

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF MEETING
MARCH 13, 2018**

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

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

Members Absent: None

Staff Present: Planning Manager Matt Tate and Recording Secretary Judy Foster

Others Present: Council Member Barbara Brooks

MINUTES OF FEBRUARY 13, 2018

There was a motion to approve the minutes as presented.

Motion made by Board Member Thompson

Motion seconded by Board Member White

Vote – 6 favor, 1 vacancy

NEW BUSINESS

NOTE: Board Member Martin recused himself at 5:33 p.m. due to a possible conflict of interest.

A. Variance Request

- 1) Request from **Paige Pethel** to vary the front yard setback requirements from Thompson Bridge Road and Green Street Circle on a 0.32± acre tract located on the west side of Thompson Bridge Road, north of its intersection with Green Street Circle (a/k/a **1169 Thompson Bridge Road, NW**), having a zoning classification of Neighborhood Business (N-B).

Ward Number: Two

Tax Parcel Number(s): 01-074-003-003

Request: Retail/Office

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

The applicant is requesting to vary the front yard setback requirements from 40-feet to 0-feet from Thompson Bridge Road and Green Street Circle for the purpose of constructing two retail office buildings, approximately 3,200 square feet and 4,000 square feet in size. Primary access is proposed from Thompson Bridge Road and a secondary driveway exists on Green Street Circle. The subject property is 0.32± acre in size and is located within the Gateway Corridor Overlay Zone. The property is the previous location of Syfan Landscaping and contains an older 1,500± square foot metal building, shed, and open greenhouse structure, all of which do not meet the setback requirements and will be removed. The adjacent properties include Stan's Biscuits and Deli, small retail shops, offices, single-family homes and Jacobs Media/WDUN. The applicant is basing the hardship on the small size and shape of the lot, as well as, having two road frontages.

The Planning Division staff is recommending **conditional approval** of this variance request based on the property having two road frontages and the shape and size of the property with four conditions.

Applicant Presentation: **Paige Pethel**, 794 Cherokee Road, stated she was requesting the variance due to a hardship in developing the property as is with the two front setbacks which come back 40-feet in both directions which would block egress through the property. She felt it would beautify the property to have consistent setbacks in line with neighboring properties which are already in place. Mrs. Pethel stated without the variance, she would be limited to renovating the buildings that are already there which would not be wise from a development standpoint.

FAVOR: None

OPPOSE: None

Planning and Appeals Board Comments: None

There was a motion to approve the request to vary the front yard setback requirements from Thompson Bridge Road and Green Street Circle as noted in the following conditions:

Conditions

1. The proposed use/buildings shall be generally consistent with the standards depicted on the architectural pictures provided with this variance application including exterior materials.
2. The existing chain link fence shall be removed from the subject property.
3. The subject property shall be limited to one monument sign fronting Thompson Bridge Road.
4. The proposed buildings shall have a front yard setback of no closer than one foot (1') from Thompson Bridge Road and seven feet (7') from Green Street Circle under the following requirements:
 - a) The development shall meet Georgia Department of Transportation (GDOT) requirements regarding clear zone and sight distance based on the GDOT Driveway and Encroachment manual.
 - b) The development shall coordinate with GDOT to establish if any improvements will be required for the existing driveway access along SR 60/Thompson Bridge Road. Documents from GDOT will need to be submitted from the developer to the Public Works Department Director establishing whether any improvements will be required.
 - c) Development shall coordinate with the Public Works Department Director regarding any necessary driveway access improvements on Green Street Circle.
 - d) All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the property owner.
 - e) Additional information is needed from the applicant to determine if a Traffic Impact Study will be required for the development.

Motion made by Board Member White
Motion seconded by Vice-Chair Fleming
Vote – 5 favor, 1 recusal (Martin), 1 vacancy

NOTE: Board Member Martin returned to the meeting at 5:41 p.m.

B. Rezoning Requests

- 1) Request from **Lake 53, LLC** to rezone a 6.227± acres tract located on the west side of Dawsonville Highway, north of Avonlea Way (a/k/a **1995 Dawsonville Highway, NW**) from General Business (G-B) to Planned Unit Development (P-U-D).
Ward Number: One
Tax Parcel Number(s): 01-110A-003-003
Request: 79 residential condos and office space

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

The applicant is proposing to rezone the subject 6.227+ acres property for the purpose of constructing 79 residential condominiums and a 2,275 square foot office building containing 2 to 3 suites. This property was originally rezoned in 2000 for four buildings consisting of a 3-story, 16,800 square foot office building, 8,822 square foot bank, and two retail buildings consisting of 20,000 square feet of retail space. The adjacent areas include Lake Lanier, Gainesville Marina, Lake Lanier Club Apartments, sewer pump station, Martin Docks, Parks Import Service and vacant land. The proposed condominiums are to consist of two, 6-story buildings, not to exceed 80-feet in height. Each building will have a ground level covered parking area and five levels of residential units. The size of each unit will be 2,359 square feet of heated space (3 bed / 3 bath), with 285 square feet of deck space. Amenities are to include common area, pool, cabana and one of the units will be converted for a club house area. Two right in/out driveways are proposed on Dawsonville Highway and a cart path to connect to the adjacent Gainesville Marina property. The applicant anticipates a one phase development to begin during the summer of 2019.

According to the Gainesville Public Works Department, a Traffic Impact Study (TIS) will be required for the development. The development shall coordinate with the Georgia Department of Transportation (GDOT) to establish improvements required by the developer along Dawsonville Highway.

The Gainesville Comprehensive Land Use Plan places the subject property within the *Mixed Use General* land use category and within the *Suburban Residential* Character Area. Based on the Comprehensive Plan and the adjacent residential and non-residential land uses, the Planning Division staff is recommending **conditional approval** of this rezoning request with P-U-D zoning and three conditions.

Applicant Presentation: **Jim Walters**, 311 Green Street, stated the proposed development would be first class, noting the subject property is located on Dawsonville Highway, adjacent to the Gainesville Marina. He stated it should not affect the school system as purchasers would most likely be beyond the children at home stage. He stated the development would be an improvement over the current zoning which could allow for a strip center and felt the City would be proud of it. He felt the development would go hand in glove with the marina, so the residents could have their boats stored at the marina and there was a demand for this type of development.

FAVOR: None

OPPOSE: **Jack Scales**, 1435 Douglas Drive, stated Mr. Walters indicated the proposal should not affect the school system and asked if the development would be age restricted. Jim Walters clarified the proposal was not age restricted; however, because of the location, ambiance and price point of the condos, he felt they would be occupied by empty nesters. Mr. Scales stated he was concerned with school and/or regular traffic generated by the proposed development, noting the timing on the traffic signal at Dawsonville Highway and Lanier Valley Drive does not work properly as only 3 to 5 cars egress at a time and any additional traffic will exacerbate the problem, noting they must deal with Lanier Pointe Park traffic as well.

Clyde Morris, 2375 Whippoorwill Lane, stated he was not necessarily opposed to the project but had two areas of concern. He stated the first concern was traffic which had already been expressed and he understood the City is working to address those issues. He stated the staff report noted a traffic impact study would be required and he was glad to hear it as they have learned a lot from prior traffic studies along this corridor, some of which he felt were not properly reflected because of single sampling and encouraged the City to study those closer. His other concern was the lake as he is the Chairman of the Sedimentation and Erosion Committee with the Lake Lanier Association (LLA). Although they have no jurisdiction, the LLA is very concerned about Lake Lanier and sedimentation entering the lake is a growing concern and problem which is not being properly policed in his opinion. The LLA would like to develop a program and get participation from all developers who are developing around the lake to establish precautions such as double or triple silt fencing in areas closest to the lake with a high slope to prevent sedimentation from entering the lake during heavy rain periods like we have experienced recently. Mr. Morris stated the staff report only mentioned that proper soil and erosion measures would be followed but felt more precautions should be taken otherwise there could be a real mess in the lake which no one wants to incur costs to clean it up. He stated there should be proper structures in design and in construction, noting the sedimentation ponds and buildings at Northlake Square were not constructed properly, broke and did not function as they were intended, so he didn't want to see that happen again. The LLA would like to volunteer to do monitoring if the developer would be willing to allow them to do so. He stated if a problem was detected, they would report it to the developer who could fix the issue immediately. He hoped those type things could be included in the conditions and reiterated the LLA would be happy to partner with the City on this matter.

Planning and Appeals Board Comments: Vice-Chair Fleming asked Planning Manager Matt Tate to address how the City could be more diligent regarding storm water run-off and the traffic study. Planning Manager Matt Tate stated everyone is aware of the traffic concerns on Dawsonville Highway and whatever traffic study would be required, there would have to be coordination between the Georgia Department of Transportation (GDOT) and the City of Gainesville Public Works Department to address those issues. He stated there are improvements which would be made with the development of the Oak Hall property across Dawsonville Highway to help with those issues. Mr. Tate stated it would be up to the developer if they want to partner with the LLA to monitor any erosion issues, but the City cannot condition something which is not formed yet, such as the program Mr. Morris mentioned. Mr. Tate stated the City already has standards and requirements in place which are discussed at pre-construction meetings, and then the developer would submit plans through the normal review process and since the development is close to Lake Lanier, extra precautions would be taken to ensure they meet water quality standards.

Chairman Carter stated the applicant is aware of the concerns and should keep a close eye on any issues during development if approved.

Planning Manager Matt Tate stated communication is key, and we would like to address any issues ahead of a rain event.

There was a motion to recommend approval of the request to rezone the subject property from General Business (G-B) to Planned Unit Development (P-U-D) with the following conditions:

Conditions

- 1. The proposed use/buildings shall be generally consistent with the landscaping standards and architectural elevations provided with this rezoning application including exterior materials and roof pitch to present a residential appearance.**
- 2. Prior to a permit being issued for the subject property, a Traffic Impact Study (TIS) shall be required. All access point design for the subject property shall require review and approval by the Georgia Department of Transportation and the Gainesville Public Works Department Director. All required access / traffic / sidewalk improvements associated with the proposed development or any additional improvements identified within the Traffic Impact Study, shall be at the full expense of the developer/property owner.**
- 3. 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 Martin

Motion seconded by Board Member Thompson

Vote – 6 favor, 1 vacancy

- 2) Request from **John Harris** to rezone a 5.73± acres tract located on the southeast side of Lanier Valley Drive, west of Otila Drive (a/k/a **1331 Lanier Valley Drive NW**) from Residential-II (R-II) and General Business (G-B) to General Business (G-B).
Ward Number: One
Tax Parcel Number(s): 01-115-002-002
Request: Non-profit residential facility

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

The applicant is proposing to rezone the subject 5.73± acres property for a local non-profit residential facility that will provide counseling, support groups and residential services/housing for primarily women and children in need of assistance. According to the applicant, the facility is not designed to provide rehabilitation for addiction, nor is it to provide services or housing for criminal offenders. The property has a split zoning of General Business (G-B) and Residential-II (R-II) and the applicant desires to rezone the entire property to General Business (G-B). The property is undeveloped, heavily wooded, and contains a 100-foot wide power line easement. Surrounding properties include single-family homes, power substation, apartments, church and a daycare center. As well, the Lanier Pointe Park Athletic Complex is located to the southwest at the end of Lanier Valley Drive.

The proposal includes the construction of a 15,000 square foot building that will consist of 3,000 square feet of office space, 5,000 square feet of support group rooms and 7,000 square feet of residential space. According to the applicant there will be 17 residential bedrooms, 6 common areas, 6 support group rooms, and 15 offices. The proposed building will be residential in character and a maximum of two stories in height. The property will be fenced and landscaped to screen all building, parking and outdoor areas. A gated entrance drive is proposed from Lanier Valley Drive which is within the jurisdiction of Hall County.

The subject property is located within the *Medium-High Density Residential* land use category within the Future Development Map for the City of Gainesville and within the *Suburban Commercial* Character Area which supports the request.

Based on the Comprehensive Plan and the adjacent residential and non-residential land uses, the Planning Division staff is recommending **conditional approval** of this rezoning request with G-B zoning and eight conditions.

Applicant Presentation: **Eddie Hartness**, 1550 Berkeley Court, presented a letter to the Board from Stephen Lovett who is on the marketing team at the Norton Commercial Acreage Group and was not able to be in attendance. He stated this was a very unusual request because it is the first win/win request he had been associated with since he felt it would have minimal impact to the surrounding property owners. He stated the current dual zoning has made it difficult to sell, although the proposed development could be built with the current zoning in place, it would require the residential component to be located in the Residential-II area and the office component to be located in the General Business area which would mess up the property and not be very attractive. Mr. Hartness noted there would be more greenspace for the development under one zoning classification and the proposed development would be a lot less impactful than 70 apartments which could be built on the property as it is currently zoned which would obviously generate more traffic. He stated they could also go get a permit for a commercial building on the General Business portion of the property which would have more impact on traffic. The proposal actually combines the two uses that are already there into a better form that takes up less of the property, leaves more greenspace and actually limits the traffic. In conclusion, Mr. Hartness shared the following information in response to questions posed to staff by surrounding property owners: 1) The proposed office space would be used solely by the non-profit agency with resident and non-resident clients receiving counseling periodically; 2) The 17 proposed residential units are a maximum which would not be filled all the time; 3) A non-profit employee would be on the premises 24/7 which are not guards but are there to assist with the program; and 4) The building would face Lanier Valley Drive which would not be that visible from the road due to the vegetation buffer which is mainly for the privacy of the residents. He reserved the remainder of his time for rebuttal.

FAVOR: None

OPPOSE: **Mandy Harris**, 1459 Douglas Drive, asked others in the audience who were from the neighborhood to raise their hand of which there were eight people. She stated they were not necessarily opposed to the proposal but have a lot of questions (3 pages) which were sent to staff in which they have received some answers but still have the following concerns: 1) Traffic on Lanier Valley Drive is main concern, noting there was a severe wreck with someone pulling out of the Carrington Park Apartments recently because they don't stop at the stop sign in which staff assisted with its installation. She stated this was the third major wreck on the road in a short amount of time and they have no other exit from the subdivision so they get blocked in. She stated they also cannot get in and out during

ball season at Lanier Pointe Park; 2) Speed also plays a part in accidents as the speed limit is only 35 and cars are well in excess of that; 3) The proposal estimates 10 to 90 additional trips per day on the road which will add to the traffic and speed issues; 4) Placement of the gate could cause problems with stacking traffic trying to make a left turn into the development. There is a blind curve in the road and sight distance could become an issue as well with the entrance, especially with speeding involved and drivers over the yellow line coming around the curve; 5) The traffic signal at Dawsonville Highway takes 2 to 2.5 minutes to turn and there is no left turn lane, so people are driving off the roadway to try to turn right if there is no traffic. She asked the City to encourage GDOT to make improvements to that intersection; 6) There is a natural spring on the property which has a constant flow of water and a wetlands area; 7) Concerns with an expansion of the development in the future by utilizing the greenspace; 8) Lanier Valley Drive has old ditches and culverts which get stopped up with garbage and needs to be improved; 9) Office space being rented to out to other people; and 10) Buses traveling down the road.

Sherry Kelley, 1353 Lanier Valley Drive, stated her family bought their property in 1970 and she has lived there for 48 years. She has never had a problem with the water quality from her well but her main concern was how the groundwater would be affected by the parking lot and roof water run-off from this development. She stated the detention pond would hold oil from the parking lot which would probably seep into the ground and it appears it would be located on the closest side nearest her well. She wanted to know what the setbacks would be for the detention pond as far as her well was concerned. She stated there was a larger well down the street which serviced the rest of the neighborhood but her well was right in line with the development. Other concerns she had are as follows: 1) Clarification of the location of the existing gravity flow sewer line; 2) The noise and placement of the air conditioning units, noting they would have to be at least 20 tons; 3) Dumpster location; 4) Noise from a commercial kitchen; 4) Stacking on Lanier Valley Drive with people trying to turn into the development and having to wait on a gate to open; and 5) She would like to see an environmental study completed due to the natural spring on the property and her well to protect the quality of the water. Ms. Kelley stated they had more questions they would like to address with the applicant's attorney if possible.

Jack Scales, 1435 Douglas Drive, suggested since speed cannot be regulated along Lanier Valley Drive, a good solution would be to install speed tables to slow down traffic. He stated there is a lot of pedestrian traffic along the road from the apartment complex and people out walking their dogs down to the park. Mr. Scales stated they also need a turn lane on Lanier Valley Drive and the traffic signal adjusted to allow more cars out onto Dawsonville Highway.

Clyde Morris, 2375 Whippoorwill Lane, stated there is a Gainesville-Hall County Metropolitan Planning Organization (GHMPO) Tier 2 project on the books for a potential bypass from Dawsonville Highway to McEver Road. He stated the only pathway for that bypass he could see would be along the power line cut which can be seen from the aerial location map. He was afraid we could be encroaching on that route with all the new developments in the area and if not careful, we could be boxing ourselves out of a pathway for that bypass.

Richard Harris, 1459 Douglas Drive, stated he was not necessarily opposed to the development but they have a lot of unanswered questions. He stated no one has tried to contact them regarding the development and he just heard an attorney say it is a win/win for everybody and passed out letters to the Board in which he had no idea what was in it so they would like all their questions answered before the Board approves the request.

Upon inquiry from the audience, Chairman Carter stated the options the Board could take on any agenda item and noted he would try to get answers to the questions presented, noting some of them are unanswerable by this Board.

Chairman Carter stated the applicant made the point that the property is already zoned and the development could be constructed as is, but part of the duties of this Board is to make sure each development is for the greater good of the City and the Board cannot prevent the property from being developed.

Upon inquiry by Chairman Carter, Planning Manager Matt Tate stated the potential bypass Mr. Morris mentioned as a GHMPO Tier 2 project is an area parallel to Otila Drive which has been located as a potential connector road off of Dawsonville Highway but there have been no detailed plans completed. Mr. Tate stated according to the Gainesville Public Works Department, the proposal would not interfere with the potential bypass. He stated there is a 50-foot wide strip between Otila Drive and the subject property which is not owned by the applicant and that would be the proposed route to continue on to parallel with Bluff Valley Circle but reiterated that nothing has been designed at this point.

Eddie Hartness stated to deny the rezoning request because of something that might happen in the future to keep it from being developed would be an inverse condemnation and improper. Chairman Carter stated that was a good point as road projects could take 25 years.

Chairman Carter stated he was a big fan of speed tables as they are effective at slowing traffic but was unsure how much of Lanier Valley Drive was in the City and County. Planning Manager Matt Tate stated the white shaded section of the roadway as shown on the location map is in Hall County so it would require cooperation from them to get speed tables installed, noting he could reach out to the County but encouraged the residents to talk to their County Commissioners as well.

Mr. Hartness stated they would have no problem with any improvements the City and/or County could do to help slow down traffic.

REBUTTAL: Eddie Hartness shared the following comments in rebuttal to the comments and questions stated earlier: 1) Until the request is approved the non-profit would not complete any engineering studies and surveys, with the exception of the preliminary items which were required for the application process; 2) The detention pond would naturally be located at the lower end of the property as water runs downhill, but the design of the detention pond should reduce the amount of water leaving the property by catching it, detaining it, filtering it and releasing it slowly. So there should be no effect on culverts as there would be nothing discharged except storm water since the property would be serviced by the City's water and sewer system; 3) All building codes would be met just like any other project; 4) The plan presented is conceptual and not final as the plans must go through the plan review process where things such as the double entrance gate would be reviewed in regards to sight lines and the location could change during the review process; 5) Regarding traffic stacking problems, there would be no big groups coming into the development and it would not be like a subdivision so it should not be an issue; 6) All office space would be used solely by the non-profit; 7) There is no commercial kitchen planned for the development although there may be commercial grade appliances where residents would cook for themselves; 8) Regarding Ms. Kelley's well, it should be less of a problem after the detention pond is constructed because the water would flow slower and it should be cleaner as that is how the detention pond is designed; 9) The wetlands area would be taken into

consideration as you could not build in those areas which would also be addressed during the plan review process; and 10) The air conditioning units will be up next to the building.

Mr. Hartness stated that a lot of the concerns stated are things the City already regulates and although they were good questions and he understood their concerns, he did not hear anything that should cause any problems.

Chairman Carter asked about the greenspace and if it would be used for an expansion in the future as Mrs. Harris questioned. Mr. Hartness stated they are planning to keep it as greenspace at this time but could not say if an expansion may be needed in 10, 20 or 30 years from now; however, if it is expanded in the future, the expansion would have to go through the plan review process again to address any issues. Mr. Hartness stated when you look at the value to the community in the future, the proposal limits traffic and other things in comparison to what could be put there without any zoning changes and that was his reason for calling it a win/win development. He understood people don't want change, they want greenspace, but change will come to the property one way or another and this proposal benefits the property owner in the short term and benefits the neighborhood in the long term as traffic increase will be minimal with the proposal.

Planning Manager Matt Tate stated he received 34 questions from the neighborhood on Monday of which he answered and provided 19 of them to Mrs. Harris today but ran out of time to address each question as he was trying to coordinate with the applicant as well. He stated Ms. Kelley's main concern was with the water quality of the groundwater rather than storm water and how it would impact her well. He had explained to Ms. Kelley before the meeting that until we receive civil engineered plans, we would not know if there would be any impact; however, there are requirements to not only detain the water but to treat it which could be done with options such as bio-filtration, rain gardens, filter systems, etc. He stated detention ponds are designed to catch pollutants from parking lots when it rains and treat the water so it should not negatively impact the surroundings.

Mr. Tate stated the proposed gate as shown on the concept plan is almost 40-feet from the front property line which exceeds code requirements and should not be a problem. He added the developer plans to fully buffer the property as much as possible and may use a type of fencing which could be buffered in such a manner as to not be visible.

Planning and Appeals Board Comments: Vice-Chair Fleming addressed Richard Harris' comment regarding the letter from Stephen Lovett presented to the Board by Mr. Hartness and explained that it simply stated why they are pursuing the rezoning. She offered to give him a copy of the letter.

There was a motion to recommend approval of the request to rezone the subject property from Residential-II (R-II) and General Business (G-B) to all General Business (G-B) with the following conditions:

Conditions

- 1. The proposed use/building shall be generally consistent with the standards depicted on the architectural pictures provided with this rezoning application including exterior materials and roof pitch to present a residential appearance.**
- 2. The subject property shall be limited to the proposed use and professional office uses. A different type of non-profit residential facility is not permitted for the property.**

3. **The development shall require a minimum 35-foot wide evergreen planted buffer adjacent to all single-family properties as required by the code and upon meeting the planting requirements within the power line easement. The location, spacing, size and type of trees planted shall be subject to Community Development Department Director approval.**
4. **The property shall be limited to one monument style sign not to exceed 32 square feet in size with indirect (ground) lighting.**
5. **The proposed fence and gate shall be wrought iron or a black vinyl coated chain link fence.**
6. **Prior to a permit being issued for the subject property, a Traffic Impact Study shall be required if determined necessary by the Gainesville Public Works Department Director and the Georgia Department of Transportation (GDOT).**
7. **All access point design for the subject property shall require review and approval by Hall County and the Gainesville Public Works Department Director. All required access/traffic/sidewalk improvements associated with the proposed development along Lanier Valley Drive or any additional improvements identified within the Traffic Impact Study, if determined necessary, shall be at the full expense of the developer/property owner.**
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 Thompson
Motion seconded by Board Member White
Vote – 6 favor, 1 vacancy

ADJOURNMENT

There was a motion to adjourn the meeting at 6:40 p.m.

Motion made by Board Member White
Motion seconded by Board Member Martin
Vote – 6 favor, 1 vacancy

Respectfully submitted,

Doug Carter, Chairman

Judy Foster, Recording Secretary