

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF MEETING
FEBRUARY 8, 2022**

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

Members Present: Chairman Doug Carter, Vice-Chair Jane Fleming and Board Members Rich White, Eddie Martin and Kelvin Simmons

Members Absent: Carmen Delgado and Ryan Thompson

Staff Present: Community & Economic Director Rusty Ligon, Community & Economic Deputy Director Matt Tate and Recording Secretary Gwen Fleming

Others Present: Council Members Barbara Brooks and George Wangemann

MINUTES OF DECEMBER 14, 2021

There was a motion to approve the minutes as presented.

Motion made by Board Member Fleming
Motion seconded by Board Member White
Vote – 5 favor, 2 absent (Delgado, Thompson)

OLD BUSINESS

NEW BUSINESS

A. Variance Request

- 1) Request from **Daniel J. Peck** to vary the illumination requirements for a monument sign and wall sign on a 0.62± acre tract located on the east side of South Enota Drive, north of Downey Boulevard (a/k/a **440 South Enota Drive, NE**), having a zoning of Office and Institutional (O-I).

Ward Number: Three

Tax Parcel Number(s): 01-064-002-036

Request: Monument sign and wall sign

Staff Presentation: Deputy Director Matt Tate gave the following staff presentation:

The applicant is proposing to vary the sign illumination requirements within the Office and Institutional (O-I) zoning district to allow a monument sign and a wall sign with internal illumination. The O-I zoning district only allows for indirect lighting such as ground lighting. As well, indirect lighting is typically used in neighborhood shopping districts to help reduce the intensity of commercial uses. The property is 0.62 acres and contains a 6,500 square foot building that is being renovated for office space. The adjacent properties are zoned Office and Institutional (O-I) and Residential-I (R-I) and include medical/dental offices and single-family homes. The proposed monument sign is 67.9 square feet in size and the wall sign is 5.28 square feet in size which are within the size limitation requirements. The applicant did not provide a hardship statement with the application.

The Planning Division staff is recommending **conditional approval** of this variance request based on there being other internally illuminated signs within the immediate area and there being no direct impact on the adjacent residential properties.

Applicant Presentation: **Bill Brogdon**, 440 South Enota Drive stated he is representing Daniel Peck and asked approval from the board. They both agree with the recommendations and conditions from the staff.

FAVOR: None

OPPOSE: None

PLANNING AND APPEALS BOARD COMMENTS: None

There was a motion to conditionally approve the request to vary the illumination requirements for a monument sign and wall sign having a zoning of Office and Institutional (O-I) with the following conditions:

Conditions

1. The base of the proposed monument sign shall match exterior materials of the building.
2. An electronic message board / changeable copy sign shall not be permitted for the subject property.

Motion made by Board Member Martin
Motion seconded by Board Member White
Vote – 5 favor, 2 absent (Delgado, Thompson)

B. Appeal of an Administrative Decision

- 1) Request from **Phillip R. Brown** for an appeal of an administrative decision to disallow use for lodging services on a 3.5± acres tract located at the terminus of Mountain View Circle, west of Honeysuckle Road (a/k/a **725 Mountain View Circle, NW**), having a zoning of Residential-I (R-I).

Ward Number: One
Tax Parcel Number(s): 01-111-001-011
Request: Reverse administrative decision

NOTE: Chairman Carter stated the request for the Appeal of an Administrative Decision was withdrawn and no action was required for this item.

C. Special Use Request

- 1) Request from **McKinley Homes US, LLC** for a special use on a 7.74± acres tract located on the west side of Florence Drive, across from its intersection with Bentley Park Circle (a/k/a **2920 Florence Drive, SW**), having a zoning of Office and Institutional (O-I).

Ward Number: Four
Tax Parcel Number(s): 08-015-005-029
Request: Residential townhomes

Staff Presentation: Deputy Director Matt Tate gave the following staff presentation:

The applicant is proposing a special use for the development of 70 fee-simple townhomes on 7.74 acres. The property contains a church building, parking lot and two driveways that will be demolished, heavily wooded and contains a Georgia Power easement.

Some of the surrounding uses include the 42-unit Bentley Park condominiums, 52-unit Richmond Gardens condominiums, 47-unit Richmond townhomes, 26-unit Fox Hollow condominiums, cellular tower, Free Chapel Worship Center campus and the Hall County Administrative and Sheriff's office.

The proposed residential density for the property is 9.04 dwelling units per acre. The townhomes are two-story in design ranging from 1,603 to 1,863 square feet in size, with two car garages. Exterior materials include a mixture of brick, cementitious siding, shakes and board & batten.

Two driveways are proposed from Florence Drive and 18 guest parking spaces will be provided in the community. Amenities are to include a small pocket park, children's play area, dog walk and community mailbox. Stormwater detention will be located to the rear of the development.

The Future Development Map for the City of Gainesville places the subject property within the Public / *Institutional* / *Transportation* / *Utility* land use category and the Character Area map places the subject property is located within the *Suburban Residential* Character Area which includes a mixture of housing types ranging from low to high density.

The Planning Division staff is recommending **conditional approval** of the special use request based on the Comprehensive Plan and the adjacent attached residential uses.

Applicant Presentation: Bill Schimdt, 9915 Buice Road, Alpharetta with McKinley Homes explained there will be 70 fee-simple units with prices from high 200's to low 300's which fits with the surrounding neighborhood. There will be a buffer in the back between the utility easement and in the front with a 20-foot landscape buffer.

FAVOR: None

OPPOSE: Andrea Crozier, 641 Ridgewood Avenue, asked if the project was in the city limits or in the county and Chairman Carter answered it would be in the city limits.

Betty Lou Pfister, 3012 Bentley Park Circle, stated she doesn't like idea of the project at that location. Florence Drive is a dead-end street which goes to the church property with a gate and is a small road with older folks in the area. She stated the gate is open on Sundays but closed otherwise. Ms. Pfister stated the density proposed is too much for the area and while developing it there would be large trucks and stated the street isn't very wide. She expressed concern with entering into Browns Bridge Road with making left turns and with the amount of additional vehicles along with additional children. The communities are quite, not against growth but such a tight area that it's not a wise decision.

Douglas Young, 2890 Florence Drive in the Richmond Townhomes community stated he attended the monthly meeting of the HOA board and they strongly oppose the proposal. He stated they are not opposed to new townhomes but 70 townhomes is a shockingly large

number. He agreed with all said by Ms. Pfister along with there being no sidewalks. There are 169 residences presently and traffic is too heavy for the small road. Sunday traffic is heavy or any time there is a service at the church. He said a large number of people walk along with elderly residents and children. He stated they are very concerned with an already overcrowded street to add 70 townhomes it will create a traffic hazard but with a smaller development they would not be so opposed. The other concern was with both exits being onto Florence Drive making traffic worse. He asked the board to consider opposing the project or at least 70 townhomes.

Nora Nelson, 2888 Florence Drive stated she agrees with Betty and Douglas, traffic on Sundays is overwhelming with police directing traffic at Browns Bridge Road and Florence Drive. She stated with a large amount of elderly and young people, there is no place to walk or play, no sidewalks and no street lights. Ms. Nelson said the way the road is configured it doesn't lend itself to having an additional 70 townhomes and would like the property to be developed. She suggested infrastructure should be first, safety of the children and current residents and is opposed unless some of the issues be rectified.

Robert Martin, 2963 Bentley Park, stated he is not totally against the development. He said the townhomes look nice which could increase property values but is concerned with the amount of townhomes. He stated if approved would like to see the number reduced or a solution to the issues. He agrees there are elderly people that walk down street, no traffic issues except on Sunday with hundreds of vehicles using the road and hopes some improvement and adjustments with making it a dead-end street again. He agrees the property is an eye sore and sees the value in developing it but Florence Drive is a very small street with no dividing line on it.

PLANNING AND APPEALS BOARD COMMENTS: Chairman Carter asked Mr. Tate the number of units that could be developed and he answered 12 units per acre. Chairman Carter stated the request is under what could be allowed.

There was a motion to recommend conditional approval the special use for residential townhomes having a zoning of Office and Institutional (O-I) with the following conditions:

Conditions

1. The proposal shall be generally consistent with the concept plan and architectural elevations provided with this application per the review and approval of the Community and Economic Development Director.
2. The proposed townhome development shall adhere to the development standards stated within Section 9-10-2-5 of the Unified Land Development Code entitled "Single-Family Attached Dwelling (Fee-Simple Townhouse)."
3. Each townhome unit shall provide a two car garage.
4. The rear and sides of each townhome building shall be constructed with a minimum 3-foot high watermark of brick or stone material. In addition, all roof structures shall be constructed with architectural shingles.
5. All proposed privacy fencing shall be decorative in nature and shall consist of wrought iron, aluminum or vinyl material.
6. A minimum 20-foot wide planted landscape buffer shall be required along Florence Drive. The landscape buffer shall include a minimum 3-foot high landscaped berm.

In addition, a minimum 10-foot wide landscape buffer shall be required along the northerly property line to help screen the rear and side of the proposed townhomes, pocket park and dog walk.

- 7. All stormwater detention ponds shall be properly fenced and screened with a mixture of evergreen trees. The location, spacing, size and type of trees planted shall be subject to the approval of the Community and Economic Development Department Director.**
- 8. The developer/property owner shall construct 5-foot (5') wide sidewalks on both sides of the proposed interior private streets.**
- 9. All access point design for the subject property shall be submitted for review by the Gainesville Public Works Director. The approval of said design shall be required prior to issuance of a building permit. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the developer/property owner.**

Motion made by Board Member Martin

Motion seconded by Board Member White

Vote – 5 favor, 2 absent (Delgado, Thompson)

D. Code Amendment Request

- 1) Request from the **City of Gainesville** to amend the Unified Land Development Code for the City of Gainesville, Georgia to amend Table 9-5-1 of Article 9-5 entitled “Permitted and Special Uses for Residential Zoning Districts”; to amend Table 9-6-1 of Article 9-6 entitled “Permitted and Special Uses for Nonresidential Zoning Districts”; to amend Section 9-10-2-5 entitled “Single-Family Attached Dwelling (Fee-Simple Townhouse)”; to amend Section 9-10-3-5 entitled “Private Swimming Pools”; to amend subsection (b) of Section 9-18-6-6 entitled “Changeable Copy”; to amend subsection (c) of Section 9-21-1-12 entitled “Powers and Duties”; to amend subsection (d) of Section 9-22-2-18 entitled “Action by Governing Body”.

Staff Presentation: Deputy Director Matt Tate stated staff has identified 7 sections of the Code to amend and then explained each one. Table 9-5-1 (Permitted and Special Uses for Residential Zoning Districts) and Table 9-6-1 (Permitted and Special Uses for Nonresidential Zoning Districts) were being amended to introduce a new use “short-term rental” which is defined as the occupancy of all or a portion of a residential structure rented to the public for a fee for the purpose of overnight lodging for a period of not more than 15 days and includes Airbnb, VRBO and the like. Mr. Tate stated currently short-term rentals are considered a “Lodging Service” use which are not allowed within Residential districts but are allowed in Commercial districts. The proposed change will allow short-term rentals within the zoning district of Residential and Office (R-O) but will not allow short-term rentals within all other Residential zoning districts in order to protect the established neighborhoods. Also, Table 9-6-1 is being amended to allow a drive-thru restaurant in the Neighborhood Business district. Section 9-10-2-5 is being amended to address parking and driveway requirements for fee-simple townhome developments. Section 9-10-3-5 (Private Swimming Pools) is being amended to address fencing height requirements. Section 9-18-6-6 (Changeable Copy) is being amended to allow a digital price changer sign on a fuel canopy in lieu of having a monument sign. Section 9-21-1-12 (c) (Powers and Duties) is being removed to no longer require the Planning and Appeals Board to make recommendations on code amendment requests. Section 9-22-2-18 (Action by Governing Body) is being amended to allow the

governing body to table items “at a future meeting” instead of requiring it at the next regular scheduled meeting which for more flexibility.

Chairman Carter stated the Planning and Appeals Board is a recommending board for code amendments and this item will be moving forward to City Council for a final decision on March 1, 2022. In regards to short term rentals, Chairman Carter said City of Gainesville Code Enforcement plays a role with this type issue when there are current or future violations.

Public Comments:

Daniel Peck, 1354 Sterling Bridge Court, stated he owns a home on lake and is building another one in Chattahoochee Country Club which could be a possible option for short-term rentals. He also has property in Tampa and Gulf of Mexico stating one side of the community had less canals so limited rentals to six months and the other with more canals was 12 months to help with the amount of boat traffic. Mr. Peck stated it might be a possible option to consider if coves or lake homes are affected.

Robert Owen, 820 Holly Drive, stated he is for doing away with short-term rentals in the city. He said after speaking with ten families on Holly Drive all are opposed to short-term rentals in the residential areas of the city. He then asked people to stand that were opposed to short-term rentals in residential areas and approximately 25 people stood. Mr. Owen said people that live in R-I, R-II or R-I-A do not want short-term rentals. Then he said the belief of people that have short-term rentals that they can do as they want with their property is not true just as they can't put up a nine-foot fence, drill for oil or run a commercial business. Why do people think they can open their house and let anybody come into a neighborhood not knowing who the people are, staying for three days, throwing parties, making all kinds of noise. He stated he is adamantly opposed to it along with the majority of people in Gainesville.

Joy Pinder, 301 Ridgewood Avenue, stated she has an “STR” and has worked for Airbnb for five years. She said something to consider with STR's in residential areas is if there is an HOA it can govern if allowed or not. She stated STR's that do home exchanges which is going to a different city and they stay in your place. She said with STR's and Airbnb, they are monitored by their platforms. Her property has ring cameras and if there is any suspicious activity the reservation is cancelled, Airbnb has a team to come in to take these people away. She stated in the last five years, most people come to Gainesville for family reunions, weddings, funerals, to visit family and not to have a good time and party. She stated she does not live on the lake and could see possibly being a marketing strategy for people who are interested in parties. Mrs. Pinder stated her husband took a pay-cut at his job, stayed at grandma's house to Airbnb their house which helped pay the mortgage for two years. She said there are good things with STR's but lots of news about the bad but in the last five years have had success and met great people. Also she stated it brings a lot of good tourism to Gainesville, spending money in the shops downtown and is good to put Gainesville on the map with it.

CJ Greene, 839 Cherokee Road, stated they own multiple Airbnb's in the city and county and along the Georgia coast, manages 10 and has a lot of experience with the platform and properties. She stated they are long-term rental owners within city, changing most of the investments over to short-term rentals because of wear and tear and the way you keep your property with long-term is very different than short-term property. She said the property must be well maintained and landscaped well kept, fresh paint, well decorated and be competitive to be rented. She said the way they keep their short-term rentals is vastly different than long-term. Mrs. Greene stated there is very strict occupancy on their property, not maximizing

bedrooms keeping it very conservative because of wear and tear. She said they have a family lake home that they Airbnb which pays for family bills and pays the hotel tax in the county including renters visit Riverside and family, spends money at local businesses. Mrs. Greene believes there are two sides to the issue and hopes it becomes a larger discussion.

Jeff Hylton, 3395 Harbour Point Parkway, stated he owns two of the largest short-term rentals in the county, one being a 14 bedroom lake house near Marina Bay. He stated in 2018 the county had no regulations but now he serves on the board of the Convention of Visitor's Bureau and is the short-term rental representative for the county. Mr. Hilton stated short-term rentals are here to stay and many prefer them over a hotel experience. He stated the answer is not to shut down short-term rentals but to have the proper regulations in place to shut down the "bad apples" and in favor of shutting them down along with pro STR's. He said he has owned a short-term rental called Chateau on Lanier at Sidney on Lanier for two and a half years putting thousands of dollars into the property and possibly the largest short-term rental in the city along with the largest short-term rental in the county. He worked with county commissioners in 2018 to find regulations that were fair to everyone with ways to regulate it and get the tax dollars. He said one of his properties paid eighty percent of the hotel tax for three or four years until the regulations were adopted but now there are hundreds of short-term rentals in the county that pay five percent to the county and provides a lot of revenue. He said the short-term rentals provides business to the restaurants on the lake and town. He is willing to offer his services to find a fair regulation for everybody, get rid of the "bad apples" but Airbnb, VRBO and short-term rentals are here to stay. Having a fair regulation for both sides is very important. He stated he has never had a complaint that he is aware of and not everyone wants to stay in a hotel on vacation. He believes short-term rentals are good for the community and neighborhood. He said the home he rents out is vastly improved from three years ago. He stated the county has already created the regulations and structure for it and Stacey Dixon with the Convention of Visitor's Bureau is fair for all involved and will help any way.

Steven Thomas, 625 Bradford Street, asked Mr. Tate if there would be any change to Airbnb's being in R-I zoning in Ridgewood historic district and was told it would not change. He then gave an example in New Orleans with properties being bought up and a year later wondering what happened to their neighbors. He said it took years and law suits but New Orleans changed the laws and regulations causing the properties to be put back on the market for sale to private owners. His concern was with neighborhoods being taken up with short-term rentals and not having a neighborhood any longer.

Bill Morrison, 801 Honeysuckle Road, thanked board members and staff stating it is a challenging job. He stated there were a couple of meetings at his house the past week that were very complicated. He heard from the conversations the goal was to make money in R-I, their neighborhoods, it was all about money. He said they want a quiet, tranquil place to live and that is the reason they purchased the property in that location. Dr. Morrison said allowing STR's and promoting them will have a domino effect with eventually there will not be R-I's any more. He also told about a time in their neighborhood with four people being intimidated and scared by an owner in their neighborhood that rented to people with cigarette boats. He stated the noise was so loud he thought it was rangers with helicopters or fire emergency services. He went outside and across the cove were cigarette boats going very fast, dangerous, loud and had no respect for the neighborhood. He then said some neighbors asked them to be respectful but were chewed out and were intimidated and told not to complain any more or they'd be sorry, subpoenaed and sued which some residents put bars on their windows. He stated he didn't know if Mr. Hylton lived in the neighborhood but if he did then he might have a different prospective. Dr. Morrison said there are five properties in

his neighborhood that are renting out with one having a cease and desist. He stated it is illegal and it's tough for code enforcement because they aren't aware and is up to the neighbors to say something. He thinks the staff has come up with a good beginning for short-term rentals but would like to strengthen it by suggesting to make it 365 days instead of 15 days which will eliminate all the problems in R-I. He said short-terms should not be in R-I and also there should be no advertising for anything less 365 days or subleasing. He stated if it is made long-term then it would eliminate the subleasing. He would like for the PAB members to make that recommendation then go to city council and hopes the board thinks the same way too.

Kommerina Daling, 724 Honeysuckle Road, stated the property owners in residential neighborhoods want to keep it residential. Her concern was if the neighboring houses were short-term and wanted to sale it for another family to enjoy then it will not sell very well. Ms. Daling stated there are statistics that show 15 percent of homes are flipped to short-term rentals then the home values of others dropped by 20 percent. She said if there are two homes that are short-term rentals out of four then the property value could drop by 50 percent and no one wants to live next to party home or purchase a home next to a party home.

PLANNING AND APPEALS BOARD COMMENTS: Chairman Carter stated he has been generous with the time with good points made on both sides of the issue and closed the public portion. Chairman Carter asked Mr. Tate for clarification as to if a motion could be made to pass all or parts of the proposed amendments. Mr. Tate confirmed that all or parts of the proposed amendments could be considered or amended further.

There was a motion to recommend approval of the code amendment request as presented.

Motion made by Board Member Martin
Motion seconded by Board Member Simmons
Vote – 5 favor, 2 absent (Delgado, Thompson)

ADJOURNMENT

There was a motion to adjourn the meeting at 6:32 p.m.

Motion made by Board Member Simmons
Motion seconded by Board Member White
Vote – 5 favor, 2 absent (Delgado, Thompson)

Respectfully submitted,

Doug Carter, Chairman

Gwen Fleming, Recording Secretary