

**GAINESVILLE PLANNING AND APPEALS BOARD  
MINUTES OF MEETING  
AUGUST 8, 2017**

**CALL TO ORDER** Chairman Carter at 5:30 p.m.

**Members Present:** Chairman Doug Carter, Vice-Chair Jane Fleming, and Board Members Connie Rucker, Carmen Delgado, Eddie Martin, Sr., Ryan Thompson and Rich White

**Members Absent:** None

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

**Others Present:** None

**MINUTES OF JULY 11, 2017**

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

Motion made by Board Member Thompson  
Motion seconded by Board Member White  
**Vote – 7 favor**

**NEW BUSINESS**

***NOTE: Chairman Carter recused himself at 5:33 p.m. due to a conflict of interest. Vice-Chair Fleming presided over the following public hearing item.***

**A. Rezoning Requests**

- 1) Request from **Lidl US Operations, LLC** to rezone a 6.854± acres tract located on the east side of Dawsonville Highway, southeast of Beechwood Boulevard (a/k/a **0 and 1010 Dawsonville Highway**) from Office and Institutional (O-I) and General Business (G-B) to General Business (G-B).  
Ward Number: One  
Tax Parcel Number(s): 01-115-001-002 and 061  
Request: Grocery store

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

The applicant is proposing to rezone the subject property to G-B for a grocery store. The property consists of two lots and is located on the east side of Dawsonville Highway, southeast of Beechwood Boulevard. The 4.594± acres lot is currently zoned O-I and G-B and contains a grassed lot that was previously developed for a nursing home. The 2.26± acres lot located to the rear is zoned General Business (G-B) and contains a detention pond. The applicant intends to utilize City water and sewer services and full access is proposed from an existing driveway on Dawsonville Highway. In addition, internal access currently exists from the existing driveway to the adjacent Jackson EMC employee parking lot which is gated. The proposed grocery store is 35,962± square feet in size and exterior materials consist of a mixture of brick, EIFS (stucco), metal, PVC soft panel and glass

windows. The store plans to have approximately 25 to 50 employees and the anticipated hours of operation are from 8:00 A.M. to 10:00 P.M.

The applicant's traffic study states the proposed grocery store will generate a total of 2,431 new weekday trips, 122 A.M. new peak hour trips and 240 P.M. new peak hour trips. Of these new trips, approximately 55% are expected to originate north of the site on Dawsonville Highway, 27% from the south on Dawsonville Highway and 18% from McEver Road. According to the Georgia Department of Transportation (GDOT), any work within the right-of-way will require review and approval from GDOT.

The subject property is located within two land use categories based on the Future Development Map for the City of Gainesville. The front portion of the subject property is located within the *Public/Institutional/Transportation/Communication/Utilities* land use category. The rear portion of the property is located within the *Retail/Commercial* land use category which includes commercial service activities such as grocery stores, banks, restaurants, theatres, hotels, and automotive related businesses. The subject property is also located within the *Suburban Commercial* Character Area. Land uses allowed within the *Suburban Commercial* area include commercial, public / institutional, multi-family residential and mixed use.

The Planning Division staff is recommending approval of this rezoning request based on the Comprehensive Plan and the adjacent residential and non-residential land uses with six conditions.

**Applicant Presentation:** Tyler Smith, Smith Gilliam Williams & Miles, 301 Green Street, Suite 200, stated he was representing the applicant. He stated that Lidl is requesting to consolidate the zoning of two parcels of land to General Business for the purpose of a grocery store. Mr. Smith stated that while Lidl is new to the US market, it is not new to the world market or the grocery industry, noting their first store opened in the 1930s in Germany, they are the fifth largest retailer in the world under their parent company Schwartz Group, and they are located in 26 countries with 10,000 stores and 315,000 employees. He stated that Lidl has now opened 21 stores along the US east coast with three distribution centers, one being planned in Cartersville, and they stock all their stores through their own distribution system. Lidl's motto is "highest quality products with lowest competitive prices." Mr. Smith stated Lidl stores are built to platinum standards and lead in energy and environmental design industry standards which are among the greenest in the world. Lidl specializes in selective items such as produce, wines, meat, etc., which reduces the store volume but can deliver to their customers at advantageous prices. The building is planned for 35,926 square feet with 172 parking spaces, 2 loading spaces in which usually once daily deliveries are made at approximately 6 a.m., and store hours would be from 8 a.m. to 10 p.m. Mr. Smith stated they held a meeting last night with some neighbors at Jackson EMC and noted traffic was an issue in this corridor. However, he stated the previous use of the property was a nursing home and he felt there would not be much difference in the amount of traffic due to the change of zoning and use. He stated they are sensitive to the traffic concerns and would continue to work with GDOT on that issue. Mr. Smith stated Lidl agreed with all conditions as proposed by staff but suggested a change to condition four related to inter-parcel access. Because the word "all" is so broad, he asked it to be changed to "commercially reasonable" measures to achieve inter-parcel connectivity. He stated that Project Engineer Todd Seldomridge was present and they could answer any questions from the Board or the public.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** Vice-Chair Fleming asked staff what documentation would be required as specified in condition four regarding inter-parcel connectivity. Planning Manager Matt Tate stated the applicant would reach out to the adjoining property owners to determine if they would be willing to have inter-parcel connectivity and provide documentation to the City with the results of those efforts.

**There was a motion to recommend approval of the request to rezone the subject property from Office and Institutional (O-I) and General Business (G-B) to General Business (G-B) with the following conditions as proposed by staff, including the proposed change by the applicant to condition four:**

**Conditions**

1. The proposed grocery store building shall be generally consistent with the standards depicted on the architectural elevation provided with this rezoning application including exterior materials, roof and wall signs.
2. Prohibited commercial uses shall include motels or hotels with rooms accessed from the exterior of the building, adult novelty stores, adult entertainment centers, pawn shops, gas stations, tire stores, massage parlors except for practitioners licensed by the State of Georgia, vaping stores, auto body shops, automobile sale establishments, marine sales or repair stores, automated or non-automated car wash, coin-laundry facilities, truck stop, non-climate controlled mini-warehouses or storage facilities, tattoo parlors, psychics, fortune tellers, clairvoyants and the like.
3. The existing vegetated buffer areas adjacent to the Lakeshore Heights Subdivision shall remain undisturbed. Additional evergreen buffer trees shall be planted between the proposed building/parking lot/service areas and the existing detention pond at the top of the slope where needed. The intent of the buffer is to supplement the existing vegetation with buffer trees to provide for an effective buffer. The location, spacing, size and type of trees planted shall be subject to Community Development Department Director approval.
4. Prior to a permit being issued, the developer/property owner shall exhaust ~~all~~ **commercially reasonable** measures to provide for inter-parcel vehicular access with the adjacent properties located to the north and south. Documentation shall be provided to the City of Gainesville in this regard.
5. All access point design for the subject property shall require approval by the Georgia Department of Transportation in conjunction with the Gainesville Public Works Director. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the developer/property owner.
6. An updated as-built boundary survey/plat of the subject property, indicating all improvements required for the proposed use, shall be recorded prior to obtaining a Certificate of Occupancy.

Motion made by Board Member Thompson  
Motion seconded by Board Member Martin  
**Vote – 6 favor, 1 recusal (Carter)**

**NOTE: Chairman Carter returned to the meeting at 5:45 p.m. and continued to preside over the remainder of the meeting.**

- 2) Request from **JH Homes, Inc.** to rezone a 21.87± acres tract located on the east side of South Enota Drive, having frontage on Smokey Mountain Springs Lane and Pearce Way (a/k/a **1024, 1030 and 1037 Pearce Way NE; 0 South Enota Drive NE**) from Office and Institutional (O-I) to Residential-II (R-II).  
Ward Number: Two  
Tax Parcel Number(s): 01-083-001-005, 151, 152 and 153  
Request: 65 residential townhomes

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

The applicant is proposing to rezone the subject property from O-I to R-II for 65 residential townhomes. The property is located southeast of the intersection of Park Hill Drive and South Enota Drive between the CVS Pharmacy and Smokey Springs Retirement apartment community. The property consists of four parcels, all of Pearce Way and a portion of Smokey Mountain Springs Way, which are intended to be dedicated to the City of Gainesville. In 2003 the property was rezoned for medical and professional office purposes but has remained in its current state since 2010. The proposed townhome development is to include as many as 14 buildings containing three to six townhome units per building which are to be located within the areas that were previously graded and padded out. The rear portion of the property is partially located within a flood plain area and within a Georgia Power easement which will remain as a natural buffer area adjacent to The Woodlands on Lake Brenau Subdivision. Each townhome will have two car garages and access is proposed from Pearce Way and Smokey Mountain Springs Lane to South Enota Drive. The exterior materials of the townhomes will consist of brick fronts with the remaining areas consisting of cement siding board and batten shake to meet the requirements of the Limestone Parkway Overlay Zone standards.

The Gainesville 2030 Future Development Map for the City of Gainesville places the subject property within the *Mixed Use General* land use category and within the *Parks / Recreation / Conservation* land use category. As well, the property is located within the *Traditional Neighborhoods* Character Area specifically within the *Northern Neighborhoods subarea*. Land uses allowed in the *Northern Neighborhoods subarea* include low-density and medium-density residential, and mixed-use / commercial. The proposal appears to be consistent with the Comprehensive Plan. The development is within density range (2.97 dwelling units per acre), and is conducive given its proximity to a mixture of residential and non-residential uses.

The Planning Division staff is recommending approval of this rezoning request based on the Comprehensive Plan and the mixture of residential and non-residential uses with eight conditions.

**Applicant Presentation: Cameron Henderson**, 3233 Lee Drive, Buford, stated he was with JH Homes, a small single-family builder out of Buford. He stated they build in Buford and north to the Commerce area and like the small town feel of communities. Mr. Henderson stated they are excited about the units they are proposing which are a nice product and not currently available in the City of Gainesville. He stated the existing buffer would remain in the conservation area and would be undisturbed, noting the

construction would be approximately 200-feet from the Woodland subdivision. Mr. Henderson stated they would install additional trees and buffer materials along the businesses that front Pearce Way. He stated they were agreeable with all conditions as proposed by staff and they were very excited about the project and want to get started as quickly as possible.

**Will Cobb**, Norton Agency, 434 Green Street, stated the current property owners have owned the property for over 80 years and they graded and marketed the property in 2003 for office use. He stated they have come up with a good plan and JH Homes puts out a good product. He stated through Rob Lawson, a resident in The Woodlands on Lake Brenau, obtained a flyer distributed in the neighborhood and they met with them last Thursday night to discuss any issues. From those discussions, he confirmed there would not be any access roads connecting The Woodlands on Lake Brenau subdivision to the proposed development. There would be new streets constructed off of and between Pearce Way and Smokey Mountain Springs Lane. He also confirmed that the townhomes would only be constructed in the location of the existing graded pads on the subject property, noting the density of the proposed project is considerably less than what it would be if the entire acreage could be utilized. Mr. Cobb requested to reserve rebuttal time.

**FAVOR:** None

**OPPOSE:** **Nicole Graff**, 1600 Woodland Way, stated the meeting Mr. Cobb spoke of was held at her home and while he did clear up some things, the neighborhood still had the following concerns: Crime and traffic were some main concerns which Ron Cosgrove will address; noise and privacy, specifically the possibility of people crossing over from the townhomes into The Woodlands on Lake Brenau subdivision since there is a utility easement access road they could easily access; the type of Homeowners Association they may have, specifically rental versus owner, and whether that type could change in the future. She shared an example of her mother buying a townhome in a nice neighborhood and within four years, they changed to rentals and the neighborhood deteriorated quickly; wildlife concerns about animals being pushed into the neighborhood because of the development; some residents are researching restoring the lake that used to be there; her view in the winter would now be townhomes instead of beautiful landscape; decreased property values; and the rezoning could make it easier for additional housing in the future. Mrs. Graff stated before they purchased their home, she contacted the City and was told that nothing would be built behind her home because it was a natural buffer. She stated she was shocked to see the property was even zoned Office and Institutional and all the neighbors were confused and upset about it. She asked for more time to look into the request to better understand it since they have only known about the request for two weeks and was concerned.

**Ron Cosgrove**, 1569 Woodland Way, stated he was retired from the City of Gainesville Police Department after serving for 25 years. He shared what it meant to him to be a Gainesvillian. Mr. Cosgrove stated they enjoy the wildlife in the area which would go away if this development occurs. He stated the community had not had time to develop a plan as to what they should or should not do, but noted the neighborhood consists of 42 homes with residents primarily aged 55 and older. He stated he was the immediate past president of the Homeowners Association and clarified that Brenau Point was not a part of The Woodlands on Lake Brenau subdivision, noting the subdivision was built primarily for estate homes for older residents. Mr. Cosgrove stated the house Todd and Nicole Graff live in was supposed to be the clubhouse but was never turned into one.

He didn't want to see the name of the subdivision changed to The Townhouses on Lake Brenau. He shared the following concerns: Crime and what could happen within this development; the density of traffic on secondary roadways; and City ordinances would be violated because the new residents simply would not know the ordinances. He stated they are considering the possibility of placing Lake Brenau on the National Historic Registry as well as reclaim the lake. He stated it would take hundreds of thousands of dollars to complete a required federal study to reclaim the lake and they cannot put that much money into it. However, at a minimum, it could be required to remain as is. He asked the Board to table the request for 30 days in order for the neighborhood to have time to come up with a plan. He asked that the area be left in its pristine condition.

**Cheryl Lance**, 1536 Woodland Court, elaborated about the zoning conditions and the wording about the natural buffer not being disturbed. However, she suggested an additional condition be included that no nature trails, benches or parks would be placed in the wetlands area. She did not want just a promise from the developer that it wouldn't happen or even that it would be addressed by the Homeowners Association. She stated it would be a shame if the dam was never rebuilt and the lake restored, but the wetlands are beautiful with the natural stream running through there and wildlife in the area. They hoped to have the wetlands designated as a historic landmark but they need more time to do so. Ms. Lance also proposed a privacy fence. She stated the developer showed up to the community meeting uninvited. She wanted to see the natural buffer remain.

**REBUTTAL:** Chairman Carter reviewed a punch list of items addressed in opposition and gave the applicant time for rebuttal.

**Will Cobb** addressed the following concerns: All traffic associated with the proposed development would be on South Enota Drive and would not affect The Woodlands on Lake Brenau subdivision; wildlife can be seen all over the City of Gainesville; they are cognizant of the area and are asking for a down zoning for the property and reiterated they would only be building on the currently graded pads. As the property is currently zoned, there could be offices there with lights and dumpsters; the City was correct when they told Mrs. Graff that nothing would be built behind her home because the wetlands area is not a buildable area, noting the "anchor" part of the development, as shown on the location maps, would not be disturbed; the applicant is requesting 65 townhomes and would not ask for more in the future because of the wetlands and the topography of the land and because the buildable area of the property is limited; and there was also a powerline on the back side of The Woodlands on Lake Brenau property.

**Cameron Henderson** stated they would have a Homeowners Association and are open to putting a rent cap in the covenants to limit the number of townhomes which could be rentals after the initial sale. He stated their intentions are not to build a cheap product to attract criminals and believe they can demand a good square foot selling price for the units. Mr. Cobb stated that Norton has completed studies and believe they can get \$200,000 for the townhomes and plan to market to professionals such as doctors, nurses, and teachers.

Chairman Carter commented and Planning Manager Matt Tate confirmed that adding more units to the development would require going through the process again as the number of units is limited in the conditions.

Upon inquiry by Vice-Chair Fleming, Mr. Cobb identified the wetlands area on the location map which would not be disturbed.

Board Member Thompson asked for clarification on whether the units would be rentals or marketed and sold. Mr. Henderson stated they would be marketed and sold as single-family homes.

Vice-Chair Fleming stated they would maintain the value of the property if only a small percentage of the units that were sold could be rented thereafter.

**Planning and Appeals Board Comments:** Chairman Carter asked staff to clarify the final plat process for a development and how greenspace is designated on the final plat. Planning Manager Matt Tate stated the developer would submit a land development plan including building locations, interior roads, notes shown on the plans to designate any undisturbed areas, as well as any zoning conditions. With the plans and the plat recorded for the property, it would restrict and keep the area as an undisturbed buffer. He stated that it would be unlikely for the developer to add any other units with this proposed development because of the wetlands, but reiterated they would have to go through the process again to seek approval for any future developments for the subject property.

**There was a motion to recommend approval of the request to rezone the subject property from Office and Institutional (O-I) to Residential-II (R-II) with the following conditions as proposed by staff:**

**Conditions**

- 1. The use of the property shall be limited to a maximum of 65 residential townhome or condominium units. Apartments are not an approved use for the property.**
- 2. The proposed residential townhomes shall be generally consistent with the standards depicted on the architectural elevation provided with this rezoning application including exterior materials, pitched roofs and two car garages.**
- 3. No direct access shall be allowed from South Enota Drive or Woodland Way.**
- 4. All access point design and sidewalk installation along Pearce Way and Smokey Mountain Springs Way must be reviewed and approved by the Gainesville Public Works Director. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**
- 5. In addition to the driveway and garage parking provided for each townhome unit, a minimum of 10 guest parking spaces shall be provided within the proposed development. The final location of the guest parking spaces shall be determined by the Gainesville Public Works Director.**
- 6. The property frontage along South Enota Drive shall be landscaped and maintained according to the requirement of Article 9-16 of the Gainesville Unified Land Development Code.**
- 7. The existing vegetated buffer areas adjacent to Smokey Springs Retirement Community, The Woodlands on Lake Brenau, CVS and the Georgia Power substation shall be retained where possible. Additional evergreen buffer trees shall be planted within the perimeter buffer areas and adjacent to detention pond areas where needed. The intent of the buffer is to supplement the existing vegetation with buffer trees to provide for an effective buffer. The**

**number, location, spacing, size and type of trees planted shall be subject to Community Development Department Director approval.**

- 8. An updated as-built boundary survey/plat of the subject property, indicating all improvements required for the proposed use, shall be recorded prior to obtaining a Certificate of Occupancy.**

Motion made by Board Member White  
Motion seconded by Board Member Martin  
**Vote – 7 favor**

## **ADJOURNMENT**

**There was a motion to adjourn the meeting at 6:22 p.m.**

Motion made by Board Member Martin  
Motion seconded by Board Member Delgado  
**Vote – 7 favor**

Respectfully submitted,

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Doug Carter, Chairman

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Judy Foster, Recording Secretary