



COUNCIL AGENDA REPORT

FROM: Community Development Department
Prepared by: Ken Patton

CC: City Clerk
Public Information

SUBJECT: Recommendation made by the Planning Commission concerning rezoning application Z1604-001 – 8260, 8268 and 8274 Knox Bridge Highway

DATE: May 23, 2016

RECOMMENDATION

The Canton Planning Commission held a public hearing on May 16, 2016 and recommended approval of rezoning case Z1604-001 to rezone the property located at 8260, 8268 and 8274 Knox Bridge Highway from GC (General Commercial, Cherokee County) to GC (General Commercial, City of Canton) with conditions if the property is annexed into the city limits.

REPORT-IN-BRIEF

The Planning Commission heard a request filed by Mountain Express Oil Company to rezone 5.28 acres from GC (Cherokee County) to GC (City of Canton). The applicant wishes to develop the property with a coffee shop, a convenience store with gas pumps and 24,950 square foot retail center. The staff provided the Planning Commission with six possible conditions for their consideration. The suggested conditions are as follows: 1) The submitted site plan is conceptual in nature only. All development requirements and any approved conditions must be complied with.;2) Prior to the issuance of a land disturbance permit the property must be consolidated into a single lot of record or the appropriate variances must be applied for and approved.; 3) There shall be a 25-foot undisturbed buffer along the entire southern property line (with the exception of approved curb cuts). This buffer shall be enhanced where sparsely vegetated as approved by the Department of Community Development.; 4) Roadway improvements along the entire frontage of Pope Circle shall be constructed. These improvements include but are not limited to the dedication of right of way to provide for 50' r-o-w along Pope Circle, the installation of curb and gutter and the proper stripping of Pope Circle; 5) All proposed curb cuts along the northern property line shall comply the Georgia Department of Transportation requirements and 6) There shall be no wall mounted security lights on the rear of any building abutting Pope Circle. The Planning Commission added an additional condition which requires the applicant to resolve and encroachment issues along the western property line prior to the issuance any land disturbance permits. This rezoning request is a partner application of an annexation request filed by Mountain Oil Express Company. The annexation application does not require a public hearing.

The County was notified of the rezoning and annexation requests and to date I have not received any correspondence from them.

During the public hearing there was no one in attendance that spoke either for or against this request.

DISCUSSION

CONCURRENCES

FISCAL IMPACT

ALTERNATIVES

Attachments



Cherokee County, GA



- Legend**
- Schools
 - Churches
 - Parcels

Location Map

Notes



1: 4,513

752.2 0 376.08 752.2 Feet

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Gene Hobgood, *Mayor*
William Peppers, *City Manager*
Susan C. Stanton, *City Clerk*



City of Canton

151 Elizabeth Street
Canton GA 30114
Phone 770-704-1500
Fax 770-704-1538
www.canton-georgia.com

Sandy McGrew, Ward I, *City Council*
Jo Ellen Wilson, Ward I, *City Council*
Jack Goodwin, Ward II, *City Council*
Bill Grant, Ward II, *City Council*
John R. Rust, Ward III, *City Council*
Farris Yawn, Ward III, *City Council*

May 17, 2016

Mountain Express Oil Co.
5333 Bells Ferry Road
Suite 201
Acworth, GA 30102

Subject: AX1604-001 and Z1604-001 – Request to annex and rezone 8260, 8268 and 8274 Knox Bridge Hwy.

Dear Mr. Frady:

Please be advised the Planning Commission for the City of Canton recommend approval with conditions on your rezoning request for the above referenced properties. The recommended conditions are as follows: 1) The submitted site plan is conceptual in nature. All required development requirements and zoning conditions must be complied with upon submission of any Land Disturbance Permits; 2) Prior to the issuance of a Land Disturbance Permit the properties must be consolidated into a single lot of record; 3) There shall be a 25' undisturbed buffer along the entire southern property line, adjacent to Pope Circle with the exception of where approved cuts are located. This buffer shall be enhanced in areas of sparse vegetation as approved by the Department of Community Development; 4) Roadway improvements along the entire frontage of Pope Circle shall be constructed as required. These improvements may include but are not limited to dedication of right-of-way to provide for a 50' right-of-way along Pope Circle, the installation of curb, gutter and sidewalks and proper stripping of Pope Circle; 5) All proposed cuts along Knox Bridge Highway shall be as approved by the Georgia Department of Transportation; 6) There shall be no wall mounted security lights on the rear of any building abutting Pope Circle and 7) The area of driveway and fence encroachment along the western property line shall be corrected prior to the submission of any Land Disturbance Permits.

The annexation and rezoning request shall go before the Mayor and Council on June 2, 2016 for discussion purposes only and final action may be taken during the June 16, 2016 meeting of the Mayor and City Council.

Should you have any questions please contact my office at 770-704-1530.

Sincerely,

Steve Green, Zoning Administrator
City of Canton

Cc AX1604-001
Z1604-001

ORDINANCE #Z1604-001
ORDINANCE #AX1604-001

REZONING/ANNEXATION

CITY OF CANTON

Applicant: Mountain Express Oil Company

An Ordinance approving the annexation and rezoning of the following described property:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 91 of the 14th District, 2nd Section of Cherokee County, Georgia and being more particularly described on Map Book Page 14N12B, Parcels 019 and 020 and the attached legal description and survey labeled as Exhibit "A".

WHEREAS, it is hereby found and determined that a petition to annex the above referenced property into the corporate limits of the City of Canton and an application to change the zoning of the above-described property from GC (Cherokee County) to GC (City of Canton) was filed with the City of Canton and a public hearing was held on May 16, 2016 at the Canton City Hall, located at 151 Elizabeth Street, Canton, Georgia.

PROPOSED USE: Commercial area consisting of a coffee shop, convenience store with gas pumps and retail strip center

WHEREAS, the Planning Commission of the City of Canton recommended approval of the rezoning application with the following conditions: 1) The submitted site plan is conceptual in nature. All required development requirements and zoning conditions must be complied upon submission of any Land Disturbance Permits; 2) Prior to the issuance of a Land Disturbance Permit the properties must be consolidated into a single lot of record; 3) There shall be a 25' undisturbed buffer along the entire southern property line adjacent to Pope Circle except where curb cuts are approved. This buffer shall be enhanced in areas of sparse vegetation as approved by the Department of Community Development; 4) Roadway improvements along the entire frontage of Pope Circle shall be constructed as required. These improvements may include but are not limited to the dedication of right of way to allow for a 50' right-of-way along Pope Circle, the installation of curb and gutter, the installation of sidewalks and proper stripping of Pope Circle; 5) All proposed curb cuts along Knox Bridge Highway shall be as approved by the Georgia Department of Transportation; 6) There shall be no wall mounted security lights on the rear of any structure abutting Pope Circle and 7) The area of driveway and fence encroachment along the western property line shall be corrected prior to the submission of any Land Disturbance Permits and the City of Canton Mayor and City Council **APPROVED** the rezoning application and annexation request on June 16, 2016.

NOW THEREFORE, be it resolved that the Mayor and City Council of the City of Canton does hereby amend the Official Zoning Map to reflect the above referenced property being zoned to GC (General Commercial) and does hereby amend the corporate limits of the City of Canton by annexing the above referenced property.

Adopted this 16th day of June 2016.

Gene Hobgood, Mayor

Attest: _____
Susan Stanton, City Clerk

Approved as to Form and Content:

Robert M. Dyer, City Attorney

First Reading: June 2, 2016

Adopted by Council: June 16, 2016

Approved by Mayor: _____

Veto by Mayor: _____

Second Vote by Council: _____

Effective Date: _____



JARRARD & DAVIS, LLP

KEN E. JARRARD*
ANGELA E. DAVIS
CHRISTOPHER J. HAMILTON
MEGAN N. MARTIN

PAUL B. FRICKY
KENNETH P. ROBIN
SARAH VANVOLKENBURGH¹
G. AARON MEYER

Limited Liability Partnership
105 Pilgrim Village Drive, Suite 200
Cumming, Georgia 30040
TELEPHONE: 678.455.7150
FACSIMILE: 678.455.7149

JCOSTOLNICK@JARRARD-DAVIS.COM

* Also Admitted in Tennessee
¹ Also Admitted in Illinois and California
o Also Admitted in Wisconsin

JESSE A. VAN SANT
JEFFREY J. COSTOLNICK
MOLLY N. ESSWIN
SAM P. VANVOLKENBURGH^o
JEFFREY M. STRICKLAND

OF COUNSEL:
LARRY W. RAMSEY, JR.
ELIZABETH M. WHITWORTH

VIA EMAIL & CERTIFIED MAIL

City of Canton
c/o Robert Dyer, Esq.
Dyer & Rusbridge, P.C.
291 East Main Street
Canton, GA 30114

New Comments from Applicant, Mountain Oil Express

**Re: Annexation Petition for 8260, 8268, and 8274 Knox Bridge Hwy
Tax Parcels: 14N12B 019 and 020
Applicant: Mountain Express Oil Co.**

Dear Mr. Dyer:

On April 21, 2016, the City of Canton (the "City") issued a letter to the Cherokee County Board of Commissioners providing notice of the above referenced annexation. Following discussion of this matter during an open meeting on May 17, 2016, the County has concerns with the proposed annexation that we would respectfully request the City's collaboration to resolve.

Particularly, although the Canton rezoning application indicates that the property is currently zoned "NEC" and that the Applicant is seeking to rezone the property to GC, as indicated by the enclosed 2010 rezoning Resolution, this property has already been rezoned (in 2010) and the current Cherokee County zoning is GC. With regard to that 2010 rezoning, there is a list of eight (8) zoning conditions on this property related to landscape, streetscape, signage and transportation requirements. Please see the enclosed rezoning Resolution for your further reference. Even though there would effectively be no change to the zoning designation in this case, the County respectfully requests that the City continue those eight (8) rezoning conditions from 2010, as described in the enclosed rezoning Resolution.

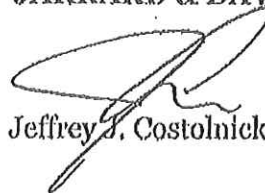
Furthermore, it appears from this application that the Applicant is proposing access for the subject property on Pope Circle (to the south of the property). As such, the County would like to reemphasize rezoning condition number 5 from the aforementioned Resolution. Pope Circle is a single lane, substandard County maintained roadway; and it

intersects Butterworth Road in close proximity to its intersection with SR 20. If the Applicant desires access to Pope Circle, that roadway would require significant upgrades in order to handle any additional traffic. Therefore, the County respectfully requests that the City deny access to Pope Circle, unless the Applicant brings the roadway up to current County standards as determined by the County engineer.

Thank you in advance for your consideration. As we have discussed, the City and the County share a common goal of protecting the interests of our citizens and taxpayers and, in that context, we are all one community. With the City's cooperation in applying the rezoning requirements discussed above, the County feels the impacts from this annexation can be mitigated to an acceptable level. If you have any questions, please contact me.

Sincerely,

JARRARD & DAVIS, LLP



Jeffrey J. Costolnick

JJC/dkr
Encl.

Cc: Cherokee County Board of Commissioners *(Via Email)*
Jerry Cooper, Cherokee County Manager *(Via Email)*
Christy Black, County Clerk, Cherokee County Board of Commissioners *(Via Email)*
Jeff Watkins, Director, Cherokee County Planning and Land Use *(Via Email)*
Margaret Stallings, Planner, Cherokee County *(Via Email)*
Geoff Morton, Public Works Agency Director, Cherokee County *(Via Email)*
Angela E. Davis, Esq., Jarrard & Davis, LLP *(Via Email)*

RESOLUTION NO. 2010- R-024

CASE # 10-02-009

APPLICANT: Randall Page

A resolution approving the rezoning of the following described property:

4.94 acres located in land lot(s) 91 of the 14th district, 2nd section of Cherokee County, Georgia, and indicated as parcel(s) 019 and 020 on tax map 14N12B.

WHEREAS, it hereby is found and determined that a petition to change the zone of the above described property from R-40 to GC was filed on December 17, 2009.

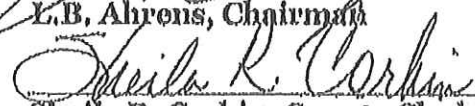
Proposed Use: Commercial.

WHEREAS, it likewise is found that the Cherokee County Municipal Planning Commission, after notice as required by law, did conduct a public hearing upon such change of zone on February 2, 2010 in the Commission Chambers of the Cherokee County Administrative Building. Recommendation from the Planning Commission was for Approval with conditions of the rezoning request.

NOW THEREFORE, be it resolved by the Cherokee County Board of Commissioners that the above-described property is now located in the GC zoning district with conditions* and the Cherokee County Zoning Administrator hereby is directed to change the district maps accompanying and being part of the rezoning resolution.

Adopted this 16th day of February, 2010.


L.B. Ahrens, Chairman


Sheila R. Corbin, County Clerk



*Conditions as follows:

- (1) Thirty (30) inch curb and gutter along Knox Bridge Highway and Butterworth Road.
- (2) Ten (10) foot landscape strip requirement containing a four (4) foot grassed and planted strip and a six (6) foot sidewalk with twenty (20) foot expansion joints along Knox Bridge Highway. AGREE subject to GDOT
- (3) An additional twenty (20) foot grass or landscaped strip (for a total of 24 feet) between the existing Butterworth Road right-of-way and the six (6) foot sidewalk, to allow for eventual widening of Butterworth Road. DO NOT AGREE. Will do whatever GDOT Requires
- (4) A year round visually opaque vegetative buffer for a streetscape on those sections of Pope Circle more than fifty (50) feet beyond any access point to the property, as measured from the nearest end of Pope Circle. 15 Ft. Not 50ft.

AGREE subject to GDOT

- Such vegetative buffer should be set back at least ten (10) feet from the existing right-of-way to allow for the eventual widening of the road. Do NOT agree to widening of Pope Circle. It goes Nowhere
- (5) Access to Pope Circle will be contingent upon roadway improvements at the direction of the County Engineer from the point of access to either Knox Bridge Highway or Butterworth Road. Will NOT agree to Knox Bridge. Whatever GDOT requires ONLY? Will improve the current Pope Circle Rd road to County Specification. No further Right of way
- (6) Street trees of Male Ginkgo or approved equivalent planted 45 feet apart within the ten (10) foot Landscape Strip along Knox Bridge Highway and Butterworth Road. AGREE
- (7) Evergreen shrubs of holly, nandina or approved equivalent under 36 inches in height at maturity at 40% coverage within the ten (10) foot Landscape Strip. DO NOT AGREE
- (8) Freestanding sign must be monument style with a brick base (or approved requested alternate material) 18-24 inches high. The total height of the sign (including the base) cannot exceed 10 feet. The maximum sign area allowed is 50 square feet per side with a maximum of two sides. All signs must be interior illuminated. Two Signs. Agree on Butterworth Sign. Knox Bridge Sign 20 Ft High with total size not to exceed 200 Sq. Ft. 2nd Sign on Butterworth Rd. Agree on Internal Illumination

New Attachment

Comparison of County vs. PC Recommendation for Z1604-001

	County	City	Comparison
1	Thirty (30) inch curb and gutter along Knox Bridge Highway and Butterworth Road.	All proposed curb cuts along Knox Bridge Highway shall be as approved by the G.D.O.T.	Knox Bridge Highway (a.k.a. SR 20) is a state highway. Any improvement along this road will be subject to G.D.O.T. requirements. Until development plans are submitted to the state we do not know what will be required. In addition this part of Knox Bridge Highway is located along a Corridor of Influence and a major Intersection. According to the Overlay Zone Community Standards Ordinance the developer will be required to install a 6 foot wide sidewalk with a 4 foot grass strip, 30 inch curb and gutter, and the planting of male ginkgo and tulip trees, understory trees and various shrubs and ground cover.
2	Ten (10) foot landscape strip requirement containing a four (4) foot grassed and planted strip and a six (6) foot sidewalk with twenty (20) foot expansion joints along Knox Bridge Highway.	The submitted site plan is conceptual in nature. All required development requirements and zoning conditions must be complied with upon submission of any Land Disturbance Permits.	See #1 above
3	Dedicate an additional twenty (20) foot grass or landscape strip (for a total of 24 feet) between the existing Butterworth Road R-O-W and the six (6) foot sidewalk to allow for eventual widening of Butterworth Road.	There is no recommendation of R-O-W dedication by the City on Butterworth Road.	The City did not recommend the dedication of additional R-O-W along the Butterworth Road frontage.
4	A year round visually opaque vegetative buffer for a streetscape on those sections of Pope Circle more than 50 feet beyond any access point to the property, as measured from the nearest end of Pope Circle	There shall be a 25 foot undisturbed buffer along the entire southern property line adjacent to Pope Circle with the exception of approved curb cuts are located. This buffer area shall be enhanced in areas of sparse vegetation as approved by the Dept. of Community Development.	The City's recommendation of a 25 foot buffer is 1/2 of the County's, however we have the ability to require additional plant material.
5	Access to Pope Circle will be contingent of roadway improvements at the direction of the County Engineer from the point of access to either Knox Bridge Highway or Butterworth Road.	Roadway improvements along the entire frontage of Pope Circle shall be constructed as required. These improvements may include but are not limited to dedication of additional r-o-w along Pope Circle, installation of curb, gutter and sidewalk and proper striping of Pope Circle.	The County required that improvements to Pope Circle be constructed from Keith Bridge Road to Butterworth Road. The City is requesting improvements be made only along Pope Circle to which the subject property has frontage. The extent of improvements will up to our Engineering Dept.
6	Street trees of male ginkgo or approved equivalent planted 45 feet apart within the ten (10) landscape strip along Knox Bridge Highway and Butterworth Road.	These trees are required as part of the City's Overlay Zone Community Standards Ordinance at major Intersection so they were not addressed in any conditions. Tulip trees are also required along the corridor of Influence.	This was not addressed since these trees are already required.
7	Evergreen shrubs of holly, nandina or approved equivalent under 36 inches in height at maturity at 40% coverage within the 10 foot landscape strip.	See #6	See #6
8	Free standing sign must be monument style with a brick base (or alternate material), 18 to 24 inches high. The total height of the sign (including the base) cannot exceed 10 feet in height. The maximum sign area allowed is 50 square feet per side with a maximum of 2 sides. All signs must be interior illuminated.	Monument signs were not addressed as their requirements are listed in the Overlay Zone Community Standards Ordinance.	The Overlay Zone Community Standards Ordinance allows for a monument type sign with a brick base (or approved alternate material), 18 to 24 inches in height. The total height of the sign cannot exceed 8 feet in height if the sign is located more than 10 feet behind the r-o-w line. The maximum sign area allowed is 32 square feet per side with a maximum of two sides. All monument signs must be interior illuminated per the Overlay ordinance.
9		The City also recommended that the development be consolidated into a single lot of record, no wall mounted security lights shall be installed on the rear of any building the faces Pope Circle and the area of the driveway and fence encroachment (west property line) be corrected/resolved prior to the submission of any Land Disturbance Permit.	Nothing to compare with County conditions.

Comparison of County vs. PC Recommendation for Z1604-001

County		City	Comparison
1	Thirty (30) inch curb and gutter along Knox Bridge Highway and Butterworth Road.	All proposed curb cuts along Knox Bridge Highway shall be as approved by the G.D.O.T.	Knox Bridge Highway (a.k.a. SR 20) is a state highway. Any improvement along this road will be subject to G.D.O.T. requirements. Until development plans are submitted to the state we do not know what will be required. In addition this part of Knox Bridge Highway is located along a Corridor of Influence and a major intersection. According to the Overlay Zone Community Standards Ordinance the developer will be required to install a 6 foot wide sidewalk with a 4 foot grass strip, 30 inch curb and gutter, and the planting of male gingko and tulip trees, understory trees and various shrubs and ground cover.
2	Ten (10) foot landscape strip requirement containing a four (4) foot grassed and planted strip and a six (6) foot sidewalk with twenty (20) foot expansion joints along Knox Bridge Highway.	The submitted site plan is conceptual in nature. All required development requirements and zoning conditions must be complied with upon submission of any Land Disturbance Permits.	See #1 above
3	Dedicate an additional twenty (20) foot grass or landscape strip (for a total of 24 feet) between the existing Butterworth Road R-O-W and the six (6) foot sidewalk to allow for eventual widening of Butterworth Road.	There is no recommendation of R-O-W dedication by the City on Butterworth Road.	The City did not recommend the dedication of additional R-O-W along the Butterworth Road frontage.

4	<p>A year round visually opaque vegetative buffer for a streetscape on those sections of Pope Circle more than 50 feet beyond any access point to the property, as measured from the nearest end of Pope Circle</p>	<p>There shall be a 25 foot undisturbed buffer along the entire southern property line adjacent to Pope Circle with the exception of approved curb cuts are located. This buffer area shall be enhanced in areas of sparse vegetation as approved by the Dept. of Community Development.</p>	<p>The City's recommendation of a 25 foot buffer is 1/2 of the County's, however we have the ability to require additional plant material.</p>
5	<p>Access to Pope Circle will be contingent of roadway improvements at the direction of the County Engineer from the point of access to either Knox Bridge Highway or Butterworth Road.</p>	<p>Roadway improvements along the entire frontage of Pope Circle shall be constructed as required. These improvements may include but are not limited to dedication of additional r-o-w along Pope Circle, installation of curb, gutter and sidewalk and proper striping of Pope Circle.</p>	<p>The County required that improvements to Pope Circle be constructed from Keith Bridge Road to Butterworth Road. The City is requesting improvements be made only along Pope Circle to which the subject property has frontage. The extent of improvements will up to our Engineering Dept.</p>
6	<p>Street trees of male ginkgo or approved equivalent planted 45 feet apart within the ten (10) landscape strip along Knox Bridge Highway and Butterworth Road.</p>	<p>These trees are required as part of the City's Overlay Zone Community Standards Ordinance at major intersection so they were not addressed in any conditions. Tulip trees are also required along the corridor of influence.</p>	<p>This was not addressed since these trees are already required.</p>
7	<p>Evergreen shrubs of holly, nandina or approved equivalent under 36 inches in height at maturity at 40% coverage within the 10 foot landscape strip.</p>	<p>See #6</p>	<p>See #6</p>

8	<p>Free standing sign must be monument style with a brick base (or alternate material), 18 to 24 inches high. The total height of the sign (including the base) cannot exceed 10 feet in height. The maximum sign area allowed is 50 square feet per side with a maximum of 2 sides. All signs must be interior illuminated.</p>	<p>Monument signs were not addressed as their requirements are listed in the Overlay Zone Community Standards Ordinance.</p>	<p>The Overlay Zone Community Standards Ordinance allows for a monument type sign with a brick base (or approved alternate material), 18 to 24 inches in height. The total height of the sign cannot exceed 8 feet in height if the sign is located more than 10 feet behind the r-o-w line. The maximum sign area allowed is 32 square feet per side with a maximum of two sides. All monument signs must be interior illuminated per the Overlay ordinance.</p>
9		<p>The City also recommended that the development be consolidated into a single lot of record, no wall mounted security lights shall be installed on the rear of any building the faces Pope Circle and the area of the driveway and fence encroachment (west property line) be corrected/resolved prior to the submission of any Land Disturbance Permit.</p>	<p>Nothing to compare with County conditions.</p>

Case AX1604-001 & Z1604-001, Mountain Oil Express, applicant

	County	PC	City Overlay
Curb/Gutter	30 inch	GDOT	30 inch
Landscape (SR20)	10' strip 4' grass 6' sidewalk	comply with City	10' strip 4' grass 6' sidewalk
Butterworth Rd.	20' strip 6' sidewalk	N/A	N/A
Pope Circle	solid opaque access approval	25' buffer	N/A
Trees	male Ginko 45' on center 3' evergreen	Comply with City	comply with City tulip poplar 55'-65' center understory trees shurb-ground cover
Signage	monument 50 sq. ft		monument 32 sq. ft.
Encroachment	N/A	Clear up	N/A
		no wall lights-Pope consolidate into 1 parcel	