2.7-feet to construct a 40-foot by 75-foot supermarket addition. The subject property is located on the northwest side of the intersection of Atlanta Highway and Memorial Park Drive, and has road frontage on Second Street. As well, the property is located within the Gateway Corridor Overlay Zone and contains the Yuriria supermarket and El Ranchito restaurant. The proposed addition will replace the rear portion of the existing building with a somewhat taller structure, but will be located within the same building footprint. According to the applicant the replacement building will provide for additional supermarket space on the main floor as well as storage space within the basement level. The applicant is basing the hardship on the fact that the property has three front yard setbacks and that logistically there is no other place to construct the building addition.

The Planning Division Staff is recommending **conditional approval** of this variance request based on the existing building location and the three road frontages with the following two conditions:

1. The proposed building shall be similar in architecture and materials as depicted within the applicant's photograph submitted with the application.
2. The exterior facade of the proposed building wall facing the adjacent residential property to the northwest shall be an earth tone color.

Applicant's Presentation: **Greg Loyd**, 742 Main Street, stated he represents L G H Investments who own the restaurant and supermarket. Mr. Loyd stated the owners want to demolish the existing building to the rear of the supermarket which is the storage facility for the grocery store, and rebuild the structure but keep it at the same elevation as the supermarket in order to expand their product line but still have the lower level for storage. He stated that this proposal would not enlarge the existing building footprint, but would make it two stories in order to keep the same height as the supermarket which already has a basement. He stated they will extend the brick and masonry siding along both sides of the expansion and may use masonry or another material along the back of the expansion, but would use earth tone colors. Mr. Loyd stated that there would be doors which are not depicted on the renderings for the lower level of the expansion as the driveway is on either side.

FAVOR: None

OPPOSED: None

Planning and Appeals Board Comments: None

There was a motion to conditionally approve the request to vary the side yard setback requirement at 1830 Atlanta Highway from 35-feet to 2.7-feet with two conditions as follows:

Conditions

1. **The proposed building shall be similar in architecture and materials as depicted within the applicant's photograph submitted with the application.**
2. **The exterior facade of the proposed building wall facing the adjacent residential property to the northwest shall be an earth tone color.**

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

MISCELLANEOUS

Chairman Johnson welcomed new Board Member Zack Thompson.

Planning Manager Matt Tate reminded the Board about a training opportunity on January 29th in Gwinnett County. He stated everyone could meet at the Community Development Department office and travel together.

ADJOURNMENT

There was a motion to adjourn the meeting at 6:15 PM.

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

Respectfully submitted,

Doyle Johnson, Chairman

Judy Foster, Recording Secretary