



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

CASE SUMMARY

January 23, 2017

CASE NUMBER: #RZ 17-01

REQUEST: Zoning Modification with Request to Waiver from Approved Plan

LOCATION: Presidential Commons Shopping Center
1630 Scenic Hwy., Snellville, Georgia

TAX PARCEL(S): 5056 008 and 012

CURRENT FUTURE LAND USE PLAN: Commercial Retail

PRESENT ZONING DISTRICT: BG (General Business) District

DEVELOPMENT/PROJECT: Regional Shopping Center

PROPERTY OWNER/APPLICANT: DDR Southeast Snellville, LLC
Beechwood, Ohio 44122

CONTACT: Chris May, Director of Property Management
404.504.6757 or CMay@DDR.com

RECOMMENDATION: Approval with Conditions



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

CASE ANALYSIS

January 23, 2017

TO: The Mayor and Council

MEETING DATE: January 23, 2017

FROM: Jason Thompson, Director
Department of Planning and Development

CASE NUMBER: #RZ 17-01

FINDINGS OF FACT:

The Department of Planning and Development has received an application from Chris May, Director of Property Management, DDR Southeast Snellville LLC, who is requesting zoning modification from the 8-21-1995 approved rezoning (case #RZ 95-08) and waiver from the 8-26-1997 approved landscape plan. The applicant intends to replant a number of trees as per a settlement agreement that was reached with the City on August 18, 2016. The applicant has provided a proposed replanting plan to address the illegal removal of more than thirty (30) trees and various shrubbery that were planted as part of the original development of the property in 1997.

The subject property is a regional shopping center located in the Scenic Highway commercial corridor to the south of the intersection of Scenic Highway and Ridgedale Drive. The adjacent properties to the north, east, west and south are all commercially zoned properties typically found along the Scenic Highway corridor.

BACKGROUND:

On April 30, 2015 the Planning Department received several complaints that landscaping activities had recently taken place at the Presidential Commons Shopping Center involving the removal of several large trees and shrubbery within several landscape strips and parking islands. A thorough inspection was performed on the property and it was determined that a total of thirty (30) trees ranging in size from 4-12 inch caliper (DBH), were removed along with various shrubbery. The property owners were ordered to cease and desist and to provide a replanting plan to replace the specific trees that were removed without a permit.

Negotiations between the City and the property owner proceeded over several months without resolution and on April 27, 2016, nearly a year after the incident occurred, the property owner was presented with citations (one for each day since the original violation) for clearing without an approved permit. The applicant obtained legal counsel who orchestrated a meeting on May 24, 2016 with City Officials and Chris May of DDR. The meeting was held and a general consensus was obtained in working towards a settlement and charges.

The settlement included the following parameters.

1. Provide a planting plan that provides for the largest trees possible given the available planting areas to be approved by the Director and Planning of Development.
2. Make a payment into the tree bank for any deficient tree density units (TDU's) that cannot be met through the planting plan as determined by the Planning and Development Director.
3. Come before the Mayor and Council to request a waiver per section 19-123 of the Buffer, Landscape, and Tree Ordinance to be allowed to vary from the 1997 approved landscape plan and 1995 approved rezoning of #RZ 95-08.
4. Come before Snellville's Municipal Court Judge to answer to the citations that were issued for clearing without a permit.

ZONING MODIFICATION and REPLANTING PLAN APPROVAL:

As a result of the meeting held on May 24, 2016, DDR presented a replanting plan to Planning and Development Department for review and approval. On June 2, 2016 the City forwarded the plan to Chris Barneycastle, Barneycastle Forestry Services, Inc., a certified arborist and Georgia registered forester, for review to ensure that the largest possible trees were being proposed and that the plantings would be viable under the present conditions of the shopping center. Mr. Barneycastle preformed a site visit and confirmed that the proposed trees were the largest caliper possible given the present size and conditions of the parking lot planter islands and would be viable if installed and maintained in accordance with ANSI standards.

The submitted planting plan in Table 1 below provides for the following 2-6 inch caliper (DBH) trees and shrubs to be planted:

Table 1

PLANT SCHEDULE

SYMBOL	BOTANICAL NAME	COMMON NAME	QTY	SIZE	TDU
	ZELKOVA SERRATA	GREEN VASE ZELKOVA	23	4 " CAL.	16.1
	QUERCUS PHELLOS	WILLOW OAK	19	6 " CAL.	19
	TAXODIUM DISTICHUM	BALD CYPRESS	4	6 " CAL.	4
	PRUNUS X 'OKAME'	OKAME CHERRY	23	4 " CAL.	16.1
	PRUNUS X 'OKAME'	OKAME CHERRY	14	2 " CAL.	7
SHRUBS					
	ILEX CORNUTA	CARISSA HOLLY	126	3 GAL.	
					62.2

The tree planting plan maximizes the available area for plantings with 83 trees totaling 62.2 tree density units (TDU's) and 126 Carissa Holly shrubs. The removal of the original 30 trees accounted for 62 TDU's; however the tree canopy/maturity lost will not be recovered for many years until the newly planted trees reach maturity. This loss was quantified by adding the total caliper of the trees removed verses what is being proposed to be replanted. There is a net loss of 14.4 TDU's or \$14,400 dollars which is what the property owner will be required to pay towards the City's Tree Bank Fund.

On August 24, 2016, the property owner answered the charges and appeared before Snellville Municipal Court Associate Judge Tadia Whitner, where they proclaimed that their hired landscaping company was responsible for obtaining the clearing permits from the City and that they are exploring their legal options against the company for failing to obtain the applicable permits. Judge Whitner found the defendant guilty and fined them \$500 per each tree removed. DDR promptly paid the \$15,000 fine.

Waiver Analysis:

The applicant is requesting a waiver from Section 19.123(b) from the 1995 approved rezoning and 1997 approved landscape plan to be allowed to replant as per the November 8, 2016 replanting plan submitted and labeled "PLANTING PLAN".

Section 19-123(b): The Mayor and Council may consider variance requests for this chapter at the time of rezoning and conditional use permit request to approve, deny or amend the request by the owner/applicant.

This waiver seems reasonable and has been reviewed/approved by a professional arborist. The applicant has agreed to the terms of the settlement and now understands the importance of the landscaping and tree ordinance to the citizens of Snellville.

STAFF RECOMMENDATION:

In conclusion, the Department of Planning and Development recommends **Approval** of the zoning modification and recommends **Approval** of the request for waiver in accordance with Section 19-123(b) of the Buffer, Landscape and Tree Ordinance with the following **Conditions**:

1. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall obtain from the City of Snellville Department of Planning and Development a Clearing and Grubbing Permit and complete all said plantings as per the November 8, 2016 replanting plan entitled "PLANTING PLAN" within sixty (60) days of Mayor and Council approval of the zoning modification and waiver request;
2. Within fourteen (14) days following installation and completion of the planting plan, applicant shall post a twenty-four (24) month landscape maintenance bond for 125% of the total material cost. All new plantings shall be staked and guyed in accordance with Section 19-79(b) of Article III, Landscape Ordinance and maintained in accordance with Section 19-117, Maintenance of Article IV, Tree Ordinance of Chapter 19 of the Buffer, Landscape and Tree Ordinance; and
3. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall make a \$14,400 payment into the City of Snellville Tree Bank Fund.

PLANNING COMMISSION REPORT:

The Planning Commission held a duly advertised public hearing on the subject application at the January 3, 2017 Specially Called 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 6-0, the Planning Commission recommended to **Approve** the request for waiver in accordance with Section 19-123(b) of the Buffer, Landscape and Tree Ordinance with the following **Conditions**:

1. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall obtain from the City of Snellville Department of Planning and Development a Clearing and Grubbing Permit and complete all said plantings as per the November 8, 2016 replanting plan entitled "PLANTING PLAN" within sixty (60) days of Mayor and Council approval of the zoning modification and waiver request;
2. Within fourteen (14) days following installation and completion of the planting plan, applicant shall post a twenty-four (24) month landscape maintenance bond for 125% of the total material cost. All new plantings shall be staked and guyed in accordance with Section 19-79(b) of Article III, Landscape Ordinance and maintained in accordance with Section 19-117, Maintenance of Article IV, Tree Ordinance of Chapter 19 of the Buffer, Landscape and Tree Ordinance; and

3. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall make a \$14,400 payment into the City of Snellville Tree Bank Fund.