

**MINUTES  
CITY OF SUWANEE, GEORGIA  
ZONING APPEALS BOARD MEETING  
April 19, 2022**

**PLANNING AND ZONING APPEALS BOARD MEMBERS:** Present: Ray Brown, Donald Lee, David Sullivan, Beth Lembo and Paul Alznauer. Staff members present: Alyssa Durden and MaryAnn Jackson.

**CALL TO ORDER**

David Sullivan called the meeting to order at 6:30 p.m.

**ADOPTION OF THE AGENDA**

*Ray Brown moved to approve the agenda as presented, second by Donald Lee. Motion carried 5-0.*

**APPROVAL OF MINUTES**

*Donald Lee moved to approve the March 15, 2022 minutes, second by Ray Brown. Motion carried 5-0.*

**OLD BUSINESS**

**NEW BUSINESS**

V-2022-002- Owner: Adam Freeman. Applicant: Sawmill Industrial Partners, LLC. The applicant requests a variance from the City of Suwanee Stream Buffer Protection Ordinance and the City of Suwanee Soil Erosion, Sedimentation, and Pollution Control Ordinance to allow for encroachment into the impervious setback and undisturbed buffer of an unnamed tributary of Suwanee Creek for the construction of a distribution facility. The site contains approximately 26.45 acres in Land Lots 169 and 170 of the 7<sup>th</sup> District and is located along Sawmill Drive.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 4.1 of the City of Suwanee Stream Buffer Protection Ordinance and Section 34-209 of the Soil Erosion, Sedimentation and Pollution Control Ordinance to allow for development and construction within a required 50-foot undisturbed stream buffer and 75 foot no impervious surface setback in association with an industrial project that includes 26.45 acres.

The applicant proposes to construct an approximately 327,000 square foot distribution facility. The subject property is located on Sawmill Drive just north of Lawrenceville-Suwanee Road. The development would include a driveway off Sawmill Road that would allow truck and car traffic to access the property. Parking is proposed to accommodate 104 tractor trailer trucks and 144 cars. The applicant has obtained a parking variance (administrative) to reduce the number of parking spaces required. In order to meet stormwater detention requirements, a large detention/water quality pond is provided on the northwestern property line. The purpose of the pond is to control the volume and improve the quality of storm water leaving the property.

The 26.5-acre subject property is zoned M-1. In order to develop the proposed industrial building,

the applicant would need to regrade the significant steep slopes and disturb the two tributaries of Suwanee Creek that form a “Y” across the entire subject property. It is impossible to develop the property as proposed without eliminating the stream. The applicant proposes total elimination of 3,178 linear feet of perennial and intermittent streams, resulting in a buffer encroachment of 125,683 square feet.

The M-1 zoned property is located along Sawmill Drive adjacent to a vacant parcel, a pair of the hotels, and Suwanee Package store to the west. Also sharing the western boundary of the property is the Suwanee Depot retail site occupied by Office Depot, Burger King and PNC Bank fronting on Lawrenceville-Suwanee Road. Sawmill Drive and I-85 are located to the south of the property. A large warehouse/ distribution facility fronting on Satellite Blvd is located to the east of the property. To the north of the subject property is Walmart and the Suwanee Crossroads shopping center. Both are zoned C-2A and front onto Satellite Boulevard.

The Stream Buffer Protection Ordinance requires a 50-foot-wide undisturbed stream buffer (Section 4.1.1). The stream buffer is supplemented by an additional 25-foot-wide impervious setback (Section 4.1.2) that may be graded but cannot include any impervious ground cover. Examples of impervious cover include buildings, parking lots, and driveways. The Soil Erosion, Sedimentation, and Pollution Control Ordinance requires a 25-foot-wide stream buffer adjacent to all streams (Sec. 34-209), or state waters. This 25-foot stream buffer overlaps the first 25 feet of the 50-foot Stream Buffer Protection Ordinance buffer. In order to develop the property as proposed the applicant will need a variance from the 2 ordinances.

In 2014, the City was sued for denying a request to rezone the property from C-2A to RM-8 in order to allow for the development of an apartment complex. The City prevailed in the lawsuit so the property remained zoned C-2A. In 2021, the property was rezoned from C-2A to M-1 in order to allow for development of a distribution or office/warehouse facility. At the time, the applicant acknowledged that there would be significant environmental issues that would need to be addressed before the property could be developed with a large office/warehouse/distribution facility.

Over the course of the last 12 months, the applicant has pursued various environmental approvals from state and federal entities. The applicant has already received approval from the State of Georgia Environmental Protection Division (EPD) to impact 181,025 square feet of state stream buffer for the same tributaries. The applicant has received a 404 permit under the Clean Water Act from the US Army Corp of Engineers to pipe the streams present on the site, removing aquatic resources from the property. The approvals are subject to conditions and the approvals are included with your background materials. One condition of approval is the purchase 0.1 wetland credits and 28,602 stream credits. The purchase of these credits ensures the preservation of wetlands and streams in the area. The applicant confirms that these purchases have already taken place.

The Stream Buffer Protection Ordinance calls for an effort to minimize impacts to streams and requires some form of mitigation. In this case, the applicant mitigated the impacted buffer by purchasing 28,602 stream credits in other areas of impacted unnamed tributaries and 0.1 wetlands credits. Based on the site conditions, the applicant is required to implement measures in accordance with Georgia Environmental Protection Division’s Streambank and Stabilization Guidance. These measures will reduce pollutant and volume runoff reduction in accordance with the Georgia Stormwater Management Manual (Blue Book), as required under the 404 permit and State Stream Buffer Variance.

As noted earlier, the applicant received a variance from the State EPD (Environmental Protection Division of the Department of Natural Resources) in order to encroach on the 25-foot undisturbed state buffers, and they received a permit with the Army Corp of Engineers for permission to fill in this same section of stream. Along with these approvals the applicant also needs a variance from the City in order to develop the property as proposed.

In addition to mitigation efforts, the applicant will be required to meet stormwater design criteria and erosion control measures subject to the approval of the same regulators that granted the state stream buffer variance. The design of the stormwater system for the property will need to be designed by a professional engineer. This design will be subject to review by a professional engineer consulting on behalf of the City. The stormwater system will need to address water quality and the volume of water leaving the property. There are a number of protections built into the system to help ensure environmental impacts are minimized.

The applicant has obtained conditional approvals from state and federal agencies requiring certain mitigation, including, most notably, the purchase of wetland and stream credits. The applicant has obtained these credits as required. The subject property cannot be developed as proposed without the approval of a variance from the City stream buffer variance. During the zoning of the property to M-1, the City and applicant were both aware that variances would be necessary in order to develop the property as anticipated. Development in this area of Georgia for this type of building is virtually impossible without obtaining a stream buffer variance. Provided the applicant complies with the requirements of the state variance and 404 permit, approval of a variance would be appropriate.

The subject property is impacted severely by the stream and steep slopes across the project. The subject tributaries natural function of carrying runoff from the site to Suwanee Creek will no longer be necessary in this area with the proposed development. The site will be regraded and stormwater will be handled on-site by a detention facility; therefore, the proposed buffer reductions should not have a negative impact downstream. Staff recommends approval with conditions of V-2022-002.

Donald Lee asked for the documentation confirming the applicant has purchased wetland credits. Alyssa Durden indicated that the applicant has the documentation.

Donald Lee also asked about impact of the elimination of the stream buffer. Alyssa Durden stated that the EPD has reviewed the impact.

Beth Lembo asked how many jobs will be created by the proposed facility. Alyssa Durden stated that the applicant will have that information.

Ray Brown asked if a traffic study had been conducted. Alyssa Durden explained that traffic had been addressed during the rezoning of the property.

David Sullivan called upon the applicant.

Rees Waite, TPA Group, 1776 Peachtree Street, Ste 100, Atlanta, GA. The applicant stated that he has the documentation confirming the purchase of the wetland credits. Mr. Waite stated that

there is lots of interest in the proposed facility. The facility should create about 100 jobs.

Donald Lee asked the applicant if the City of Suwanee implemented a stormwater waste utility, would his client be in compliance. Mr. Waite stated they would be in compliance.

David Sullivan called for opposition. There was none.

***Donald Lee moved to approve V-2022-002 with staff conditions, second by Paul Altznauer. Motion carried 5-0.***

- 1) Prior to issuance of a land disturbance permit on the property, demonstrate compliance with conditions of approval for U.S Army Corp of Engineers Permit number: SAS-2021-00467. The property owner may deviate from the requirements of the permit only as authorized by the U.S Army Corp of Engineers.
- 2) Prior to issuance of a land disturbance permit on the property, demonstrate compliance with the terms of approval by the Georgia Environmental Protection Division as indicated in letters from David Diaz and dated June 29, 2021 and September 13, 2021. Deviations from these terms may only occur with the approval of the EPD.
- 3) The stormwater system will be subject to the review and approval of the consulting City Engineer.

V-2022-003- Owner: Tommy and Cathy Scribbins. Applicant: Charles R. Rigdon Jr. The applicant requests a variance from Section 512.2.A.1.c of the City of Suwanee Zoning Ordinance to allow for an accessory structure that exceeds 800 square feet in the IRD zoning district. The site contains approximately 0.37 acre in Land Lot 237 of the 7<sup>th</sup> District and is located at 3987 Scales Street.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 512 of the City of Suwanee Zoning Ordinance to allow for an accessory building exceeding 800 square feet within the IRD (Infill Residential District) zoning district. The subject property is approximately 0.37 acre and located at 3987 Scales Street in historic Old Town. The property is zoned IRD (Infill Residential District).

The applicant plans to build a two-story single family home on the property along with a detached three car garage/accessory dwelling unit (both of which are permitted by the current zoning). However, the applicant would like to finish the space over the garage in the form of a carriage house, which would result in a structure that is greater than 800 square feet. The garage will be accessed from a driveway off of Scales Street.

The proposed accessory structure would have a footprint of approximately 923 square feet. The building would be two stories measuring 24 feet at the highest point of the roof. The proposed structure would include a 748 square foot three-car garage on the ground level and an approximately 785 square foot accessory dwelling unit over the garage including enclosed stairs and a small front porch at the entry. The proposed structure would have an exterior finish consistent with the primary house, be subordinate in size to the primary residence, and be located in the rear yard as required by the Zoning Ordinance. The primary home is proposed to

be approximately 5,126 square feet, and the proposed carriage house would be a total of approximately 1,533 square feet including the 24 square foot porch. The IRD (Infill Residential District) zoning limits accessory buildings to a total of 800 square feet (including both conditioned and unconditioned space), so the applicant would need a variance to build the accessory structure as proposed.

The subject property is surrounded by residentially zoned property zoned IRD that contain single family homes. To the southwest of the subject property, across Scales Street, is a church and single family homes on lots zoned R-100.

The surrounding lots are developed with single family homes, and several of the surrounding lots have accessory buildings as well. The 3 lots to the northeast of the subject property on the same block as the subject property (zoned IRD) have built similar sized garages as the proposed carriage house that are attached to the main house by a breezeway. These garages did not require a variance per the Zoning Ordinance because they are attached to the main home. The adjacent property directly to the northwest was granted a variance similar to this request in 2019. The request was to exceed 800 square feet to build a 1,728 square foot accessory structure with an accessory dwelling unit over a two car garage that was not attached to the home. Another variance was approved in 2019 nearby at 571 Jackson Street to allow a similar detached 1,260 square foot carriage house with an accessory dwelling unit over a two car garage.

The proposed development would be consistent with the surrounding area and the vision for the Old Town Character Area as expressed in the 2040 Comprehensive Plan.

"The growth strategy for Old Town should be carefully-crafted, creative infill responding to and enhancing the historic scale and unique small town character of Old Town... Multiple residential structures on one lot should be permitted and encouraged. Adding accessory dwelling units can create housing opportunities in Old Town without compromising, and if done well, even enhancing the character" (2040 Comprehensive Plan, p. 17).

The historic homes in Old Town do not have attached garages, so the construction of a detached accessory structure contributes to the creation of a new main house that is more consistent with historic houses in the area. Most homes in Old Town have either detached garages at the rear of the lot or no garage at all. In fact, prior to recent demolition, the subject property was occupied by a small single family home and a detached garage located in approximately the same location as the proposed structure.

The historic Old Town area is interspersed with accessory structures some of which are smaller than 800 square feet and some of which are larger than 800 square feet. Some of these accessory structures have been in place since before the City adopted zoning. Others have been more recently constructed and were done so with the approval of a variance. The applicant is attempting to replicate a development style that existed before the City adopted zoning.

It should be noted that the need for a variance could be avoided by either separating the two

proposed accessory uses (dwelling and garage) into separate structures or by physically connecting the garage to the primary structure similar to those on adjacent lots. Both of these options could be done in a way that complies with the regulations, but would lead to site development that is less consistent with the style of development found in the historic Old Town area (and other historic downtown areas throughout the country).

The City of Suwanee's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. A variance may be granted if "relief, if granted, would not cause substantial detriment to the public good nor impair the purpose or intent of the Zoning Ordinance."

The request to build an accessory structure exceeding 800 square feet in order to combine two accessory uses is appropriate in the Old Town Character Area. Approval of the requested variance would help to make the property more compatible with current and anticipated development in the surrounding area and is unlikely to negatively impact nearby property. Approval would not undermine the zoning ordinance. Therefore, staff recommends approval with conditions of V-2022-003.

David Sullivan called upon the applicant.

Chuck Rigdon, 205 Daves Farm, Jefferson, GA. Mr. Rigdon is the general contractor for Tommy and Cathy Scribbins. Mr. Rigdon stated that the owners would like a detached garage.

David Sullivan called for opposition. There was none.

***Ray Brown moved to approve V-2022-003 with staff conditions, second by Beth Lembo. Motion carried 5-0.***

1. This variance approval only applies to a single accessory structure. One accessory structure may have a footprint of up to 925 square feet and a 2-story appearance, consistent with the architecture identified in Exhibit 'B' and located approximately as shown in Exhibit 'A'.
2. Said accessory building shall be a maximum of 1,600 square feet including both conditioned and unconditioned floor area.
3. Said accessory building shall have a maximum height of 25 feet as measured from the highest point of the roof.
4. Said accessory building shall include a three-car garage.

## **OTHER BUSINESS**

## **ANNOUNCEMENT**

**ADJOURNMENT**

Ray Brown moved to adjourn 6:56 pm.