



Planning Commission Meeting
Monday, January 5, 2023
7:00 pm

PRESENT:

Chairwoman – Marilyn McCain
Vice Chairwoman – Linda Johnson
Member – Trevor Cason
Member – Robert Potts
Assistant City Attorney - Patrick Stough

Director – Tony Alston
Assistant Director – Janna Keller
Planner I – Chanelle Campbell
Administrative Assist. – Kristen Bosah

ABSENT:

Planner Record TCF – Carletta Singleton

I. CALLED TO ORDER:

The meeting was called to order at 7:00 p.m.

II. APPROVAL OF MINUTES:

Thursday, December 5, 2022

On motion of Member Robert Potts, seconded by Member Linda Johnson, and carried, Planning Commission approved the minutes. Vote was unanimous.

III. OLD BUSINESS:

A. Selection & Approval of Planning Commission Board Members

On motion of Member Trevor Cason, seconded by Robert Potts and carried, Planning Commission approved the appointment of Marilyn McCain as Chair. Vote was unanimous.

On motion of Member Trevor Cason, seconded by Robert Potts and carried, Planning Commission approved the appointment of Linda Johnson as Vice Chair. Vote was unanimous.

IV. NEW BUSINESS:

- A. Item# 0001: Case 2022RZ-003-11: An application by Nexus Union City Development, LLC to rezone approximately 40.15 +/- acre tract of land; Parcel ID(s): 09F300001150472 and 09F300001150928 located at the corner of Hwy 92 and South Fulton Pkwy from TCMU, Town Center Mixed Use with 4 conditions to TCMU, Town Center Mixed Use to modify and amend the conditions and site plan from retail commercial to commercial retail, and residential.**

1. PRESENTATION AND/OR COMMENTS:

- A. Presentation by Community Development Department, Director Tony Alston. The applicant is requesting to rezone approximately 40.15 +/- acre tract of land; at the intersection of South Fulton Parkway, and Hwy 92 Campbellton Fairburn Road from TCMU, Town Center Mixed Use with 4 conditions to TCMU, Town Center Mixed Use to modify and amend the conditions and site plan from retail commercial to commercial retail, and residential. This property came to the Planning**

Commission for a subdivision to rezone the parcel from the current industrial development that is on site. The applicant is seeking to develop the Mixed Use portion of the parcel, and seeking to amend the conditions. In 2018, the property was denied a request to rezone, and there was a lawsuit filed by Panattoni Development. An agreement in 2019 was approved by Mayor & Council that included the following: 1) The applicant would agree to set aside 1.5 +/- acres for a park. 2) The applicant shall maintain an undisturbed 75-foot buffer along the frontages of the property and shall berm and plant areas where the existing vegetation cannot maintain the 75-foot buffer. 3) The applicant shall comply with the site plan provided on August 2, 2019 in development of the property. The applicant also includes a 4.2 +/- acre parcel for commercial/office use along Campbellton- Fairburn Road. 4) The applicant agrees to screen the rear of the building where necessary. The applicant has since provided an amended site plan in conjunction with the current logistic center. The plat has been properly subdivided, approved by the Planning Commission and recorded with Fulton County.

After analysis, staff recommends approval with following conditions, 1) The project shall comply with the proposed mixed-use development to incorporate residential and commercial land uses to include: No more than 570 multifamily apartment units (as proposed by applicant), as well as no more than 225,000 square feet of retail (as proposed by applicant). 2) The Site plan must be approved by the Community Development Department, in consultation with the City Engineer of Record, Director of Public Services and Fire Marshal, prior to issuing of Land Disturbance Permits (LDP); and any modifications to the proposed land use, density, and/or scale of development must come back to be approved by Mayor & City Council. 3) Corner Lot Parcel must be combined with Tract (1) one prior to issuance of Land Disturbance Permits (LDP). 4) The proposed residential property must be screened from the existing industrial development with a 15 ft. natural vegetative buffer to include non-invasive species and a (6) six ft. fence to be erected to improve security for multifamily development. 5) Applicant agrees to set aside a total of 6 acres of open space/green space for the site. 6) Maintain an undisturbed 15-foot buffer along the frontages of the property (as requested by the applicant in amendments from the original 75 ft. requirement). Staff is in agreement with the request to reduce the buffer from 75 ft. to 15 ft., since this will be a mixed use project, including the street appeal. 7) The proposed multi-family community shall include a minimum of (2) two of the following amenities: playground, walking or bicycling trail, covered picnic area, swimming pool, fitness center, and clubhouse. The applicant's main request is for flexibility for the site plan. Given the scale of this development, staff is in agreement with the request for flexibility; any major changes to the project would go before the Mayor and Council for approval. In addition, this project did undergo a DRI process; any major changes to the proposed plans will need to comply with DRI requirements, GDOT requirement, and development regulations as well.

Applicant John Macauley, address 1055 Mercer St SE, Atlanta, GA 30316 presented.

B. REMARKS FROM THE PETITIONERS

- Applicant, John Macauley – The parcel is located of South Fulton Parkway and Highway 92. The heart of the development will be Nexus Union Boulevard, this is where the primary restaurants, shops, and entertainments take place. We will partner with a company called Eleven Events, which will plan events for every week for the next year. We are proposing two sets of multi-family projects, Phase I will include 310 units and Phase II will be 260 units for a total of 570 units. Retail will be 225,000 sq. ft. of retail space, this will include five outparcels along Highway 92, a boutique grocery, and we are in talks with a larger grocer. The property was rezoned in 2019, to TCMU with four conditions. While we are rezoning, we would like to maintain the same zoning district of TCMU; adjusting the following conditions: 1) Reduce the buffer along the frontage road from 75 ft. to 15 ft. The original intent of this was to provide a buffer in front of the warehouse. The buffer in

front of the warehouse will remain at 75 ft., and we request the reduction of 15 ft. in front of those five outparcels in front of Nexus Union. This will help to create a destination point for the residents of Union City, and surrounding areas to come. 2) Property to be zoned non-site plan specific. We are requesting flexibility to make adjustments to prevent rezoning the entire property again to adjust the plan. As Director Alston stated, staff will review with the appropriate departments. 3) Reduction in the required parking spaces for multi-family from 2 spaces per unit to 1.4 spaces per unit. 4) Finally, we would like to address staff's request for a buffer between the apartment and the warehouse. Our understanding of the ordinance is that this requirement is mainly designed for warehouses and single family homes. Nexus Union is open to the fence; however, we are not in preference of the 15 ft. buffer. The warehouse will be very quiet, as it is rendered by Fulton County to archive documents and store the voting machines.

C. THE COMMISSIONER'S HAD QUESTIONS ABOUT THE FOLLOWING TOPICS:

- Marilyn McCain (Chairwoman) – (Question) Who would be in charge of bringing out these events?
- John Macauley – (Answer) That would be us, the master developer.
- Marilyn McCain (Chairwoman) – (Question) Will there be management on site?
- John Macauley – (Answer) Yes. We'll hire Eleven Events to manage the day to day part of it.
- Trevor Cason (Member) – (Question) One of those outparcels may be a gas station?
- John Macauley – (Answer) Correct.
- Trevor Cason (Member) – (Question) There is still only one entrance to the area?
- John Macauley – (Answer) There will be two entrances. We are working with GDOT to get permission to put a signal at one entrance. Then near the main entrance into the Boulevard, there will be right in and right out only. So we'll have two entrances.
- Trevor Cason (Member) – (Question) How far is the signal from the current one at the Amazon warehouse?
- John Macauley – (Answer) I'm not sure. I will check on that for you.
- Marilyn McCain (Chairwoman) – (Question) In order to get all those different amenities in that site, there needs to be a non-site plan? But if there are any changes made to it, they would have to come back before the Planning Commission?
- Patrick Stough (Attorney) – (Answer) The changes would be to the density, or the amount of commercial and residential space. What the applicant is mentioning if they do a site plan now, and they want to have a gym. The gym will have to state how big the gym is. But if they come back later and the person who begins building the gym wants it smaller or bigger, if the rezoning depends on that site plan, they would have to go through this process again. The applicant is requesting he flexibility to make the building bigger or smaller.
- Marilyn McCain (Chairwoman) – Ok, that warrants the Non-Site Site plan?
- Tony Alston (Director) – Staffs conditions limits the amounts of changes to the use of the land. So if they come back with a different land use, they will have to come back through this process. Because that is not what is being proposed and presented to the Planning Commission. It also gives a cap on the multi-family as well as sq. ft. retail space.
- Robert Potts (Member) – (Question) Won't this question the need for a Board if the applicant will have a self-evolving community?
- Patrick Stough (Attorney) – (Answer) We do not generally have rezonings that are specific to a site plan. This did not go through that type of process, because it went through litigation. Part of that agreement between parties to settle the litigation was the site plan. We are addressing the unusual situation created in 2019, which is to modify that condition so that it is not as dependent on that particular site plan anymore. They will still have to have a site plan and go through that process.
- Robert Potts (member) – (Question) The petitioner is requesting the site plan not be written in stone, they may want to change or move things. The ordinance states that with multi-family you do not need a buffer. What if the applicant decides to redo his site plan to develop single-family homes there?

- **Tony Alston (Director) – (Answer)** If the applicant changes the land use, he will have to appear back before this Board to review it again. The project would also not be in compliance with the DRI review and it would have to go through that review process as well.
- **Marilyn McCain (Chairwoman) – (Question)** Where else does your organization have another concept like this? Also, where did the concept for this development come from?
- **John Macauley – (Answer)** In South Fulton we have experience primarily with neighborhoods. We built Walton Park, Lexus Cedar Grooves, Union Station and Le Jarden. As far as this type of mixed use development, we've done two- one in Kennesaw called Riding Hour and one in Chamblee called The Oliver.
- **Marilyn McCain (Chairwoman) – (Question)** Would this be a mini-version of Atlantic Station?
- **John Macauley – (Answer)** No, Atlantic Station has high rise buildings.
- **Marilyn McCain (Chairwoman) –** Not regarding the building size, similar to activities involved in the space.
- **John Macauley – (Answer)** I would agree with you on that. Another example would be The Avalon in Alpharetta, this would be a mini Avalon; same type of concept.
- **Linda Johnson (member) –**As far as size is concerned, it will be more equal to Avalon?
- **John Macauley – (Answer)** Just a bit smaller than The Avalon.
- **Trevor Cason (member) – (Question)** Has any movie theaters made contact?
- **John Macauley – (Answer)** No movie theaters are looking to expand, and the major movie theaters are actually filing bankruptcy. We're working with another company called Ackerman & Co. at the concept of a black box, where it can be very versatile. You can display plays, movies, comedy, similar to The Fox in Atlanta. We are not familiar with the concept, but we are looking into it.
- **Linda Johnson (member) – (Question)** How many stories?
- **John Macauley – (Answer)** Four to five stories.
- **Linda Johnson (member) – (Question)** Why only two amenities?
- **John Macauley – (Answer)** That's only the minimum, they are allotted to do more.
- **Marilyn McCain (Chairwoman) – (Question)** In reference to the condition requesting that the proposed residential property be screened from the existing industrial development with a 15 ft. natural vegetative buffer, what section are you not in agreement with?
- **John Macauley – (Answer)** We are in agreement with the 15 ft. buffer; as we read the ordinance, it states this is a requirement for warehouses and single-family housing, not an apartment complex.
- **Tony Alston (Director) – (Answer)** This condition is being proposed because if you'll look out the window you'll see natural trees, instead of an industrial warehouse. This is for the quality of views. As far as the fence requirement, it protects the residents from walking from one side of the parcel to other, protecting the residents. The non-invasive species is condition to provide relief for native species to the state to grow and reside.
- **Marilyn McCain (Chairwoman) – (Question)** Without the 15 ft. buffer, what are you proposing?
- **John Macauley – (Answer)** A fence, I am not sure of what kind yet.
- **Marilyn McCain (Chairwoman) – (Question)** If they didn't have the buffer, is there a certain type of fencing you're comfortable with, from the city?
- **Tony Alston (Director) – (Answer)** Staff is proposing an ornamental fence, the fence to have limited spacing between the bars to deter anyone from squeezing in between or the masonry walls.
- **John Macauley –** We're going to do a quality fence, we will not do a wooden privacy fence.
- **Marilyn McCain (Chairwoman) – (Question)** Would you be okay with omitting the buffer, if the fencing was of Planning Department's approval?
- **Tony Alston (Director) – (Question)** We are okay with that. Attorney Stough, is it possible to include the amendments, and agree to amendments, and want to move forward with our recommendations, or are the conditions mandatory to change at this moment?
- **Patrick Stough (Attorney) –** We do not put conditions on the rezoning unless the applicant has agreed. If we insist on conditions, and the applicant has not agreed then we deny the rezoning.
- **Marilyn McCain (Chairwoman) – (Question)** The City is asking for a buffer and fence?

- Tony Alston (Director) – (Answer) Yes.
- Marilyn McCain (Chairwoman) – (Question) Is there any compromise?
- Tony Alston (Director) – (Answer) The applicant has agreed to do a 5 ft. buffer and the fence.
- Patrick Stough (Attorney) – (Question) Is the applicant also in agreement of the other conditions proposed by staff?
- John Macauley – (Answer) Yes, I am in agreement with other conditions proposed by staff.

D. PUBLIC HEARING OPEN TO THE PUBLIC:

E. REMARKS FROM THE PUBLIC:

F. PUBLIC HEARING IS CLOSED TO PUBLIC:

G. REMARKS FROM THE COMMISSIONERS, PETITIONER, AND OTHERS:

- a. John Macauley – Lastly, would be the request 1.4 parking spaces per multi-family units. Because this is a mixed use development residents are not reliant on cars.
- b. Patrick Stough (Attorney) – Before you begin, this is actually not appropriate for this Board; this Board does not grant variances.
- c. Patrick Stough (Attorney) – This is an unusual situation, there is a zoning that was conditioned; one of the conditions requires the applicant to comply with the site plan that was created in 2019. That site plan places limitation on the amounts of commercial space that can be on this part of the property, and it also doesn't allow for anything other than commercial on this part of the property. The applicant is asking to amend that condition, there will be a site plan eventually, but it won't be a part of the rezoning itself. The property that was rezoned in 2019 was approximately 100 +/- acres, including the warehouse area. This rezoning is only for the 40 +/- acres next to it, the commercial area. There will be no change to the warehouse property right now.

H. VOTE ON ITEM #00001; Case 2022RZ-003-11

On motion of Member Robert Potts, seconded by Member Trevor Cason and carried, Planning Commission approved the request to rezone with changes to the conditions. Vote was unanimous.

I. ADJOURNMENT:

On motion of Member Trevor Cason, seconded by Member Robert Potts and carried, Planning Commission adjourned the meeting at 7:55 p.m. Vote was unanimous.