



**CITY OF SNELLVILLE
DEPARTMENT OF PLANNING & DEVELOPMENT
MAYOR AND COUNCIL**

CASE SUMMARY

February 22, 2016

CASE NUMBER: #RZ 16-01 CUP 16-01

REQUEST: Official Zoning Map Amendment,
Conditional Use Permit and Request for
Variances

LOCATION: 1103 Athens Highway (US Hwy. 78), Grayson

PARCEL: District 5, Land Lot 101, Parcel 029

PRESENT ZONING: BN (Neighborhood Business) District

FUTURE LAND USE MAP: Retail

OVERLAY DISTRICT: Corridor Overlay District

PROPOSED ZONING: BG (General Business) District

DEVELOPMENT/PROJECT: Fuel Station and Convenience Store
(Existing)

PROPERTY OWNER: Hindia Y. Ahmed
Lawrenceville, Georgia 30052

APPLICANT / CONTACT: Harold D. Ehrman, Esq.
404.374.1883 or Hehrman@ehrmanlaw.com

**MAYOR & COUNCIL
PUBLIC HEARING DATE/TIME:** February 22, 2016 at 7:30 p.m.

STAFF RECOMMENDATION: Approval with Conditions



**CITY OF SNELLVILLE
DEPARTMENT OF PLANNING & DEVELOPMENT
MAYOR AND COUNCIL**

CASE ANALYSIS

February 22, 2016

TO: **The Mayor and Council**

MEETING DATE: February 22, 2016

FROM: Jason Thompson, Interim Director
Department of Planning and Development

CASE NUMBER: **#RZ 16-01 CUP 16-01**

FINDING OF FACT:

The Department of Planning and Development has received applications from Harold D. Ehrman, Esq., representing the property owner Hindia Y. Ahmed who is requesting to amend the Official Zoning Map from BN (Neighborhood Business) District to BG (General Business) District and request for a Conditional Use Permit to re-open and operate an existing Shell fuel station and convenience store located on the 0.88± acre property at the corner of Cooper Road and US Highway 78, 1103 Athens Highway, Grayson.

The applicant is also requesting several variances from the Zoning Ordinance and Buffer, Landscape and Tree Ordinance to be able utilize the existing ±1,075 sq. ft. convenience store, fuel pump canopy and overall site.

The property was originally developed in 1984 by Murphy Oil, USA for a fuel station and convenience store which continued operation under various business and property ownership changes until closure in December 2010. The property has remained vacant since that time and has passed the 18-month grandfathering provision causing the property, and use, to become a non-conforming use that must now be brought into compliance with all applicable City ordinances, unless granted variance relief from these requirements.

In past versions of the Zoning Ordinance, fuel stations and convenience stores were allowed as a principal permitted use in BN (Neighborhood Business) District; however, newer amendments now require these uses to be located in the BG (General Business) zoning district with an approved Conditional Use Permit.

REQUEST:

The applicant is requesting:

- To amend the Official Zoning Map of the City of Snellville from BN (Neighborhood Business) District to BG (General Business) District;
- A Conditional Use Permit for a fuel service station and convenience store; and
- Variances from the City of Snellville Zoning Ordinance, Code of Ordinances (Landscape Ordinance), and Development Regulations resulting from the existing non-conforming issues and lapse in the grandfathering provision of Article V, Non-conforming Uses, as listed below:
 1. Exemption from the Corridor Overlay District requirements (relating to inter-parcel access; underground utilities; sidewalk connectivity from R/W to building; concrete pad and pedestrian amenities; street lights; pedestrian lights; and site lighting; building orientation and parking space location; and pitched roof requirement for buildings under 7,500 sq. ft.);
 2. To install four (4) feet wide sidewalks instead of the required six (6) feet wide sidewalks along Athens Highway and Cooper Road.
 3. Waiver of the eight (8) feet high screening requirement for the dumpster.
 4. To reduce any required buffers to twenty (20) feet.
 5. Exemption from the installation of the required landscaping islands at the end of parking rows.
 6. Allow a general variance for the site to be approved in its current condition except for planned improvements.

STAFF ANALYSIS:

The applicant intends to re-open and operate the Shell fuel station and convenience store. The applicant is proposing to restripe and reseal the parking lot with eleven parking spaces, add to the already existing landscaping, curb painting where needed, and install new LED canopy, building and site lighting. The applicant intends to occupy the existing building with minimal improvements at this time. Once the applicant has established the business with income from operations, the applicant plans to construct a sidewalk along the property boundaries along Athens Highway and Cooper Road.

The Official Zoning Map amendment from BN (Neighborhood Business) District to BG (General Business) District is appropriate given the neighboring commercial businesses found along the Athens Highway corridor. The proposed use of the project will not adversely impact the surrounding properties. Furthermore, bringing back into commerce a vacant property that

has been neglected and used for illegal dumping of refuse is a positive step in revitalizing an aging property located at a major node into the City.

According to Gwinnett County Water Resources, the property is not connected to sanitary sewer. The applicant will be required to obtain Gwinnett County Environmental Health Department approval for use of the onsite sewer management (septic) system (see Condition #5). No waiver is required from Section 62-11, Connection to Public Sewers Required of Chapter 62, Utilities of the City Code since the closest sanitary sewer connection is 700± feet away, well outside the 250 feet requirement of the ordinance.

Given the 31 year age of the property and especially the underground fuel storage tanks, the applicant will be required to obtain all necessary approvals from the Georgia Environmental Protection Division of the Georgia Department of Natural Resources to ensure compliance with EPD guidelines for underground fuel storage tanks (see Condition #6).

Variations Analysis:

The applicant is requesting several variances from the Snellville Code of Ordinances including the Zoning Ordinance, Development Regulations, and Buffer, Landscape and Tree ordinance as listed below. These requests are a result of Section 5.4 of Article V, Non-Conforming Uses and Structures of the Zoning Ordinance, requiring properties that have been vacant for over 18 months to conform to all current code regulations. It is nearly impossible to bring an over thirty (30) year old development into compliance with current codes without a complete demolition and redevelopment of the property.

The following variances are being requested, as well as, additional variances discovered by the Planning Department, which are necessary:

1. Section 9.15, Corridor Overlay District Requirements, Article IX of the Zoning Ordinance.

Exemption from the Corridor Overlay District requirements (relating to inter-parcel access; underground utilities; sidewalk connectivity from R/W to building; concrete pad and pedestrian amenities; street lights; pedestrian lights; and site lighting; building orientation and parking space location; and pitched roof requirement for buildings under 7,500 sq. ft.).

This variance seems appropriate due to the fact that the building and site were originally constructed in 1984 prior to the advent of many of the City's current ordinances. Requiring the adherence to the regulations would cause and undue hardship on the applicant and could cause the property to remain out of commerce until such time that it was totally redeveloped. However, these variances will become null and void should the property be redeveloped. Furthermore, the applicant should install at a minimum the amenity pad and bench and trash receptacle as part of the sidewalk installation as shown on the submitted site plan.

2. Section 6.13(3)(b), Sidewalks Required, of Article VI of the Development Regulations.

Request to install four (4) feet wide sidewalks instead of the required six (6) feet wide sidewalks along both the Cooper Road and Athens Highway right-of-way. Such installation would be delayed six (6) months from opening.

This variance request seems appropriate given that the G-DOT standard is a four (4) foot sidewalk with a two (2) foot beauty strip. Also allowing the applicant some time to install the sidewalks after business opening will allow them time to set aside funding for the sidewalk project.

3. Section 19.34, Screening Requirements for Accessory Uses of Chapter 19, Buffer, Landscape and Tree Ordinance.

Request to not screen the dumpster with an eight (8) foot high solid enclosure of the same or similar materials as the front façade of the primary structure on three (3) sides with a gate on the front.

The Planning Department does not support this variance request. The dumpster should be enclosed per the prescribed regulations. The applicant has shown the enclosure on the rezoning plan and should be required to install it.

4. Section 19.32(5) and 19.33, Minimum Buffer Strip Requirement of Chapter 19, Buffer, Landscape and Tree Ordinance.

Request to be reduce any required buffers to twenty (20) feet.

The variance is not required as there are no residential uses adjacent to the property that would require a buffer. It is possible that the applicant is referring the side and rear landscape strip requirement (see Variance #7).

5. Section 19.74(1)(A), Parking Areas, Chapter 19, Buffer, Landscape and Tree Ordinance.

Request to be exempt from installing landscaping islands at the end of the parking isles.

This request seems appropriate given the fact that parking is already limited in size and adding the landscaping islands would reduce the amount of parking.

6. General variance for the site to be approved in its current condition except for planned improvements.

This variance seems appropriate in order to take an existing vacant site and building that was constructed on a limited piece of property prior to the adoption of many of the city's governing ordinances. Variances of this kind have been granted in the past.

As part of the variance analysis, the Planning Department identified the following additional variance for consideration.

7. Section 19.73, Landscape Strips, Chapter 19, Buffer, Landscape, and Tree Ordinance.

Utilize the existing landscaping with additional plantings as indicated on the proposed site plan.

This variance seems appropriate as the site is already pretty well planted with existing trees and shrubs. Removing and replanting what is already there wouldn't be an efficient use of financial resources. However, if any existing trees or shrubs are removed due to the installation of the sidewalks they must be replaced at the discretion of the Planning Director.

Conditional Use Permit:

The applicant is requesting a Conditional Use Permit for the existing six (6) pump fuel center. The requirements of Section 9.10(3)(8)(b), of Article IX of the Zoning Ordinance, regulate the application for this portion of the request as follows.

Gas Stations, provided:

1. Fuel pumps shall not be closer than thirty (30) feet from the right-of-way.

The submitted site plan shows that the pumps are at least thirty three (33) feet from the Athens Highway (US Hwy. 78) right-of-way.

2. Fuel pumps and gas storage tanks shall be set back at least one-hundred (100) feet from any residential district.

The fuel pumps and underground fuel storage tanks are well over four hundred (400) feet from the closest residential district.

3. Canopy design shall conform to the specifications indicated in Architectural Design Standards.

The existing canopy is in compliance with the existing architectural design standards, as well as, Section 8.16 of the Zoning Ordinance.

STAFF RECOMMENDATION:

In conclusion, the Department of Planning and Development recommends **Approval** of the request to amend the Official Zoning Map from BN (Neighborhood Business) District to BG (General Business) District and request for a Conditional Use Permit for a Fuel Station and Convenience Store, subject to the following recommended **Conditions**:

1. The property shall be developed in general accordance with the submitted Conceptual Rezoning Site/Landscaping Plan, entitled "Site Plan 1103 Athens Highway", sealed and dated 10-11-2015, with modifications to meet conditions of zoning or State, County, and City regulations. Substantial variation from the concept plan, as determined by the Director of Planning and Development, will require Mayor and Council approval;
2. Any improvements made to the property as part of any initial building permit issued within the first twelve (12) months from the date of Mayor and Council approval shall not trigger a Substantial Building Permit. However, after the first twelve (12) months from the date of Mayor and Council approval, future improvements or re-development with a total value in excess of the Gwinnett County Tax Assessor's 100% assessed value of the existing improvements (only) will be subject to the requirements of a substantial building permit and applicable Zoning and Development Regulations;
3. Freestanding signs higher than fifteen (15) feet or larger than 225 sq. ft. in area are prohibited;
4. Uses involving adult entertainment, including any sale or display of adult magazines, books, or videos and as further defined by the Adult Entertainment Ordinance in effect on the date this condition is imposed, are prohibited;
5. As a requirement for the release of any Certificate of Occupancy from the City, the applicant shall provide approval from the Gwinnett County Department of Environmental Health Department for use of the onsite sewer management (septic) system;
6. As a requirement for the release of any Certificate of Occupancy from the City, the applicant shall provide approval from the Georgia Environmental Protection Division for use of the underground fuel storage tanks;
7. All exterior building and site lighting shall comply with the City's lighting standards in Section 6.5.6 of the Development Regulations;
8. With the exception of the dumpster enclosure, no building additions shall be allowed until such time as the sidewalks are installed along Cooper Road and Athens Highway by the property owner;
9. Installation of the four (4) feet wide sidewalks along the Cooper Road and Athens Highway (U.S. Hwy. 78) right-of-way shall be completed not more than six (6) months from the date of zoning approval by the Mayor and Council;
10. Any additional non-substantial variance(s) as determined by the Director of Planning and Development for the design requirements, zoning requirements, development regulations and construction requirements must be submitted in writing for administrative approval with the Director of Planning and Development for this project; and

11. In the event that the subject property is not occupied by Hindia Y. Ahmed within twelve (12) months from the date of Mayor and Council approval, or if the property is occupied and later vacated Hindia Y. Ahmed the approved variances will become null and void.

In conjunction with the rezoning approval and recommended conditions, and subject to Condition #10 above, the following variances (1-2 and 4-7) are recommended for **Approval**:

1. Exemption from the Corridor Overlay District requirements (relating to inter-parcel access; underground utilities; sidewalk connectivity from R/W to building; concrete pad and pedestrian amenities; street lights; pedestrian lights; and site lighting; building orientation and parking space location; and pitched roof requirement for buildings under 7,500 sq. ft.).
2. To install four (4) feet wide sidewalks instead of the required six (6) feet wide sidewalks along Athens Highway and Cooper Road (subject to Condition #9).
4. To reduce any required buffers to twenty (20) feet.
5. Exemption from the installation of the required landscaping islands at the end of parking rows.
6. Allow a general variance for the site to be approved in its current condition except for planned improvements.
7. In lieu of the side and rear landscape strips, utilize the existing landscaping with additional plantings as indicated on the proposed site plan.

The following variance request (#3) is not supported and therefore recommended for **Denial**:

3. Waiver of the eight (8) feet high screening requirement for the dumpster.

PLANNING COMMISSION REPORT:

The Planning Commission held a duly advertised public hearing on the subject applications at the January 26, 2016 Regular Meeting of the City of Snellville Planning Commission. For the purposes of promoting health, safety, morals, convenience, order, prosperity, aesthetics, or the general welfare of the City of Snellville, by a unanimous vote of 5-0, the recommendation is to **Approve** the request to amend the Official Zoning Map from BN (Neighborhood Business) District to BG (General Business) District and request for a Conditional Use Permit for a Fuel Station and Convenience Store, subject to the following recommended **Conditions**:

1. The property shall be developed in general accordance with the submitted Conceptual Rezoning Site/Landscaping Plan, entitled "Site Plan 1103 Athens Highway", sealed

and dated 10-11-2015, with modifications to meet conditions of zoning or State, County, and City regulations. Substantial variation from the concept plan, as determined by the Director of Planning and Development, will require Mayor and Council approval;

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6. As a requirement for the release of any Certificate of Occupancy from the City, the applicant shall provide approval from the Georgia Environmental Protection Division for use of the underground fuel storage tanks;
7. All exterior building and site lighting shall comply with the City's lighting standards in Section 6.5.6 of the Development Regulations;
8. With the exception of the dumpster enclosure, no building additions shall be allowed until such time as the sidewalks are installed along Cooper Road and Athens Highway by the property owner;
9. Installation of the four (4) feet wide sidewalks along the Cooper Road and Athens Highway (U.S. Hwy. 78) right-of-way shall be completed not more than six (6) months from the date of zoning approval by the Mayor and Council;
10. Any additional non-substantial variance(s) as determined by the Director of Planning and Development for the design requirements, zoning requirements, development regulations and construction requirements must be submitted in writing for administrative approval with the Director of Planning and Development for this project; and

11. In the event that the subject property is not occupied by Hindia Y. Ahmed within twelve (12) months from the date of Mayor and Council approval, or if the property is occupied and later vacated Hindia Y. Ahmed the approved variances will become null and void.

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