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Staff Report & Recommendation

Rezoning Case RZ-2018-02

Date of Report: August 22, 2018

Report by: J Wilson

Hearing Dates:

Planning Commission August 23, 2018
Mayor and Council September 10, 2018

GENERAL INFORMATION

Applicant/Owner: Thomas A. Mitchell, Sr.
Size: 3.79± acres
Location: 313 Luxomni Road, PIN #6150 004
Existing Zoning: CB, Commercial Business
Proposed Zoning: IA, Industrial Activity
Proposed Use: Auto repair, towing, and impound lot

EXISTING LAND USES & ZONING DISTRICTS

To the North:	Commercial/Retail	CB
To the East:	Commercial	CB
To the South:	Industrial	IA
To the West:	Commercial/Church	CB/OI

ZONING HISTORY

The subject property was rezoned from residential (R2) to commercial (C2) in 2005 in conjunction with SUP for auto service on parcel 005 with conditions, and it was included in the US 29 Overlay District on 2007 Zoning Map. The City's 2011 Zoning Resolution reclassified this and nearby commercial parcels as CB to accommodate a wider variety of commercial businesses. More recently the zoning ordinance was amended to reduce buffers to provide more design flexibility between uses. In 2015, the four subject parcels were combined and developed to comply with the US29 Overlay District architectural requirements and the sewer code. The site served as the AutoRama Auction Center and expanded the existing auto sales business with accessory auto service and repair, but the auction business has since been discontinued. The development also preceded the current 5-acre minimum requirements for auto sales.

APPLICANT'S INTENT

The 3.8 acre site includes a 1.5 story 12,373 square foot office, showroom and service building, with paved customer and employee parking fronting Luxomni Road, unpaved inventory parking area behind the building,

and a stormwater management pond. The applicant intends to lease out the ground level part of the building and the overflow lot to an existing Lilburn business for auto repair, tow and wrecker service and tow impound lot. The applicant is proposing a change in zoning to Industrial Activity to accommodate the prospective tenant. There are no visible changes or improvements proposed for the site or building except new signage. See applicant's letter of intent for details.

ANALYSIS OF REZONING REQUEST

The subject property is within the US 29 Commercial Corridor with 188+ feet of road frontage on Luxomni Road. The surrounding zoning is made up of commercial restaurants and variety of retail businesses, O-I and IA zoning (Church property). Along Luxomni Road there are several properties zoned IA that include a tow/wrecker service business and commercial truck assembly facility that may pre-exist the US 29 Overlay.

The building includes service bay with access in the rear, but the proposed business of auto repair, tow service, and impound lot cannot be accommodated in CB district at this location. Tow service with any term auto storage requires Industrial Activity zoning with supplemental screening from public view.

According to the *Article 6, Sec. 602. - Use Table and Sec. 603. - Supplemental Conditions Table*, in the US 29 Overlay, **Auto Sales, Service or Repair** requires SUP in CB district, subject to Overlay design criteria (orientation of service bays), screening of outdoor storage, and prohibition of body and paint repair. Those proposed uses are permitted in IA with screening and conditional approval of light outdoor storage. A separate SUP is still required for *"body and paint shops, van conversions, transmission and major vehicle overhaul."*

A **Towing and Wrecker Service** is permitted in IA for *"Business Truck and operable vehicle parking. Screening requirements apply."* Storage of inoperable vehicles or those awaiting repair *"must be completely enclosed with a solid opaque fence not projecting into the required front yard, not less than eight feet in height to effectively screen all storage and operations from public view."* Finally, a **Wrecked Motor Vehicle Compound** use is permitted in IA with SUP for temporary storage with screening and location compatibility review (typically not closer than 300 feet from US 29 Overlay).

As to other possible uses, according to Lilburn Zoning Ordinance, *405-1 Purpose and intent... of the Industrial Activity (IA) district is:*

to provide suitable areas for service-oriented business, and industrial operations and processes integrated with office and/or showroom uses, and related ancillary retail and service activities, with a minimum of interference from traffic and conflicting uses; and
to provide and protect areas for processing, fabricating, manufacturing, warehousing, and research industrial uses which do not create noise, odor, smoke, vibration, dust or other emissions and which do not possess other objectionable characteristics that might be detrimental to surrounding neighborhoods or other uses permitted in the district.

The Industrial Activity district permits Light Outdoor Storage by right and provides for conditional unpaved parking:

Light Outdoor Storage includes building material and other outdoor storage yards, other than junk yards, subject to the following:

- 1. They shall not be located within the required front yard.*
- 2. They shall be screened by a solid fence a minimum of eight feet in height.*

Sec. 811.1:

In the IA district, parking and storage lots may be on contained gravel surfaces. Containment shall retain the gravel so it is restrained from moving into sidewalks, streets, and other public areas.

The subject site was constructed with natural buffers that meet the IA zoning requirements. Buffers range from 5'-20' in width along the side property lines (adjacent to IA property to the south and CB property to the north), and up to 30' in width along rear property line (adjacent to OI property to the west). These buffers comply with the IA buffers adjacent to CB and OI uses. Mature evergreen and hardwood trees within the buffers screen the lot from view from Lawrenceville Highway, approximately 250' to the north and meet landscape strip requirements of IA district. From Luxomni Road, the right of way slopes up to the building then down away from the street, so the building blocks visibility of the rear parking area and most of the fence securing the lot from public access. The overflow lot was approved for construction with asphalt millings, as a gravel substitute, and though the material poses some maintenance challenges (and should be prevented from moving into the buffers); still there's no movement of the material into streets or public areas.

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

As part of the rezoning process, the Applicant; the Planning Staff, Planning Commission, and the Mayor and City Council of the City of Lilburn are to analyze the application with respect to each of the matters enumerated in **Section 1003-7. Criteria for amendments to official zoning map.** *The mayor and council of the city find that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.*

The Applicant's response is attached to the application. Staff's response is in italics below:

- A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:
The zoning permits a use that typically restricted from within the US29 Commercial Overlay boundary; however, the use is not incompatible with existing nearby heavy commercial and industrial uses. The mix of uses at the intersection and along Luxomni Road already includes commercial vehicle/truck assembly, towing service, tire service and auto sales.

- B. Whether the zoning proposal would adversely affect the existing use or usability of adjacent or nearby property:
The building was constructed in accordance with US29 Overlay requirements. With adequate buffers, screening, and conditions, the anticipated commercial tow vehicles and proposed impound lot would not be visible from adjacent or nearby property. And if all repairs are indoors, the noise would be similar to existing conditions. Future uses permitted within IA zoning district may require additional mitigation.

- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:
Yes, the property has a reasonable economic use as currently zoned – there are many successful commercial businesses within the US 29 Corridor.

- D. 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:
The proposed repair and towing services will add some vehicular traffic into the site and the tow vehicles will be stored on site. With close proximity to US 29, the proposed use is not likely to significantly

increase impact to infrastructure. Future uses permitted in IA district could have additional impacts on streets and transportation facilities.

- E. Whether the rezoning proposal is in conformity with the policy and intent of the Land Use Plan:
The site is planned and zoned for commercial development associated with the US 29 Commercial Corridor; however, there are existing IA uses adjacent to this site.

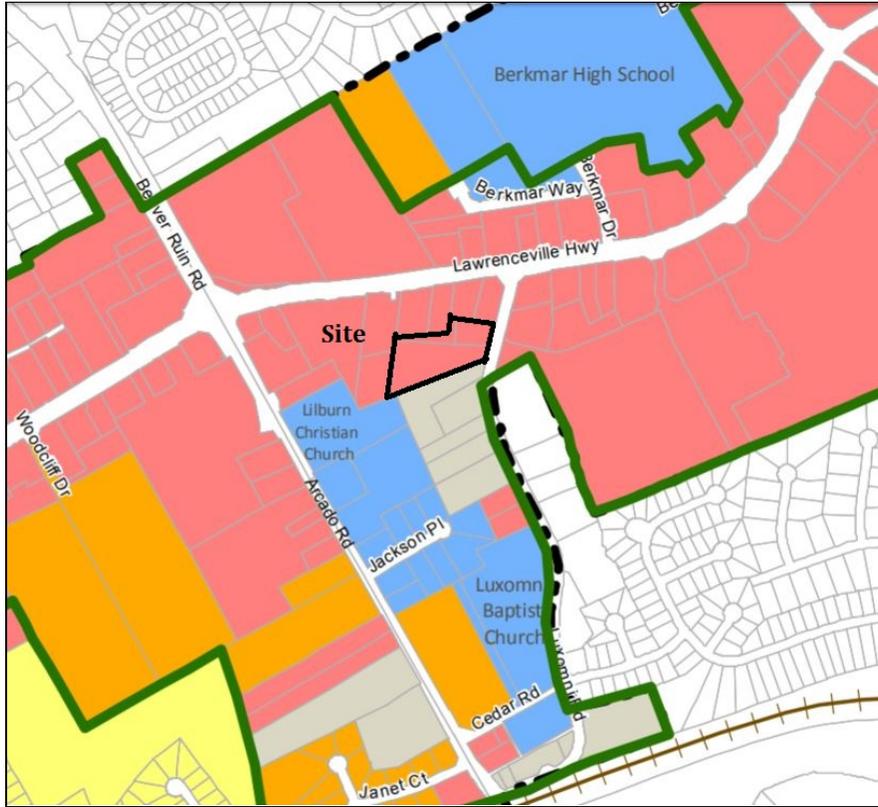
- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal:
The applicant's Letter of Intent provided a list of limitations to the proposed tenant's towing and repair business that limit terms of storage and support approval, and zoning conditions could limit activities typically permitted by right in the IA Zoning District. No other changes to the site are proposed.

Based upon above consideration of existing surrounding uses and the commitments of the applicant, Staff recommends **approval of RZ-2018-02 with conditions numerated in attached Exhibit A:**

Exhibit A – Conditions of RZ-2018-02 for 313 Luxomni Road

1. Inoperable vehicles, damaged vehicles and vehicles awaiting repair shall be enclosed in the building or within the impound parking area and screened from public view. Vehicles leaking fluids shall be stored in the building with approved oil/grit separator.
2. No body or paint repair or major vehicle overhaul/conversions.
3. No dismantling or salvage.
4. Any manufacturing, processing, assembly, fabrication, servicing (*including washing of vehicles*), and repair operations are carried out within an entirely enclosed building. (per *Table 4.4 Design Criteria for nonresidential Zoning Districts*)
5. Tow service impound parking area shall be designated behind the building and shall be screened from view from all public rights of way. Existing vegetated buffers include 20' side buffer adjacent to CB zoning, 25' rear buffer adjacent to OI zoning along the rear property line (west), and 10'-20' side buffer adjacent to IA zoning, shall be preserved to visibly screen the impound lot from view. No reduction of or encroachment into buffers shall be permitted without plan approval by the Planning & Economic Development Department, showing minimum zoning buffers and installation of opaque privacy fence, minimum 8' in height.
6. Tow service impound parking area shall be secured with fencing min. 6' in height with gate to access the stormwater management facility per the BMP Access Easement Agreement. If chain link fence is utilized, it shall be vinyl coated black, brown or green in color.
7. Building and site must comply with Gwinnett County sanitary sewer regulations as adopted by City of Lilburn.

Zoning Map



Tax Assessor Parcel Map



Distances to Right of Way



Aerial Photo of Site with Buffers



