

**CITY OF BERKELEY LAKE
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
PLANNING & ZONING COMMISSION
FULL MINUTES
NOVEMBER 14, 2023
7:15 PM**

Those in attendance at the meeting were as follows:

Commission Members: Dan Huntington
 Pekka Ignatius
 George Kaffezakis
 Rand Kirkus
 Robin Sansone

City Officials: Leigh Threadgill - City Administrator
 Thomas Mitchell – City Attorney
 Rob Hiller – City Marshal

Citizens Present: 9

I. CALL TO ORDER

Huntington called the meeting to order at 7:17 PM. A quorum of the commission along with City Administrator, Leigh Threadgill, and City Attorney, Thomas Mitchell, were present at the meeting.

II. APPROVAL OF OR CHANGES TO THE AGENDA

Huntington asked if there were any suggested changes to the agenda.

Sansone moved to approve the agenda as submitted. Kaffezakis seconded and all voted to approve the agenda.

III. MINUTES

1. Minutes of October 10, 2023

Kaffezakis moved to approve the minutes of the October 10th meeting. Kirkus seconded and all voted to approve the minutes.

IV. OLD BUSINESS

1. PZRZ 23-08, 4477/4487 Peachtree Industrial Boulevard – Rezoning from GC-A (C-1) to M-1 and PZV 23-09 associated concurrent variances as follows:
 - a. Modification of the 75-foot buffer adjacent to residential property
 - b. Reduction of the M-1 district area minimum from 10 acres to 4.996 acres
 - c. Reduction in the M-1 75-foot front setback to 11.11 feet along a portion of the property where there is a jog in the Peachtree Industrial Boulevard right-of-way

Huntington acknowledged Threadgill to review the project and the status of the rezoning and variance applications. She provided background regarding the zoning of the property and an overview of the project, application, and staff analysis and recommendation.

Threadgill noted that the buffer modification request was to exclude approximately 4,800 square feet of buffer area adjacent to the undeveloped, land-locked property. The site plan shows a portion of the stormwater management area and a corner of the smaller building to be located in this area. In addition, this area can now be used to meet tree density standards, either through the preservation or planting of trees.

The variance to reduce the front setback from 75 feet to 11.11 feet along the cut-out in the property isn't needed as the site plan is currently drawn.

Threadgill reviewed the six standards governing the exercise of zoning power as follows:

- Will the rezoning permit a use that is suitable in view of the use and development of adjacent and nearby property – while it may be compatible with some of the adjacent and nearby properties, it is incompatible with the established residential area to the north/northeast
- Will the rezoning adversely affect the existing use or usability of adjacent or nearby property –the rezoning would have an adverse impact on adjacent or nearby residential property
- Does the subject property have reasonable economic use as currently zoned – this is difficult to answer absent a market analysis.
- Will the rezoning result in a use that would cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools – staff has circulated the application to Gwinnett Departments of Water Resources and Transportation. The applicant should comply with any comments that result from review by those departments.
- Is the rezoning in conformity with the policy and intent of any land use plan in effect – the future land use map designates this property to be within the Peachtree Industrial District which allows some light industrial uses, acceptable light industrial uses would closely adhere to the zoning and landscape standards of the city in order to make the industrial nature of the development harmonious with surrounding land uses.

- Are there other existing or changing conditions affecting the use and development of the property which provide supporting grounds for either approval or disapproval of the proposal – the subject site has topographic challenges – it slopes steeply toward a stream, pond and lake, which highlights the importance of post-development stormwater management and erosion and sedimentation control. In addition, existing zoning regulations do not permit two principal or primary uses/buildings on one lot.

In light of concerns regarding development of the proposed use in accordance with the submitted site plan adjacent to the established residential area, staff recommends denial of the application.

In addition, regarding the three requested variances, staff recommends denial as follows:

- Modification of the 75-foot undisturbed buffer would adversely impact the established residential area to the northeast.
- Reduction of the district area minimum from 10 acres to 5 acres would result in an industrial development that is constrained to a point that it cannot provide adequate space for truck traffic circulation, stormwater management and landscaping.
- The front setback variance is unnecessary as the site is currently configured. Given that variances are granted upon the condition that the site is developed in accordance with the approved plans, it would not make sense to grant this variance to a need that has not been demonstrated or a hypothetical scenario.

Threadgill noted that staff has an alternative conditional approval recommendation for the commission’s consideration with the following conditions:

- 1.) The property shall be developed in substantial accordance with the submitted proposed Site Plan entitled “Rezoning Site Plans for 4477-4487 Peachtree Industrial Boulevard, Berkeley Lake, GA 30092, Gwinnett County,” prepared by GAK Engineering, Inc. dated _____, 2023 and submitted to the Mayor and City Council on _____, 2023 (the “Site Plan”), with modification to meet conditions of zoning or State, County, and City regulations. Such modification, if substantial in the discretion of the City Administrator, will require Mayor and Council approval through an application for rezoning/change in conditions.
- 2.) There shall be no more than one building on the property. Permitted uses shall be limited to the following M-1 uses:
 - a. Enclosed warehouse with offices,
 - b. Wholesaling with offices, and

c. Business office

- 3.) Building construction shall be in accordance with building elevations submitted with the application. Structures shall be constructed of the following materials: Albond aluminum composite panel and the sample material provided at the meeting, specifications to be provided by the applicant.
- 4.) If no building permit shall have been issued for the proposed use by January 1, 2027, the entire property shall revert to the C-1, GC-A (Gwinnett County-Annexed) zoning classification.
- 5.) Stormwater management facilities shall be designed in accordance with the Georgia Stormwater Management Manual, current edition, at the time the project is submitted for LDP. A landscape plan will be required for the bioretention area, and maintenance plan will be required for both the bioretention area and the detention pond. Discharge of the stormwater detention facility will not be permitted on steep slopes. Engineered plans for all retaining walls shall be required prior to issuance of a LDP. Construction of detention pond and walls atop the existing 60" RCP shall not be allowed. Documentation of County approval of location of pond walls in the vicinity of the prescriptive easement on the 60" RCP shall be provided prior to issuance of an LDP. Post-developed flow rates from onsite runoff shall be equal to or less than 70% of pre-developed flow rates from onsite runoff.
- 6.) Lighting shall be down-cast and directed in towards the property so that it does not shine into nearby residential buildings or properties. Lighting shall be consistent with what is termed "dark sky lighting."
- 7.) There shall be no less than a 75-foot undisturbed, vegetated buffer and no less than a 75-foot building and parking drive setback where the property is adjacent to residentially zoned property. Where there is inadequate vegetative screening to achieve an opaque screen, supplemental plantings in accordance with Sec. 42-224 of the City of Berkeley Lake Code of Ordinances shall be required.
- 8.) A Landscaping Plan shall be provided for the site, including areas within the 75-foot buffer that are sparsely vegetated, to be approved by the City Administrator.
- 9.) Buffers shall be undisturbed except for landscaping and/or planting anticipated or required by the preceding two conditions.
- 10.) Outdoor storage and display shall be prohibited.
- 11.) Location and design of curb cuts on Peachtree Industrial Boulevard shall be approved by the governmental entity with jurisdiction over Peachtree Industrial Boulevard.

- 12.) Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.
- 13.) The owners shall timely repair or repaint any graffiti or vandalism and remove any refuse or garbage dumped on the property.
- 14.) The owner shall abide by the following requirements:
 - a. All roof-mounted equipment shall be screened from view on all sides.
 - b. The total height of any buildings, including any roof mounted equipment such as solar panels and/or HVAC equipment, shall not exceed 40 feet from the mean ground level grade of the building.
- 15.) No outdoor loudspeakers will be allowed. Sound level from any indoor or outdoor speaker or equipment shall be 0 decibels measured at the property line.
- 16.) Address all comments from the Gwinnett County Department of Water Resources as follows:
 - a. Locate the existing 48-inch Ductile Iron Pipe (DIP) reuse line on the southwest corner of the property. The line should be located both vertically and horizontally to determine if there will be appropriate cover over the line during all phases of construction, and if the line is able to handle the traffic anticipated over it. Designate the easement on the site plan.
 - b. Submit a sewer capacity request to verify available capacity at the Garner Industrial Pump Station.
 - c. Confirm that the existing sewer on the southern portion of the site, designated as vitrified clay pipe, is adequate for the anticipated depth and traffic for this development. If conditions are likely to compromise the integrity of the pipe, the developer must implement protection.
 - d. Confirm whether the abandoned 8-inch vitrified clay pipe bisecting the parcel has a dedicated easement.
 - e. Permanent structures are prohibited from being built in the existing sewer easement. The site design or sewer may need to be adjusted to avoid the walls from the loading docks encroaching on the easement and show the easement in the design plans. Confirm that the pipe is adequate for the anticipated depth and traffic for this development. If conditions are likely to compromise the integrity of the pipe, the developer must implement protection.

- f. Connect to existing 16-inch ductile iron pipe water main located on the southern right-of-way of Peachtree Industrial Boulevard via jack-and-bore. Provide adequate easements for the bore and receiving pit.
- 17.) All new utility lines shall be located underground.
- 18.) Provide streetlights along all public rights-of-way utilizing decorative light poles/fixtures. Light source shall be high-pressure sodium. Streetlights shall be staggered, 150 feet on-center. All street lighting shall be subject to review and approval of the Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to required pedestrian amenity sidewalk pads. The fixture head shall be a cobra head. The pole type shall be fluted (black). And the maximum pole height shall be 40 feet.
- 19.) Provide lighting throughout all parking areas utilizing decorative light poles/fixtures. Light source shall be metal halide, not exceeding an average of 4.5 foot-candles of light output through the parking area. Light fixtures shall be hooded. Lighting shall be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares. Light fixtures shall be as follows: Fixture Head = Box Head, Pole Type = fluted black, height = 35' max.
- 20.) Dumpsters shall be screened from view on all four sides. Screening shall consist of three solid walls of brick, stucco or split-faced block construction, two feet taller than the height of the dumpster, with 100 percent solid metal or wooden gates. Dumpsters shall be placed in the rear yard.
- 21.) Natural vegetation shall remain on the property until issuance of a development permit.
- 22.) Owner shall post a bond in the amount of \$250,000.00, at least 40% to be in cash with the remainder to be provided by a surety properly licensed, registered and in good standing with the State of Georgia, the form of which is subject to approval by the City Attorney. The bond shall be to guarantee performance of the owner's obligation to prevent silting of the pond downstream of the property. The bond shall remain in place until the later of five years after final completion of the site work or issuance of the final certificate of occupancy for the buildings.
- 23.) Portable buildings shall be prohibited.
- 24.) All mechanical, HVAC and like systems shall be screened from street level view on all sides by an opaque wall or fence of brick, stucco, split-faced block or wood.
- 25.) These conditions shall be printed on any plat recorded and attached to any plat of a lot provided to buyers. The failure for a plat to contain any or all of the conditions shall not relieve any person of full compliance with each condition.

- 26.) If the applicant has made any promises, memorialized in writing and signed by the applicant or its authorized agent, to owners of properties contiguous to the property, and those writings have been filed with the City Administrator prior to approval of this application, issuance of any development or building permit will be conditioned upon fulfillment of such promises.
- 27.) This zoning with conditions shall have no precedential impact with regard to other properties in the City of Berkeley Lake, including but not limited to adjacent properties.

Huntington acknowledged the applicant.

Taner Baltici, the applicant, exhibited the building elevations for both proposed buildings.

Wendy Kraby, attorney for the applicant, distributed the site plan, which was the same as the site plan included in the agenda packets, with a substitute list of proposed conditions. She outlined that she would highlight the changes to the site plan, explain the proposed businesses, discuss the city's comprehensive plan and review the proposed variances.

Kraby noted the site plan has 2 main changes – one is moving the bioretention pond out of the way of the Gwinnett County stormwater pipe. She noted that she talked to Gwinnett County DWR and that while there is no written easement that dictates what could be built atop the pipe, they would prefer not to have large structures built over top because of the expense to replace if they have to repair the pipe. They are alright with driveways and parking areas. The other main change is that the number of curb cuts has been reduced from three to two.

Kraby reviewed that the larger building is the warehouse building, which would include offices for warehouse staff, a break room and restrooms. The product will be stored here. The product is large slabs of high-end marble and stone. Baltici distributed samples of the product. They are sold wholesale to fabricators who would cut them for kitchens or bathrooms. That cutting doesn't take place in the warehouse, it takes place wherever it is shipped to. The smaller building would be the showroom for the product where customers could come see the product without going into the warehouse. The smaller building will house the wholesale sales staff and executive staff. It is all one use; it is selling the wholesale products that are associated with the product stored on site.

Kraby stated that the city's comprehensive indicates that this is a community that has said that it wants to foster quality development and redevelopment and wants to attract new businesses and revise zoning and development regulations in the hope that that will help attract new businesses. The zoning code is dated, but the project can work with variances. This is the type of development that it feels like the city wants and is asking for. This is not a developer, but an owner. This is what he wants to build. He wants to be a part of Berkeley Lake and be a part of it for a long time. This is not a developer who will develop something and leave but wants this to be a good development too.

Kraby reviewed the variances. The first variance is for a small area to the right of the bioretention pond, which is adjacent to the land-locked Ryerson property. They are asking for relief from the buffer requirement. There would be a 25-foot setback. This would allow some breathing room to plant trees and to make this work. The applicant has given up a lot of space, they have changed the sizes, the driveways to make it work. The second variance is to the 75-foot setback from the road. They are just asking for one consistent 75-foot setback along the entire right-of-way. The third variance is regarding code that requires a 10-acre district area minimum. The city argues that that has to be 10 acres of one zoning district, but it doesn't count if it's GC-A(M-1) adjacent to M-1. If this applies, it will be difficult for any property to rezone. Kraby reviewed the zoning map and noted that this rule hasn't been enforced. Also, this property is adjacent to approximately 20 acres of GC-A(M-1) property.

Kraby said that there are a few condition changes, some of which are to make the conditions more modern. When dealing with streetlights and parking lot lighting, those things change with technology. High pressure sodium and metal halide are being phased out to be LED. Conditions (#16 and #17) have been revised to have the lighting to be approved by the city engineer and subject to the county's approval. For the dumpster enclosures, the applicant has asked for a different material than the city's condition that is reasonably decided by the city manager that compliments the building. There are new materials that can be used to match that would be similar in nature. Regarding condition #22, which is the \$250,000 bond requirement with \$100,000 cash required up front. This is surprising and excessive, but is willing to work with the city to find something that would be more reasonable. There are already bonds that the applicant will be subject to. There is a bond for tree replacement trees, land disturbance, and potentially for creek buffer. A lot of the conditions are very similar to what the city already has. Kraby noted that there is concern about the condition that the zoning would expire after a certain amount of time. The applicant wants to be sure that the city's permitting process doesn't cause a delay and result in the sunset of the zoning approval. Certainly, my client is going to want to build as soon as he can. It's a money issue. There is some code that gives the Planning & Zoning Commission the authority to extend expiration, and would like that same idea be applied here.

Huntington opened the meeting to public comment.

Chris Hoblen, 325 Lakeshore Drive, stated that he and his wife Marlene have lived here for 49 years. He acknowledged that he is not against something being built on the property behind him. He just wants to ensure it is done right. Twice before developers have worked on the property and things weren't done right, so he is leery about this property. He has major concerns and has asked David Huetter with United Consulting to speak tonight. He's an expert on this property and knows about Mr. Hoblen's concerns.

David Huetter, United Consulting, noted that he has worked with Holben and is very familiar with the property. The developer has made a lot of efforts to try to comply with the conditions, especially to maintain the buffer adjacent to Mr. Holben. The site is tight and difficult, and there are some additional concerns. In the past when development activity has occurred, the Holben pond becomes a mud hole. He acknowledged the help of the condition of the bond

required for dealing with siltation of the pond to rectify that if it happens. There is concern about silt and sediment that will enter the pond. It has happened before and it is anticipated it will happen again, no matter how well the developer tries to hold sediment on their site. This needs to be addressed by conditions of approval. It's not just that there is sedimentation accumulating in the pond, the turbidity that could be caused will also cause an eyesore. It is an aesthetic issue too. In addition, the site is proposed to have a large stormwater pond, and water has to get from there to the pond downstream on Holben's property. The volume and velocity of water coming from that pond is a concern. The stormwater calculations need to be accurate; they need to detain enough water to avoid erosion of the stream channel and flooding that overtops the road and runs into Lake Berkeley.

Kaffeidakis noted that if the condition is for 70% pre-development flows, does that condition address the issues, or is there still an issue with the design. Huetter noted he is not a design engineer but a biologist. There are issues with channel protection and scour on that stream channel. If the flow is increased from what it is currently, that problem will worsen. There is current erosion on the stream before it enters the pond. There is concern that will get worse if more water is dumped in there.

There was further discussion about the condition, which is for there to be less water.

Kaffeidakis commended the city engineers for making it more restrictive but noted that it is all about execution, which is why the bond condition is there. He further asked about the 60-inch RCP and whether there could be a CCTV of the pipe before construction to determine its condition and another post construction to ensure there was no displacement of the RCP pipe joints. If there is a problem that is uncovered now, it would be better to have the county fix it now. It may not be a requirement during this process, but at some point.

Kraby responded that she has talked to the Gwinnett County Department of Water Resources and understands the pipe was recently installed and shouldn't be an issue for 30 years. There will be a lot that has to be done during the Land Development Permit process. The Gwinnett County DWR department will have to work closely with Builderstone during the permitting process.

There was further discussion about evaluation of the pipe as part of the development permit process. It would be beneficial that the county know the status of the pipe now. It could be completely disassociated from the county, but the county may be able to perform the work themselves to ensure the quality of the pipe.

Kirkus asked about the easement for the subject pipe and lack thereof. Kraby responded there is a prescriptive easement over the subject RCP pipe and what is allowed over the easement. There was further discussion that the owner will have to work with the county on this during permitting and construction and in the event of future needed repairs.

Huntington asked to review the staff recommendation of denial and to understand staff's position regarding the standards for zoning.

There was discussion regarding the suitability of use. Threadgill explained that generally in zoning, industrial districts tend to be the most intense districts, residential districts are the least intense and commercial districts are somewhere in the middle. This zoning change is considered an upzoning from commercial to industrial. Threadgill stated that there is still question whether this site design is too much adjacent to an established residential area, acknowledging that there has been an effort on the applicant's part to mitigate some of the problems associated with the site. Staff questioned how to mitigate the impact of this development on a site with steep slopes that slope toward the residential district, especially given the amount of impervious that is proposed.

Kaffeidakis discussed the hodgepodge of uses around the proposed site. He further noted that the difference in impervious from commercial to industrial is probably not significant. He went on to say that having two buildings rather than one is not an issue for him either.

Ignatius agreed with Kaffeidakis. He noted that practically one building as opposed to two buildings is no different. He also stated that the type of use is not excessively burdensome.

Huntington asked what kind of truck traffic will be associated with the use. The owner stated that there will be tractor trailers. Kaffeidakis noted that the turning radius has been adjusted over the course of the site plan revisions.

Huntington further stated that the location on Peachtree Industrial Boulevard screams M-1.

Sansone noted that it is all in the execution of the site plan, not so much whether C-1 or M-1.

There was discussion about the zoning standard regarding impacts to adjacent property. Threadgill explained that the site is very constrained. And if there is a repair needed to the pipe, the area of impact for that repair could affect the stormwater management system for this site.

George Kyiamah stated that the slopes for the pipe repair area could be mitigated. He acknowledged that in urban areas with skyscrapers there are methods of digging in constrained spaces. The technology is there, but he hopes they won't have to repair the pipe for 50 years. There was further discussion.

There was further discussion about stormwater management on the site and design according to the Georgia Stormwater Management Manual which requires not only peak flow control but runoff reduction as well. Stormwater must be infiltrated so that the post development runoff is not more than pre-development runoff. This plan includes implementation of a bioretention area just upstream of the extended dry detention pond to infiltrate the first flash of runoff, and then the rest they will control peak flow to 70% of the pre-development peak flow rates. The outlet pipe is not going to discharge into the stream, but into an existing stilling basin like a pond, which will hold the water, allow suspended sediments to settle and reduce the peak flows. There is an outlet control structure there. This is an added protection.

Huntington stated that the option isn't between this project and leaving the site as is. It is going to be the same discussion whether with this owner or a future commercial developer.

Huntington asked if there were any additional questions regarding the six standards of zoning power.

Threadgill stated that the existing regulations preclude two uses/buildings on a site, and this site plan shows two buildings. Staff has to administer the standing rules of the city. There was further discussion.

The commission considered each variance request - the buffer modification, reduction in district area minimum and front setback reduction to accommodate the jog in the road.

Huntington invited citizen comments regarding the staff recommendations.

Holben stated that he is concerned about the additional water that will come into the pond on his property that can barely handle the water it receives now. There is no water coming off this 5 acres. It is a forest. Once you put buildings and parking lots, a big detention pond will be needed. If too much water comes into the pond and overtops the road and flows into Berkeley Lake, what can be done. That is a big concern. He noted that it will take a large detention pond to manage the water that will be generated by the additional impervious surfaces from the proposed development. The pond can't handle more water.

Huntington stated that everyone is on the same page about that, but not developing the property isn't an option. We want it to be developed by the right people and in a way that there is some control. None of us want more silt in the lake or in Holben's pond. Everyone is about protecting the pond to protect the lake.

Holben noted he is happy for the property to develop right. He has already spent almost \$8000 on consultants evaluating this project because of how dangerous this property is. If we can figure out a way to not put more water into the pond, that would be great. He acknowledged he didn't think that could be done. He expressed a second concern about silt, which is going to get in the pond. There will be a big rain. If during construction a big rain comes, silt will flow into the pond and into Berkeley Lake. He has experienced silt filling his pond three times due to prior developers' actions. Holben expressed appreciation for the commission.

Huntington stated that the silt is probably going to come.

Holben noted that he doesn't sleep at night because he has battled on this before and he doesn't want to battle anymore.

Taner Baltici, Builderstone owner, approached the commission with an example of how he has managed stormwater in other locations. His company was recognized as being a top business in the world dealing with water infrastructure. He is focused on the stormwater issue. When this process started, he had only one location, now he has two, soon they will be opening two more locations, and he needs a headquarters. He discussed his experience with stormwater management. It is a good idea to check the pipe before and after construction to ensure that everyone understands the condition of the pipe.

Huntington stated that Builderstone was being recognized internationally for dealing with things related to water infrastructure.

Full Minutes

Planning & Zoning Commission Meeting

November 14, 2023

Page 11 of 15

David Huetter stated that Holben has spent a lot of money. He is concerned with the bond issue. There needs to be a provision for Holben to recoup his costs if he hires someone to survey the pond or take water samples in preparation for this development.

Huntington closed the comment period.

There was consideration of the conditions and discussion regarding the difference between the applicant's proposed conditions and the staff's recommended conditions.

Regarding the applicant's proposed condition #1, If the buffer modification variance is approved, there doesn't seem to be a need for the first condition requiring a 25-foot setback adjacent to the land-locked R-100 parcel.

There were no changes to the applicant's proposed condition #2.

The condition limiting the permitted uses was discussed. It was determined to use staff's permitted use list and remove enclosed accessory buildings from the permitted use list in the applicant's proposed condition #3.

There were no changes to the applicant's proposed condition #4.

There was discussion regarding the applicant's proposed condition #5. The applicant wants to make sure the sunset of approval is reasonable. Kraby noted that the owner wants to build it as soon as possible but is concerned that the city's small staff may result in a longer review time for processing permit applications. The applicant has asked for some relief in the form of an extension from the planning and zoning commission, knowing how long it can take to go through the land development permit process. Mitchell noted that this was his draft language, and he didn't want the property to be developed and then nothing built on it. Once they start, they need to get the building built, or it has to revert back so the commission has control. The applicant's language allows for development of the property but not the building. In that case it could be developed and then it just sits. There was further discussion. It seemed acceptable to allow an extension to be granted by the planning and zoning commission, but the exact wording was not determined.

In review of applicant's proposed condition #6, it was determined to use staff's recommended condition #5, except regarding documentation of county approval. Kraby noted that the county has told her that they won't make an official ruling on that and doesn't want to have to present an official written ruling. Threadgill stated that the verbiage regarding documentation of county approval was drafted by the city engineer, but that in her recent conversations with the county she concurred that the county may not be willing to put any approval in writing. But the applicant does agree to the 70% pre-development standard for post-developed flow rate.

There was discussion regarding applicant's proposed condition #7 relative to the bond requirement. The verbiage of this condition still needs to be fleshed out. The bond in the applicant's condition is from the city's ordinance and addresses something different than the bond required by staff's recommended condition. Mitchell asked the commission for direction on the amount of the bond and what percentage is needed in cash. Kraby noted that it needs to be reasonably related to what bonds are usually used for. Mitchell explained that the amount

noted in staff's recommended condition is based on a cost estimate provided by the city engineer for removal of 2 feet of silt from the downstream pond. Kraby noted the applicant is concerned about the cash requirement, which seems unreasonable.

Huetter noted that Holben requests a condition requiring the developer to do a sedimentation survey of his pond pre and post development. There was further discussion and the importance of having the baseline condition of the pond before development.

Huntington asked for further clarification about the bond that is included in the staff's recommended conditions. Mitchell responded that it would be called upon to address any sedimentation of the pond immediately downstream. There was further discussion about the surveys of pre and post development sediment loads and monitoring of the site during construction relative to erosion and sedimentation control.

There was discussion about adding the condition to require the developer to perform a pre and post survey of the sediment load in Holben's pond.

It was stipulated to use the applicant's proposed condition #8 because staff's recommended condition assumes no modification to the buffer.

It was stipulated to use staff's recommended condition #8 as condition #9.

The applicant's proposed condition #10 is consistent with staff's recommended condition verbiage regarding curb cuts.

The applicant's proposed condition #11 regarding dumpsters is consistent with staff's recommended condition.

The applicant's proposed condition #12 regarding cleanup of the site relative to trash and graffiti is consistent with staff's recommended condition.

It was stipulated to use the applicant's proposed condition #13 which captured staff's recommended conditions relative to outdoor storage, screening of roof-mounted equipment, outdoor loudspeakers, and portable buildings.

The applicant explained that the proposed condition #14 is meant to address the same things as staff's recommended condition #16 without providing the specific list of comments from the Gwinnett County Department of Water Resources, which would be provided during the LDP process. There was consensus to use the applicant's proposed condition #14.

The applicant's proposed conditions #15 regarding underground utilities was accepted.

The applicant's proposed conditions #16 and #17 regarding streetlights and parking lot lighting respectively were accepted with the change from city engineer to city administrator approval.

It was stipulated to use the applicant's proposed condition #18 regarding light pollution.

It was stipulated to use the applicant's proposed condition #19 regarding dumpster screening.

The wording of the applicant's proposed condition #20 was slightly altered to clarify that no vegetation can be removed from site until issuance of a land development permit.

Applicant's proposed conditions #22, #23 and #24 are the same as staff's recommended conditions.

There was discussion regarding the condition requiring the bond. Mitchell noted that in 2021 Forsyth County adopted an ordinance that requires developers to do a baseline survey at the developers' cost on downstream ponds. It was noted that this doesn't require the post development survey.

There was further discussion about the bond condition and the cash requirement. Mitchell noted that cash is required because it incentivizes the owner/developer to get it right the first time. There was further discussion about bonds and cash requirements associated with them. The consensus of the commission was not to require a portion of the bond to be provided in cash.

There was discussion about the wording for the pre-development pond survey requirement to be paid for by the developer. Mitchell noted that he can wordsmith the condition relative to this.

For the condition relative to the reversion of zoning Mitchell suggested adding a sentence at the end as follows: "provided upon request by applicant, the planning commission may extend the time for good cause shown."

There was further discussion about the conditions of approval. The applicant expressed concern about the duration of the bond requirement, and it was determined to reduce the amount of time after completion of the site work from five years to three years. The staff was directed to alter the bond condition accordingly and to strike the cash requirement as well.

Kaffezakis made a motion to recommend approval of the modification to the 75-foot buffer adjacent to the land-locked parcel in accordance with the proposed site plan. Ignatius seconded the motion. All were in favor and the motion passed.

Kaffezakis made a motion to recommend approval of the reduction in the M-1 district area minimum from 10 acres to 4.996 acres. Kirkus seconded the motion. All were in favor and the motion passed.

Ignatius moved to recommend approval of the reduction in the front yard setback from 75 feet to 11.11 feet along the cut-out along Peachtree Industrial Boulevard. Kirkus seconded the motion. Huntington, Sansone, Kirkus and Ignatius voted in favor. Kaffezakis voted against it and the motion passed.

Ignatius moved to recommend conditional approval of the request to rezone from GC-A(C-1) to M-1, light industrial, with the conditions discussed at the meeting. Kaffezakis seconded the motion. All were in favor and the motion passed.

V. NEW BUSINESS

Huntington noted that there was no new business to be considered.

VI. CITIZEN COMMENTS

There were no comments.

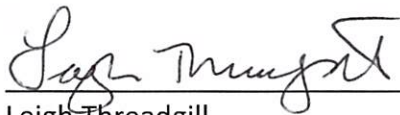
VII. DISCUSSION

There was no further discussion.

VIII. ADJOURNMENT

There being no further business. Huntington adjourned the meeting at 10:45 PM.

Respectfully submitted,



Leigh Threadgill
City Administrator

