Staff Report
City of Doraville, Georgia
Planning and Zoning

Public Hearing:	MCC Public Hearing April 26, 2010 @ 6:30 p.m.
Planning Commission:	PC Public Hearing April 22, 2010 @ 7:00 p.m.
Previous Notification:	A detailed rezoning packet was provided to each Council member and PC member on or about March 1, 2010.
Applicant:	GTJ Enterprises, LLC (Galloway Brothers)
Request:	Rezoning from O-I (Office Institutional District) to C-2 (General Commercial District) without advertised variances. ***Each parcel will be conducted as a separate public hearing. At the time of advertisement, each was a separate tax parcel.***
Location:	Land Lot 311 of the 18th District, properties situated at:
Tract 1:	0 New Peachtree Road (18-311-01-005); the Central Ave ingress/egress. Parcel size = 0.173 +/-acres;
Tract 2:	6021 New Peachtree Road (18-311-01-007); the old hardware store. Parcel size = 0.174 +/- acres.
Tract 3:	0 Peachtree Road (18-311-01-004); the parking lot. Parcel size = 0.138 +/- acres.
Tract Size:	Collectively these properties are 0.485 +/- acres or 21, 105 square feet.

NOTES AREA:

Infrastructure: Water Service: public, DeKalb County

Sewer Service: public, DeKalb County

Electricity: Unknown

Telephone: Unknown

Schools: At this time, no affect.

Environmental: Wetlands and Floodplain: There are no wetlands or floodplain per the certified survey supplied by the Applicant.

Water Supply Watersheds: Not affected (Source Datum: Robert and Company).

2006 Comp Plan: Identified as "Doraville Town Center" on the Future Development Map which recommends main street retail, government/civic, green space, and office/professional.

LCI Plan: Area is within the delineated study area of the existing LCI.

Transportation: The property is bordered on the north by an existing curb-cut onto New Peachtree Road (Tract 1) and on the east (Tract 3) by Central Avenue with an existing curb-cut.

Pedestrian Accessibility: Presently, the City cannot achieve sidewalks without them being a Condition of Zoning or variance stipulation because there is no requirement in the City codes to install sidewalks. The site is fortunate to have existing sidewalks along New Peachtree Road and sidewalks are likely to be installed along the Central Avenue frontage with grant money received from the County which is consistent with the LCI vision.

Zoning History: The property is presently zoned O-I (Office Institutional District) per the current, signed City zoning map. This is discrepant with information provided by DeKalb County Tax Assessors which identifies the property as C-2 (General Business District); however, this is fairly common and should not be construed as to imply that DeKalb County recordkeeping is in some way better or even correct given the City of Doraville is the entity validating the zoning map. Please note that at one point in time of City zoning history, two (2) of the three (3) parcels have been zoned C-2. The base 1966 zoning map showed the properties as C-2.

Regulations: Zoning Ordinance, Building and Development Ordinance, Soil Erosion and Sedimentation Control Ordinance, and Tree Preservation. In particular, see Ordinance 2008-33 for the C-2 district requirements.

Comments: Existing Development Conditions:

According to DeKalb County tax records, the existing structure is circa 1957 and contains 5,030 gross square feet as located on Tract 2.

Development Process:

Rezoning of the site is only the first step in a development process that will ultimately require additional investment by the Applicant if Conditions of Zoning are approved by City Council.

If the requested rezoning is approved with Conditions, the Applicant must then proceed with a site development permit prepared by an engineer (to address exterior code/conditions of zoning deficiencies) and a building permit for any interior/exterior changes warranted to the building (e.g. mandatory handicapped ramp).

Typically, site development plans are reviewed by the following parties: (1) the City Planner; (2) the City Building Official/Inspector; (3) the City Storm Water Inspector; (4) the City's consulting engineer (as needed); (5) various divisions of DeKalb County for water and sewer/septic; (6) DeKalb County Fire Marshall; (7) DeKalb County Transportation for right-of-way improvements on non-GDOT rights-of-way or GDOT (as applicable); and (8) DeKalb County GIS Mapping for confirmation of address and Tax Parcel Identification.

Typically, building plans (e.g. for interior build out of suites) are reviewed by the following parties: (1) the City Planner; (2) the City Building Official/Inspector; and (3) DeKalb County Fire Marshall. Certain uses involve the County Health Department (e.g. restaurants).

Obviously, inspections are required throughout the development process once permits are issued which culminate with a new Certificate of Completion/Occupancy (as necessary) being granted per the Building Inspector and Fire Marshall. Then, and only, then may the City issue a new City occupational tax placard.

The property will be ineligible for residential habitation when rezoned C-2 which is consistent with the non-residential districts the same as it has been ineligible as zoned O-I.

Key Factors of Development Review:

Parking (Refer to Section 1201 through 1205):

Based on a single use retail assumption and using the present building as a benchmark, 5,030/250 = 21 spaces. If parking lot landscape islands are installed per the revised 2010 parking ordinance, the requirement drops to 11 parking spaces or 5,030/500 = 11 spaces.

Based on office (Business and Professional) assumption and using the present building as a benchmark, 5,030/300 = 17 spaces. If parking lot landscape islands are installed per the revised 2010 parking ordinance, the requirement drops to 13 spaces or 5,030/400 = 13 spaces.

Up to 25 parking spaces, one (1) handicapped space is required.

Loading/unloading spaces may be mandated by Code depending on the use of the facility.

As presently situated, the site has at best 17 demarcated parking spaces.

Future Development Potential:

Existing structure(s) were rendered legally non-conforming by Code changes to C-2 per Ordinance 2008-33. As such, the property will be subject to the non-conforming provisions of the Code. No variances are implied by way of zoning action for the as-built conditions.

Standards of Review (Section 1603);

(1) ***The existing uses and zoning nearby.***

The property is bordered on the south by City of Doraville owned and used government operations properties zoned O-I, on the west (old post office training facility - vacant) and east (Bob's Auto Care - occupied) by properties zoned O-I. The northern boundary of the site is the New Peachtree Road right-of-way

(2) ***The extent to which property values are diminished by their particular zoning restriction.***

The property is situated in an area which is undergoing transformation by way of investment initiatives which may have been spurred by the speculative large-scale brown-field re-development opportunities in the area which are yet to be realized.

(3) ***The extent to which the destruction of property values of the subject property promotes the health, safety, morals, or general welfare of the public.***

The proposed C-2 designation has no verifiable impact that is distinct from any other C-2 zoned property in the City, many of which have vested uses that could be viewed as more deleterious to the community as a whole than that which is currently allowed in C-2 per Ordinance 2008-33.

(4) ***The relative harm to the public as compared to the hardship imposed upon the individual property owner.***

There are undetermined hardships for all parties involved.

(5) ***The suitability of the subject property for the zoning proposed.***

The subject property represents as-built conditions that, although not ideal, typically are engaged in by communities encountering rezoning of as-built sites which largely pre-date modern zoning ordinances. Obviously, the property being re-developed via teardown would need to be in strict conformity with Ordinance 2008-33 unless variances were granted by Mayor and Council.

(6) ***The length of time the property has been vacant as zoned, considered in the context of land development of adjacent and nearby property.***

The property has been vacant the entire tenure of the present planning/zoning Staff which is substantially more than the six (6) months set forth by the legal non-conforming provisions of the Zoning Ordinance. There are no valid concerns regarding legal non-conformity. The site cannot be re-opened as its previous occupancy (a hardware store) under its present O-I zoning. The neighboring vacated federal facility similarly is limited by its O-I zoning to office/professional uses now that it is no longer being utilized by the

Federal government. The auto care facility was established as an adjacent neighbor at the time when its lot was zoned C-2; thus, it is a legal non-conforming use. The City properties which abut the southern boundary of the site are exempt from all zoning and land use regulations.

(7) ***Whether the proposed zoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.***

The subject request as C-2 is more akin to the actual zoning which should have remained on the auto care facility and the historical zoning origins of the property.

(8) ***Whether the zoning proposal will adversely affect the existing use or unsuitability of adjacent or nearby property.***

The request is no way impacts the City properties which largely operate immune from the effects of land use. The adjacent non-City parcels might better be served as C-2 rather than their present O-I designation and the City Council should be proactive in this pursuit.

(9) ***Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.***

The property has reasonable economic use as currently zoned and developed; however, the property owner's needs cannot apparently be met by its current zoning designation given the repeated requests for occupational tax for the site which fall more broadly under the C-2 designation rather than the O-I designation.

(10) ***Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.***

Streets and transportation facilities: no affect given as-built conditions of the site provided there is no further development.

Utilities: no affect as presently developed.

Schools: no affect, no change. Petition reflects a non-residential use changing to another non-residential use.

(11) ***Whether the zoning proposal is in conformity with the policy and intent of the land use plan.***

The property is classified as Doraville Town Center on the Future Development Map and many of the uses within C-2 would be a consistent pattern with this vision.

(12) ***Whether there are existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.***

The City's use of O-I is being re-evaluated in light of this district being improperly applied to land use areas which do not represent a transitional zoning and/or a clear office/professional base but rather were uses for general commercial categories.

(13) ***The possible effects of the change in the regulations or map on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community; and:***

The property's rezoning would continue to support the evolvement of a Town Center retail vision embodied by the Comp Plan.

(14) ***The impact of the proposed zoning change upon pedestrian and vehicular circulation and traffic thoroughfare capacities and capabilities.***

None provided the site is not re-developed once rezoned C-2.

Recommendation:

Staff recommends **Approval** of the requested rezoning of the three (3) parcels identified herein from O-I (Office Institutional District) to C-2 (General Business District) with the following conditions of the Natural, Human, and Built Environments. Each rezoning shall have been conducted as a separate public hearing.

NOTE: Conditions do not eliminate compliance with any other Codes. No variances from Code are recommended. The recommended zoning does not attempt to modify the legal non-conforming status of the as-built footprints.

NOTE: It is not uncommon for uses within a particular zone to be excluded with a Conditional Zoning Application; however, the physical geography of the site in terms of it shallow depth and lot size combined with limited assemblage ability of area (particularly because of the City properties which abut) virtually means that it is unlikely that many C-2 uses will be able to occupy the site without great difficulty. Therefore, Staff has not limited the C-2 uses available to the property by zoning.

NATURAL:

(1) Within two (2) years of rezoning action, the parking lot shall be retro-fitted to install a minimum of two (2) concrete, curbed landscape islands which are a 9'x 20' or 180 square feet in area and shall contain a canopy tree (Japanese Zelkova) with under planting of an approved groundcover (other than turf). The islands shall be placed at key locations within the parking as determined by the City Planner per a landscape plan for the property supplied by the Applicant. Islands may contain shrubs to supplement other tree plantings upon review of the City Planner.

(2) All deciduous trees shall be a minimum of three (3) inches in caliper and eight (8) feet in height at the time of planting. All shrubs shall be a minimum of two (2) gallon in size at the time of planting.

(3) Any demolition of the present structure shall require compliance with a 15 percent pervious green space requirement which can be obtained through one or more of the following: landscape strips, parking lots island(s), and/or sodded areas which complement landscape specimens.

HUMAN:

(1) Within one (1) year of rezoning action, the Applicant shall install a minimum of one (1) pedestrian bench and one (1) trash receptacle onsite along the visible property frontage in location(s) determined by the City Planner. These shall be installed on a brick, concrete, or asphalt surface as shall be determined by the City Planner. The design of this street furniture shall be black and consistent with installed street furniture hard scape along Buford Highway as shall be determined by the City Planner.

BUILT:

(1) Prior to any business occupancy or the issuance of any permits for the site(s), the three (3) existing tax parcels of record shall be combined into one with the consent of the City by the DeKalb County GIS Department and proof presented of this action to the City Planner.

(2) Any exterior modifications to the existing structure shell (excluding fenestration) shall be faced with brick. Vinyl products may only be used on eaves and soffitt.

(3) Any new structure(s) shall be faced with brick and/or stone on all building elevations (excluding fenestration). Other than required dumpster enclosure(s), all structures constructed subsequent to this zoning shall have a pitched or pitched style roof. Proposed masonry surfaces shall never be painted.

(4) Within three (3) years of rezoning and upon retention of the existing building, encase existing steel square front façade porch columns within a pre-cast stone, poly resin, fiberglass or stucco finished round column design (Doric, Ionic, Corinthian or modified style) or other decorative column encasement. The City Planner shall determine the appropriate scale/circumference of these columns to be compatible with the built form.

(5) All ground mounted signage shall be of a monument design (maximum twenty-five (25) feet in height) which is faced in brick and/or stone for the full width and height of the sign with the property address shown thereon (each side when double-faced) in a minimum of eight (8) inch copy. No more than one (1) ground mounted sign shall be permitted per street frontage which has a curb-cut.

(6) No more than one (1) wall sign per building elevation – maximum two (2) wall signs on entire structure – none on the same elevation. Computations of allowable square footage shall be based upon ten (10) percent of the elevation.