

REZONING

09-0903

RZ09-15

TAYLOR HOWERTON

1385 & 1389 Old Riverside Road

Land Lot: 575

Kenwin Hayes stated that he is a planner for the city of Roswell and he will be presenting the two rezoning cases tonight. This property was annexed into the city in the late 1990s; however there is a previous rezoning condition that Fulton County placed on the property when it was in Fulton County in 1990. One of those conditions stated that there can only be one driveway on this property. This property has two homes on it. It received the approval from Fulton County to have these two principal structures in the early 1990s, but they put in this limitation for one driveway. Staff has been through the minutes from the Fulton County Commissioners and did not see any reason to why they did this but staff believes it was because of the condition of the road but it was not written anywhere. The applicant is asking that this condition be removed so that this lot can be split and will have a division of this parcel from one to two and have two principal structures on it and for this separate new parcel to have its own driveway. Hayes presented the site plan of the site. The parcel to the west is where the existing driveway is now. They are proposing to split the lots right down the middle and put an additional driveway on the far east portion of the new lot. This project did come under review by the Atlanta Regional Commission since it is in the Chattahoochee area that has to be reviewed. Jim Santos stated that since they are not adding any additional impervious surface that this would be a non-significant improvement. They are going to take away some impervious from the existing lot to the west and give that allocation of impervious surface to the new lot to the east. Hayes presented a conceptual plan of what the applicant is going to do with splitting the lot and the new driveway.

Staff recommends that this restriction be removed to allow the new parcel to have its own separate driveway and that prior to any further permits being issued that the division plat be submitted and approved since all of these calculations that the ARC pre-approved are based on the various soil types, the amount of impervious for each lot because each lot has a certain amount. They are asking that the division plat be done since each lot has a separate amount that they can use.

Loren Conrad stated that in reading this he understood that they are going to use gravel driveways so there is not going to be any impervious surface in this situation. Hayes stated that was correct. Conrad stated that the concern of the ARC for pervious surface doesn't seem to be significant. Hayes stated that the applicant does have on the site plan a proposed addition to the front of the house, a proposed car porch. So that was another trigger for it going to ARC.

What they plan to do is there a very large parking pad that the two lots share now. They were going to take some of that parking pad that is almost like a concrete pad and give that allocation to the new lot for the driveway and the new proposed car porch. Conrad asked if they will have to remove part of that parking pad in order to....Hayes stated that they would. Conrad stated that he was not aware of the addition to that.

Susan Baur stated that under the landscape plan analysis it talks about the carport and removing a seven inch and a 17-inch hardwood from the site. She is assuming that the ARC has reviewed and approved the removal of those trees. She knows that there are special rules about the trees in the river corridor. Kevin Hayes stated that was correct.

Laura Light clarified that in essence all that is proposed is to remove a condition but they are not bringing this into the city of Roswell's zoning. In other words it is currently zoned as it was brought in under Fulton County and they are not converting it to an R-1 or R-2. What is the process in which they can take away a condition of a zoning that isn't theirs? Why wouldn't they just...she knows that in the past when people have come up in front of the Planning Commission they have incorporated them into Roswell zoning when they have done whatever request that they have asked the Commission to do. So, why are they not doing that now?

Brad Townsend stated that the applicant is not requesting the property to be rezoned or brought into a city zoning category. It is still going to remain FC-A but with the county condition of the limitation of one driveway that once the property is subdivided it has no access to the street. The application is not requesting to change the zoning of the property, he is asking just for the removal of the condition, which staff is recommending be removed.

Laura Light asked as a governing body why wouldn't the Commission want to encourage any citizen who lives within the city to when coming and requesting this from them to then come up to the city's specifications and its standards and be zoned within the normal zoning that they have.

Brad Townsend stated that he was not sure if they zone it a normal designation. He does not believe the analysis has been done but they may be creating a more non-conforming situation by putting one of the city of Roswell's zoning code specifications on it. For example, if they zone it R-2 and it needs a 10 foot setback and these current homes that are currently existing on the property don't provide a 10 foot setback. They are then creating a non-conforming house. As it sits today it conforms with the zoning in which it had with the county.

Laura Light stated that she understands and respects that. She really does not understand why in the past they have had....people have asked for rezoning. Townsend confirmed that they have requested that property come in to a city

zoning. Light clarified to a different zoning than what they currently had. Townsend stated this usually gives them some other privileges or rights that they may not have with the county zoning. Light asked if it was fair to assume then that the whole strip through Old Riverside there is all still FC-A. Townsend stated that it was all FC-A. It will probably always remain FC-A.

Sarah Winner stated that she had a couple of questions. She went down and actually walked this property and it is her understanding that these homes were originally owned by the same family hence the reason there were two homes with one driveway. Where is the concrete that they are planning to pull up? If Winner's memory serves her right it appeared to her that everything was gravel. Or when they talk about removing pervious surface Winner thinks that if the Commission permits this driveway the very next thing that is going to back before the Commission is building in this area.

Brad Townsend stated that he believes there is some asphalt or harder surface in this area which was to be removed.

Sarah Winner stated that she may have missed it but it looked to her like the only cement was a little bit of a lip going into the one car garage. She guessed that she could address that to the applicant when they come up.

Winner stated that she pulled up the Fulton County....she thinks she is probably looking ahead because she is assuming that once the driveway is in and the car porch is going to be coming along next. It was her understanding that one couldn't build within 100 or 150 feet whether it is pervious or impervious. She is just wondering how this carport, which would require the applicant to be within that limit and also remove some trees that appear to her to be pretty good sized trees. How could this carport appear in this location? She knows Jim Santos and she respects his opinion but she is wondering if he has seen this whole thing or if he is familiar with all of this and if there is some kind of a note or something from him or the ARC saying that this future plan is okay with him too. Winner is questioning how they can build a structure within the 150 feet. She would have thought it would have to be closer toward Riverside Road. She is also questioning where this pervious surface is coming from that would allow...if it is a carport it is probably a two-car carport, which is 20x20 and she did not see any 20x20 foot poured cement anywhere on this property.

Kenwin Hayes stated that Santos came in and talked with staff and the applicant. The definition that ARC uses is not necessarily concrete. He used the compactness of the soil, the hardness of it. So, he went out to the site and determined that the pad actually goes almost to the house to the east. Right now the current plan shows it being cut off but....Sarah Winner clarified that Hayes was talking about the gravel driveway. Hayes stated that he was. She agree that the gravel driveway does extend so Santos is saying by removing a gravel driveway they can turn around and put some kind of a parking pad down for the

carport? Hayes stated that that category of vulnerability that ARC uses for development that area is more severe. Say it is a category B. One can switch that category B to a less severe case so where the proposed carport is going is a less severe category that ARC uses. So they could use less of the vulnerability in the higher one and it would transfer to a larger amount in C or a less severe category. It is not necessarily one for one. It is the severity it is losing. It is going to a less severe category since it is further away from the river and the compactness of the soil and he also uses the 110 and 500 year flood plain to do his calculation as well. Hayes has a letter from Santos stating.....

Winner clarified that Santos was okay. He has seen the carport plan and everything and he is cool with all of that. Kenwin Hayes stated that was correct. There has only been one plan with this project. It hasn't changed since day 1. Winner stated that when she has pulled up the Fulton County plats on this she was somewhat confused by the lot line. On this they are showing a shed that is exclusively on the neighboring property and on the Fulton County plans that she pulled up it showed the shed actually extending on to this property. Has that shed been reduced in size? They nodded yes.

Susan Baur asked Kenwin Hayes if he had a letter from ARC. Hayes stated that he did. She asked Hayes to put it on the overhead.

There were no further questions for staff at this time. Susan Baur stated that the Commission will now hear from the applicant.

Taylor Howerton stated that he is the applicant. He does not own the property, 1385 or 1389 so they are looking to purchase 1389. Also present was his architect who has been helping to go through a lot of this process. Howerton thinks that Hayes explained it pretty well in terms of what they are trying to accomplish, which is working with the existing what is designated as pervious surface. It is kind of a hard, compacted gravel. He does not know if there is a lot of concrete around there it is has been designated by the ARC that the gravel is the surface that they have to work with in terms of the math that needs to be reorganized from 1385 over to 1389, which is the area that he is looking to purchase. He has stayed within that ruling from the ARC so what they have presented here is basically to accomplish that.

Susan Baur asked if there were any questions for the applicant.

Karen Geiger clarified that Howerton does not own the property. Howerton stated that he did not. The Woolards own both of these houses currently. He is on their behalf trying to accomplish the rezoning and subdividing. Geiger asked if there was some paperwork showing that the Woolards were okay with this.

Brad Townsend stated that the owners have given their consent for this application to be processed.

Sarah Winner asked Howerton if he was planning on buying the parcel and subdividing it himself or is he planning the Woolards still retaining ownership of the frame house and then subdividing it and selling him the brick house. Howerton stated that was correct. Winner stated that she hopes the applicant has some vision. That is going to be a challenge.

There were no further questions for the applicant from the Commission. At this time Susan Baur opened the meeting to any public comment. She asked if there was anyone who would like to speak in favor or in opposition to this application. Hearing no public comment Baur asked if there was anything else the applicant would like to say. Hearing no further comment, Baur closed the public comment portion of the meeting. The Commission will now have a discussion regarding this application and make a recommendation.

Motion

Karen Geiger made a recommendation that the Commission approve the recommended removal of the condition for only one driveway so that the applicant can have two driveways on the property.

Laura Light seconded the motion.

Loren Conrad asked if that includes the two conditions by staff. Karen Geiger stated that is what she is confused about because it says rezoning with the following conditions but they are not really rezoning.

Brad Townsend agreed and asked how does one put conditions on something they are not rezoning. Geiger stated that they are just removing a zoning condition. They are not adding anything.

Susan Baur stated that she does not think they can tell the applicant that they have to develop it in accordance with the site plan since they are not even asking for that right now. All they are really asking for is the driveway. Brad Townsend stated that was correct. Baur asked why the Commission has to hold them to this site plan. They might come back with something bigger and better three or four months from now. Townsend stated that they were trying to at least establish what the ARC calculations were going to be. Previous numbers were what they were proposing to do as well. For them to take legal title and ownership of the property it needs to be subdivided. That is why the vision plat was a requirement for them to be able to do that.

Karen Geiger stated that maybe the motion should be that she is moving that they withdraw one of the zoning conditions and add another condition to show exactly where the driveway is supposed to be going and that a plat has to be

submitted prior to permitting. Brad Townsend stated that was fine. Geiger stated that was her motion.

Laura Light seconded the amended motion. The motion passed unanimously. This recommendation will go forward to mayor and city council in January 2010.

REZONING

09-0906

RZ09-16

ORCHARD VILLAGE

295 Rucker Road

Land Lot: 1282

Kenwin Hayes stated similar to the previous case the Commission just heard, the applicant is requesting that a previous rezoning condition be removed. When this property was rezoned in 2003, there was a condition by mayor and city council that no sit down restaurants would be allowed in this establishment. A minor revision rezoning occurred in 2004 and now Alpine Bakery specifically is expanding its business and would like to allow consumers to come in and sit down and enjoy their meal. Staff did get approval letters, support letters from the Saddle Creek homeowners' association, The Orchards at Crabapple homeowners' association and Edenwilde homeowners' association as well. Hayes believes at the time when the rezoning went through in 2003 there was concern that a restaurant would bring a lot of traffic. Since this shopping center shares an easement with The Orchards at Crabapple they were concerned about the traffic and safety of the residents there. Things have changed in six years and now the Alpine Bakery is doing well in the community and they would like that condition to be removed from the rezoning of 2003 to allow them to have a sit down restaurant there.

Laura Light stated that as she is looking at the history in here, in 2003, line 8, the property was limited to retail office, medical/dental clinic, pharmacy, bank and dry cleaners. Then in 2005 that was revised in no 2. Is that correct? Kenwin Hayes stated that it was. Light asked what category does the Alpine Bakery fall under then in either no. 8 of 2003 or no. 2 of 2005. Retail? Hayes stated that since there was no sit down, one just came in, purchased a product and then left. Light asked why the Commission would revise condition no.8 in the 2003 zoning and why wouldn't they simply revise condition no. 2 in the 2005 zoning. She is curious as to historically why they would pick one over the other since they are really bound by what is in 2005 not what was in 2003.

Brad Townsend stated that they probably would be amending condition no. 2 in 2005.