

**GAINESVILLE PLANNING AND APPEALS BOARD  
MINUTES OF MEETING  
SEPTEMBER 8, 2015**

**CALL TO ORDER** Vice-Chair @ 5:30 p.m.

**Members Present:** Vice-Chair Jane Fleming and Board Members Connie Rucker, George Hokayem and Carmen Delgado

**Members Absent:** Chairman Doyle Johnson and Board Member Eddie Martin, Sr.  
*There is currently a vacancy to fill the unexpired term for Zack Thompson.*

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

**Others Present:** Council Members George Wangemann and Myrtle Figueras

**MINUTES OF AUGUST 11, 2015**

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

Motion made by Board Member Rucker

Motion seconded by Board Member Delgado

**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

**NEW BUSINESS**

**A. Variance Request**

- 1) Request from **Greg Sistrunk (Greenberg Farrow)** to vary the front yard setback requirements and the building setback requirements against a residential zoning district on a 0.80± acre tract located on the northwest side of the intersection of Shallowford Road and Hillcrest Road (a/k/a **104 Hillcrest Road SW; 377 Shallowford Road SW**), having a zoning classification of General Business (G-B).

Ward Number: Five

Tax Parcel Number(s): 01-118-002-001 and 010

Request: Convenience store with fueling pumps

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

The applicant is proposing to develop a 1,200 square foot convenience store and 16-pump fuel station. Access is proposed in the form of two two-way driveways along Shallowford Road and Hillcrest Road. The property is zoned G-B and consists of two tracts of land totaling 0.8 acre in size, which contain two small office buildings. The adjacent properties consist of a mixture of uses including two auto service uses, hair salon, Wal-Mart shopping center and single-family homes located within unincorporated Hall County. In order to develop the proposed use the applicant is asking to vary the front yard setback requirements along Shallowford Road and Hillcrest Road from 40-feet to 35-feet as part of the canopy encroaches within the front yard setbacks. The Unified Land Development Code requires a front yard setback of 40-feet when located within the General Business (G-B) zoning district. As well, the applicant is proposing to vary the setback against a residential zoning

district from 100-feet to 65-feet as part of the canopy encroaches into this setback requirement. In addition, the accessory structures including the dumpster enclosure, propane pad, ice unit pad and air vacuum pad are within the 100-foot setback requirement as close as 10-feet. The code requires that all service and fueling station buildings and accessory structures are located a minimum of 100-feet from any residential zoning district. The applicant is basing the hardship on the size, shape and topography of the property and the fact that it borders right-of-way on three sides.

Staff agrees that the subject property's orientation along three road frontages presents a hardship and staff believes that the finished elevation of the property being below the street grade of Hillcrest Road along with the installation of a buffer should reduce visual impacts to the neighboring residential property. While the proposed use is allowed by right within the General Business (G-B) zoning district, the most significant impact will be increased traffic congestion generated along Shallowford Road and Hillcrest Road. It appears that decreasing the number of proposed pumps would help to reduce the setback variance as well as the strain on traffic circulation to and from the subject property. Of comparison, the nearby Citgo property of similar size located at the corner of Dawsonville Highway and Shallowford Road has only four fuel pumps.

The Planning Division staff is recommending **conditional approval** of this variance request based on the existing three road frontages and the sloping topography with six conditions.

Mr. Tate clarified that the intention for reducing the number of pumps in proposed condition one was to reduce the size of the canopy. However, after speaking with the applicant, he learned that the industry uses a different terminology to describe the number of pumps, noting that they refer to them as fueling positions. Mr. Tate stated that if the Board approves this request, that condition should be clarified to be four pumps or eight fueling positions.

**Applicant Presentation:** **Greg Sistrunk**, with Greenberg Farrow, 1430 West Peachtree Street, Atlanta stated that the subject property is a pretty tight lot. He explained that Murphy has two prototypes, a USA project and an Express project, noting this would be an Express project since it would operate on its own and not on an out parcel of a Wal-Mart. While this development would be located across the street from Wal-Mart, it is in no way, shape or form a part of the Wal-Mart development. Mr. Sistrunk stated that upon the initial site visit, they decided to reduce Murphy's prototype from 8 pumps to 6 pumps based on the size and shape of the lot, the lot being surrounded on three sides by public right-of-way, and an existing retaining wall on the northwest side at the Discount Tire store. He stated that the building setbacks severely restrict this property for any type of commercial development with parking requirements. The topography of the lot is extremely steep falling about 17-feet from Hillcrest Road to Shallowford Road. The 100-foot residential buffer places a hardship on the property. They plan to purchase an adjoining lot, tract one on the site plan, however the 100-foot residential buffer inhibits that tract by 50% and the other tract is inhibited by 30%. It was because all these issues severely restrict the footprint of the building that they decided to go with a 6 pump layout instead of an 8 pump layout. In regards to the pump configuration, Mr. Sistrunk stated that they originally submitted a 6 pump layout in which they refer to a pump as having two handles, one on the left and one on the right so two cars

can fill up simultaneously. There is an existing diesel pump proposed which was not accounted for on the 6 pump layout; however, it cannot be used in conjunction with the standard unleaded pump. Because of the confusion, Murphy's agreed to combine the diesel pump with the unleaded so that one pump can only serve two cars instead of four cars. So essentially what they submitted was a 12 fueling position gas station and the intent of staff was to reduce it from 12 to 8 fueling positions. Currently, Murphy does not have a canopy to fit 8 fueling positions, noting the canopies are prefabricated units made in Conyers, Georgia, and it would be an overhaul of the prototype to change it. He stated that they are conducting a traffic impact study for this project but it is not complete at this time. He spoke with his traffic engineer and was told by reducing the pumps from 6 to 4, it would reduce traffic by 25 trips per hour during peak times. The existing flow of traffic on Shallowford Road is 1,300 trips per hour so the increase from 4 to 6 pumps is only 1.5% of the overall traffic flow which is negligible. Mr. Sistrunk stated they have been talking to Discount Tire to the west of the property about the possibility of removing the existing retaining wall at Murphy's expense so they can set the building close to grade and open up the space which would be more aesthetically pleasing. He stated they are making improvements such as including brick on the columns, and adding a pitched roof at a 1:1 slope which would give some visual from the residential property on the north side of Hillcrest Road. They also plan to do some extensive landscaping on the north side of the property to shield the gas station from the residential lots. The gas station will sit about 10-feet below grade so the dumpster will not be seen at all from the residential neighborhood. Mr. Sistrunk stated he was available to answer any questions.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** Upon inquiry by Vice-Chair Fleming, Mr. Sistrunk clarified that they are requesting 12 fueling positions, meaning no more than 12 cars can be fueling concurrently. She asked if the applicant was in agreement with staff's recommendation. Mr. Sistrunk stated no.

Board Member Hokayem asked how proposed condition one could be reworded. Mr. Sistrunk stated that from the staff's position, they are recommending 8 fueling positions/cars or 4 pumps. Planning Manager Matt Tate confirmed that using that terminology, it would be 8 fueling positions or 4 pumps.

There was further discussion on the difference between a fueling position and a pump.

Mr. Tate reiterated that the intent of staff was to reduce the size of the canopy structure by reducing the number of pumps.

Mr. Sistrunk stated that Murphy does have a 4 pump layout in Wal-Mart parking lots, but those are kiosks, not a walk in store. So they are requesting a convenience store with 6 pumps which are two less than their typical store. He stated that after discussions with Murphy, the 6 pumps proposal is their best option financially, noting if the 4 pump layout is approved, it would severely limit them and it most likely would terminate the project.

**There was a motion to vary the front yard setback requirement from 40-feet to 35-feet along Shallowford Road and Hillcrest Road and vary the building setback requirements against a residential zoning district from 100-feet to 25-feet at 104 Hillcrest Road and 377 Shallowford Road as proposed by staff with the following conditions:**

- 1. The development shall be limited to a four (4) pump or eight (8) fueling position gas station including the diesel pumps.**
- 2. The proposed building shall be similar in architecture and materials as depicted within the application with the exception that all roof surfaces including the convenience store building and proposed canopy shall have a minimum 3:12 pitched roof. In addition, the canopy support poles shall be faced with a brick or rock masonry to be consistent with the proposed building.**
- 3. The proposed development shall be buffered from the adjacent single-family properties located along Hillcrest Road. The vegetated buffer 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. The proposed dumpster pad shall be fully enclosed as depicted within the application as to not be visible from the adjacent single-family properties. The proposed propane pad shall be located a minimum of 25-feet (25') from the right-of-way per code requirements.**
- 5. The subject property shall be limited to one monument sign located along Shallowford Road as shown on the applicant's concept plan. The monument sign shall not exceed eight feet (8') in height and a total of sixty-four (64) square feet in size. Wall signage shall be limited to the Shallowford Road and Hillcrest Road sides of the building/canopy and oriented as to not be visible from the adjacent residential properties.**
- 6. All access point design shall be approved by the Gainesville Public Works Department Director and any required improvements determined necessary shall be at the expense of the owner / developer.**

Motion made by Board Member Hokayem  
Motion seconded by Board Member Delgado

Before the vote, Mr. Sistrunk asked if the matter could be tabled until the next meeting.

**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

**There was a motion to rescind the previous motion and table the variance request until the October 13, 2015, Planning and Appeals Board meeting.**

Motion made by Board Member Hokayem  
Motion seconded by Board Member Rucker  
**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

## **B. Annexation Request**

- 1) Request from **Jordan and Jordan** to annex a 0.89± acre tract located on the west side of Goetz Circle at its terminus (a/k/a **2860 Goetz Circle**) and to establish zoning as Residential-I (R-I).  
Ward Number: Two  
Tax Parcel Number(s): 09-110-000-008 (Part)  
Request: Access for a single-family subdivision

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

The applicant is proposing to annex the 0.89± acre subject property with (R-I) zoning. The property is currently zoned Agricultural Residential-III (AR-III) within unincorporated Hall County and is adjacent to the city limits to the west. The property contains a Georgia Power steel tower, small metal shed and asphalt driveway. In 2010, the applicant annexed an adjacent 8.27± acres property to the west with conditional R-I zoning for a 16-lot subdivision that was never developed. The applicant discovered that the original subdivision access proposed from Ramsey Road was not feasible due to the severe sloping topography and existing stream. Therefore, the applicant is proposing to annex the subject property to provide access from Goetz Circle. The applicant states that all development standards and zoning conditions will be followed as originally approved in 2010. This includes meeting infill residential standards with minimum lot sizes of 10,000 square feet, minimum lot widths of 85-feet, no more than two stories in height and minimum home sizes of 1,800 square feet of heated floor space. Exterior wall materials of the proposed homes are to be constructed with brick masonry, stone masonry, split-face block masonry, wood clapboards or weather boarding with appropriate architectural accents. Amenities are to include an existing eight slip community boat dock. In addition, a boat storage area is being considered within the common green space area within the Georgia Power line easement.

The 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. The development proposes a residential density of only 1.74 dwelling units per acre. According to the Character Area Map of the 2030 Gainesville Comprehensive Plan the property is located within the *Lake District* Character Area. The vision for this Character Area is driven by the presence of Lake Lanier and its distinctive rolling landscape. Infill development is not a priority although redevelopment of older apartments, retail and office space is important. Land uses allowed within this district are low-density residential, mixed-use, commercial, public / institutional, transportation / communications / utilities, and parks / recreation / conservation.

The Planning Division staff is recommending **conditional approval** of the annexation request with **R-I zoning**, based on the Comprehensive Plan and adjacent residential use with five conditions.

**Applicant Presentation:** Frank Norton, Jr., with the Norton Agency, 434 Green Street, stated that he represented the parties as a consultant, noting he does not have any personal or financial interest in this transaction. Mr. Norton stated that he represented Jordan and Jordan (Applicant) and the Goble's (Property Owners) and shared some history of the subject property and surrounding properties. He stated that the engineers recommended changing the access road to come in off Goetz Circle instead of Ramsey Road since the Ramsey Road access could have a major environmental impact because of the topography of the land and the need to cross over a creek. Mr. Norton stated this was a simple annexation request which doesn't change density or any other conditions placed on the property in 2010, but it does provide a cleaner access to the property and provides environmental protection. He asked to reserve time for rebuttal.

**FAVOR:** None

**OPPOSE:** Tyler Smith, attorney with Smith Gilliam Williams and Miles, 301 Green Street, stated that he represented Kubota Manufacturing of America Corporation. He stated that they were concerned with the effect of the proposal since Kubota owns the tracts immediately to the south and east of the subject property which are currently undeveloped but Kubota fully intends to develop those properties in the future for industrial use. Those properties are currently in the City and zoned industrial. He stated that all of the effects of the disclosure put into the recommendation are inherent to occur. Mr. Smith stated that Kubota fears the inherent incompatibility of the development of this density and the industrial activities that it fully plans to expand and wants their objection on the record. Currently there are a limited number of residences in the area and Kubota has overall enjoyed good relationships with them, but there is someone who complains already because they have their ATV test field on one of these tracts of land. He stated that the development looks nice and the people putting it together do great work, but despite the disclosures, once those residences are built there will be an inherent conflict with the industrial activity that Kubota plans to expand.

**REBUTTAL:** Mr. Norton stated he was surprised that Kubota was opposed to this small annexation, noting the zoning for the 16 lots is already in place and is not in question. He reiterated that the annexation request was simply to annex a small portion of a parcel in order to change the access point for the subdivision and protect the environment. Mr. Norton stated that in 2009 when Kubota petitioned to close a portion of Ramsey Road, Jordan and Jordan and the Goble's supported the request and he is shocked that Kubota is now in opposition of their request. He stated that if Kubota wants to control what goes on around their development, they can purchase the property which has been for sale for quite a while, noting he didn't know if the Goble's would be interested in selling their property.

**Planning and Appeals Board Comments:** Upon inquiry by Board Member Hokayem, Mr. Norton stated he did not have any problems with the proposed conditions.

**There was a motion to recommend conditional approval of the request to annex a 0.89± acre portion of the parcel located at 2860 Goetz Circle and to establish zoning as Residential-I (R-I) with the following conditions:**

1. **The proposed subdivision shall be limited to a maximum of 16 single-family lots.**
2. **The proposed development shall meet or exceed the Infill Residential Development standards as required by the Unified Land Development Code and each home shall be a minimum of 1,800 square feet of heated floor space.**
3. **The proposed separate community boat storage shall be permitted within the easement area of the subject property, pending approval of Georgia Power, and must be screened by landscaping to the satisfaction of the Community Development Department Director.**
4. **The owner/developer shall disclose the existence of industrial activities on adjacent and nearby properties as part of the purchase/sale agreement with potential buyers. Said disclosure shall state: "Owners, occupants, and users of property shown are hereby informed of the impacts associated with industrial practices which may take place on adjacent and nearby property including, but not limited to noise, odors, dust, traffic and the operation of machinery. Therefore, owners, occupants and users of the property should be prepared to expect the effects of such practices."**
5. **All conditions of zoning shall be made a part of any final plat created for the subdivision.**

Motion made by Board Member Hokayem  
Motion seconded by Board Member Delgado  
**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

Council Member Myrtle Figueras stated that there were two people who wanted to speak on this request.

**Madeleine Oster**, 2600 Ramsey Road, asked if the boat storage area was a part of the request or if it was already approved. Planning Manager Matt Tate stated that the proposal was to abandon any kind of access onto Ramsey Road and move the access to Goetz Circle which would include traffic from the boat storage area and the residential homes as presented in the application. All the access including the boat storage, if approved by Georgia Power, would come from Goetz Circle instead of Ramsey Road. Ms. Oster stated that answered her question.

There was no one else to speak on this request.

### **C. Zoning Amendment Request**

- 1) Request from the **Caddis Acquisition Partners, LLC** to amend the existing Planned Unit Development (P-U-D) zoning on a 9.5± acres tract located on the west side of White Sulphur Road, north of its intersection with Jesse Jewell Parkway (a/k/a **0 Limestone Parkway NE**).  
Ward Number: Two  
Tax Parcel Number(s): 09-123-000-019 (Part)  
Request: Senior assisted living facility

Planning Manager Matt Tate stated that the applicant has withdrawn this request.

**There was a motion to accept the withdrawal of this zoning amendment request.**

Motion made by Board Member Rucker  
Motion seconded by Board Member Hokayem  
**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

#### **D. Special Use Request**

- 1) Request from **Hands on Healing, Inc.** for a Special Use on a 0.22± acre tract located on the west side of Green Street, south of its intersection with Forrest Avenue (a/k/a **431 Green Street NW**), having a zoning classification of Residential and Office (R-O).

Ward Number: Four

Tax Parcel Number(s): 01-024-004-032

Request: Therapeutic massage and exercise therapy office

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

The applicant is proposing a special use within the Residential and Office (R-O) zoning district for a therapeutic massage and exercise therapy office, known as Hands on Healing. The subject property is 0.22± acre in size and contains a 1,600 square foot structure that previously served as a law office and is located within the Green Street Local Historic District. The applicant currently operates their business location off of Limestone Parkway and is relocating due to need for additional space. There are no proposed changes to the exterior of the building. Access and parking will continue to be shared with the neighboring 427 Green Street law office. The Georgia Department of Transportation states that a permit will be required for any work being done along the state right-of-way.

The Future Development Map for the City of Gainesville places the subject property 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 types of non-residential uses that are desirable in this area would include restaurants, specialty retail, and low-intensity office.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Central Core* Character Area. The vision for this area includes additional office and housing to provide a more sustainable mix of uses. Historic preservation and sensitive infill are important to maintaining the strong sense of place.

The Planning Division staff is recommending **conditional approval** of this Special Use request within R-O zoning, based on the Comprehensive Plan and the surrounding residential and nonresidential land uses with one condition.

**Applicant Presentation:** Rick Bates, 3564 Ridge Drive, stated that he is a Georgia licensed massage therapist and certified fitness trainer and he and his wife owns Hands on Healing Massage Center currently located in a doctor's office on Limestone Parkway. He stated that they have been in business for five years and have been looking for a location to upgrade their business visibility and meet their space needs which this location does within the beautiful historic district.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** None

**There was a motion to recommend conditional approval of the special use request to allow a therapeutic massage and exercise therapy office located at 431 Green Street NW and within Residential and Office (R-O) zoning with the following condition:**

**The existing monument sign shall not be replaced or structurally modified except for the sign face area depicting the name of the business.**

Motion made by Board Member Delgado  
Motion seconded by Board Member Hokayem  
**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

## **ADJOURNMENT**

**There was a motion to adjourn the meeting at 6:17 PM.**

Motion made by Board Member Delgado  
Motion seconded by Board Member Hokayem  
**Vote – 4 favor, 2 absent (Johnson, Martin), 1 vacancy**

Respectfully submitted,

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Jane Fleming, Vice-Chair

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Judy Foster, Recording Secretary