
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: November 27, 2012

FROM: John McDonough, City Manager

AGENDA ITEM: **RZ12-009/CV12-011** - Northeast Corner of Spalding Drive at River Exchange Drive, *Applicant: Dunwoody Place Venture, LLC*, To rezone the subject property from C-1 (Community Business District) conditional to A-L (Apartment Limited District) to allow construction of a senior apartment building, with concurrent variances

MEETING DATE: For Submission onto the December 4, 2012, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Rezoning Petition

APPROVAL BY CITY MANAGER: JFM APPROVED

PLACED ON AGENDA FOR: 12/4/2012

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: [Signature]

REMARKS:



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development

A handwritten signature in black ink, appearing to be "AP", is written over the name Angela Parker.

Date: November 16, 2012 for submission onto the December 4, 2012 City Council meeting

Agenda Item: **RZ12-009/CV12-011 Northeast corner of Spalding Drive and River Exchange Drive**, a request to rezone the subject property from C-1 (Community Business District) to A-L (Apartments Limited Dwelling District) conditional to allow a senior housing facility.

Department of Community Development Recommendation:

APPROVAL of the request to rezone the subject property from C-1 (Community Business District) to A-L (Apartments Limited Dwelling District) conditional to allow a senior housing facility.

Background:

The petition was heard at the October 16, 2012 Mayor and City Council hearings. The Council DEFERRED the petition to the December 4, 2012 City Council hearing (6-0, Fries, Paulson, DeJulio, Collins, Sterling and McEnery for; Galambos not voting) to allow the applicant additional time to secure funding for the project.

The subject site is located in the northeast corner of Spalding Drive and River Exchange Drive. The property is currently zoned C-1 (Community Business District). The property contains approximately 4.10 acres. The property is currently undeveloped.

Discussion:

The applicant is requesting to rezone the subject property to A-L (Apartments Limited Dwelling District) conditional to allow a senior housing facility.

Additionally, the applicant is requesting three (3) concurrent variances from the Zoning Ordinance as follows:

1. Variance from Section 18.2.1 to reduce the required parking from 163 to 110 spaces.
2. Variance from Section 18.3.1.D to allow parking within the required front yard setback.
3. Variance from Section 4.23.1.A to reduce the required 40 foot front landscape strip to 22 feet.



Rezoning Petition No. RZ12-009/CV12-011

HEARING & MEETING DATES			
Community Zoning Information Meeting	Community Developer Resolution Meeting	Planning Commission Hearing	Mayor and City Council Hearing
June 26, 2012	July 26, 2012	August 16, 2012	September 18, 2012 October 16, 2012 December 4, 2012

APPLICANT/PETITIONER INFORMATION		
Property Owners	Petitioner	Representative
Dunwoody Place Venture LLC	Dunwoody Place Venture LLC	Kevin Curry

PROPERTY INFORMATION	
Address, Land Lot, and District	Northeast Corner of Spalding Drive and River Exchange Drive Land Lot 313, District 06
Council District	1
Frontage and Area	Approximately 282.75 feet of frontage along the east side of River Exchange Drive. The subject property has a total area of 4.10 acres.
Existing Zoning and Use	C-1 (Community Business District)
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	LWC (Living-Working Community)
Proposed Zoning	A-L (Apartment Limited Dwelling District)

INTENT
 To rezone the subject property from C-1 (Community Business District) to A-L (Apartment Limited Dwelling District) to construct a senior living facility.

Additionally, the applicant is requesting three (3) concurrent variances from the Zoning Ordinance as follows:

1. Variance from Section 18.2.1 to reduce the required parking from 163 to 110 spaces.
2. Variance from Section 18.3.1.D to allow parking within the required front yard setback.
3. Variance from Section 4.23.1.A to reduce the required 40 foot front landscape strip to 22 feet.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

RZ12-009 - APPROVAL CONDITIONAL
CV12-011 #1 - APPROVAL CONDITIONAL
CV12-011#2 - APPROVAL CONDITIONAL
CV12-011 #3 - APPROVAL CONDITIONAL

PLANNING COMMISSION RECOMMENDATION

**RZ12-009 - APPROVAL CONDITIONAL
CV12-011 #1 - DENIAL
CV12-011#2 - DENIAL
CV12-011 #3 - APPROVAL CONDITIONAL**

The petition was heard at the August 16, 2012 Planning Commission meeting. The Commission Recommendation for approval (6-0, Pond, Maziar, Tart, Frostbaum, Rubenstein and Squire for; Duncan not voting) subject to the following conditions:

1. Condition subject property to senior housing.
2. Denial of variances: 1) Section 18.3.1.D to allow parking within the required front yard setback and 2) Section 4.23.1.A to reduce the required 40 foot front landscape strip to 22 feet.
3. Create a shared parking easement for thirty (30) additional parking spaces at 7700 Spalding Drives (Spalding Corners Shopping Center) and show on site plan. The shared parking easement must be recorded as part of the final plat and prior to the issuance of a Certificate of Occupancy.

The applicant has revised the site plan to remove parking space from the front setback on southwest corner of the parking lot (River Exchange Drive). Staff has added a condition to restrict the property to senior housing.

MAYOR AND CITY COUNCIL ACTION- August 21, 2012

The petition was heard at the September 18, 2012 Mayor and City Council hearing. The Council **DEFERRED** the petition to the October 16, 2012 City Council hearing (6-0, Fries, Paulson, DeJulio, Collins, Sterling and McEnery for; Galambos not voting). To allow the applicant additional time to secure funding for the project.

MAYOR AND CITY COUNCIL ACTION- October 16, 2012

The petition was heard at the October 16, 2012 Mayor and City Council hearing. The Council **DEFERRED** the petition to the December 4, 2012 City Council hearing (6-0, Fries, Paulson, DeJulio, Collins, Sterling and McEnery for; Galambos not voting). To allow the applicant additional time to secure funding for the project.

Location Map

NE corner of Spalding Drive and River Exchange Drive



BACKGROUND

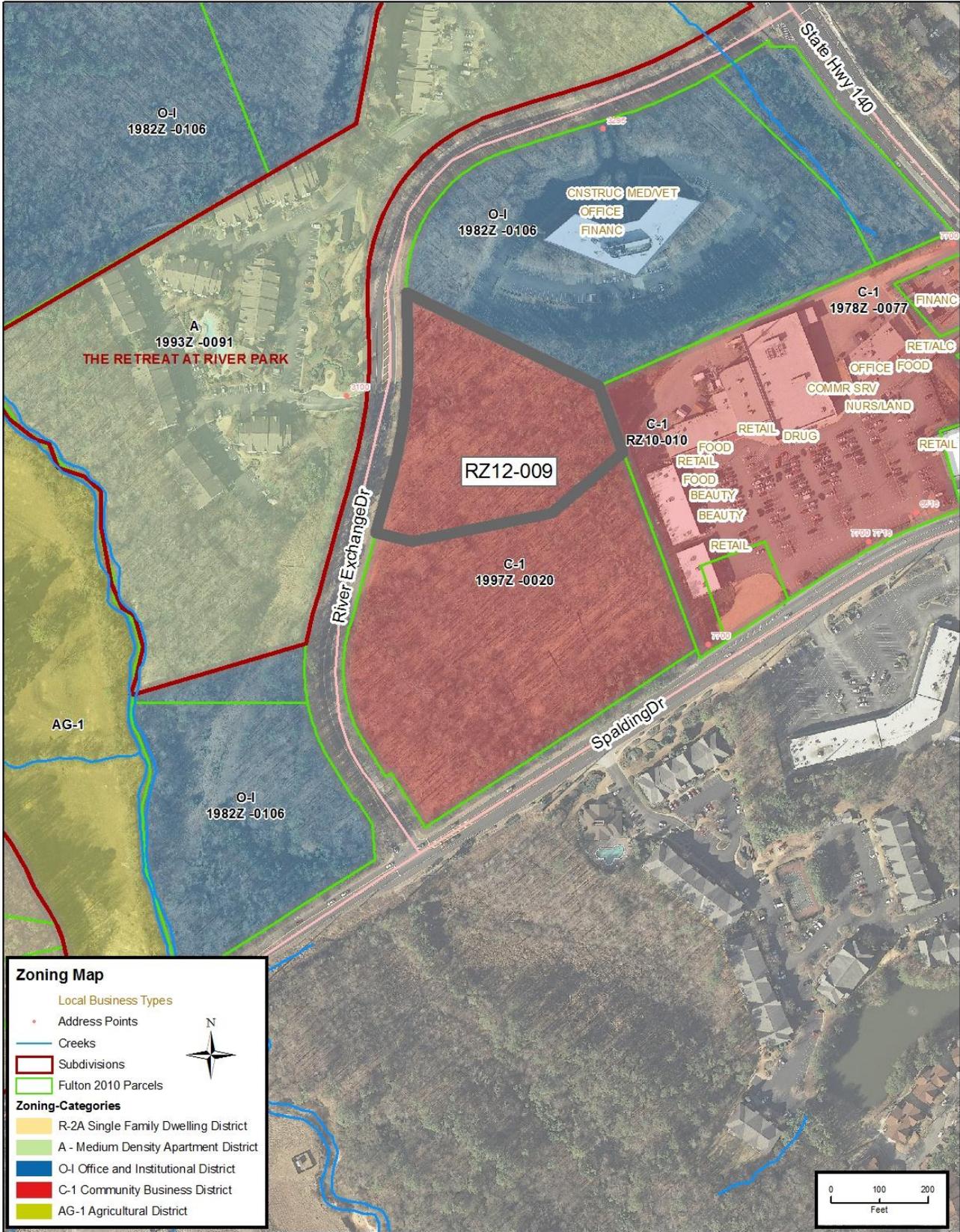
The subject site is located northeast corner of Spalding Drive and River Exchange Drive. The property is currently zoned C-1 (Community Business District). The property contains approximately 4.10 acres. The property is currently un-development.

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

SUBJECT PETITION RZ10-007/CV10-010	Requested Zoning	Proposed Use	Land Area (Acres)	Units	Density (Units per Acre)
	A-L	Senior Living Facility	4.10	130 units	31.71 units/acre
Location in relation to subject property					
Location in relation to subject property	Zoning	Use	Land Area (Acres)	Square Footage or Number of Units	Density (Square Feet or Units Per Acre)
North/West	A Z93-0091	The Retreat at River Park Apartments	23.06	228 units	9.88 unit/ac
East	O-I Z82-0106	Office Complex	10	116,250 s.f	11,625 s.f./ac
East	C-1 Z10-010	Shopping Center	9.02	69,777 s.f.	7,735.81 s.f./ac
South	C-1 Z97-0020	Undeveloped	6.89	-	-
South	Gwinnett County	Rosewood Plantation Apartments	-	-	-
West	O-I Z82-0106	Undeveloped	4.45	-	-

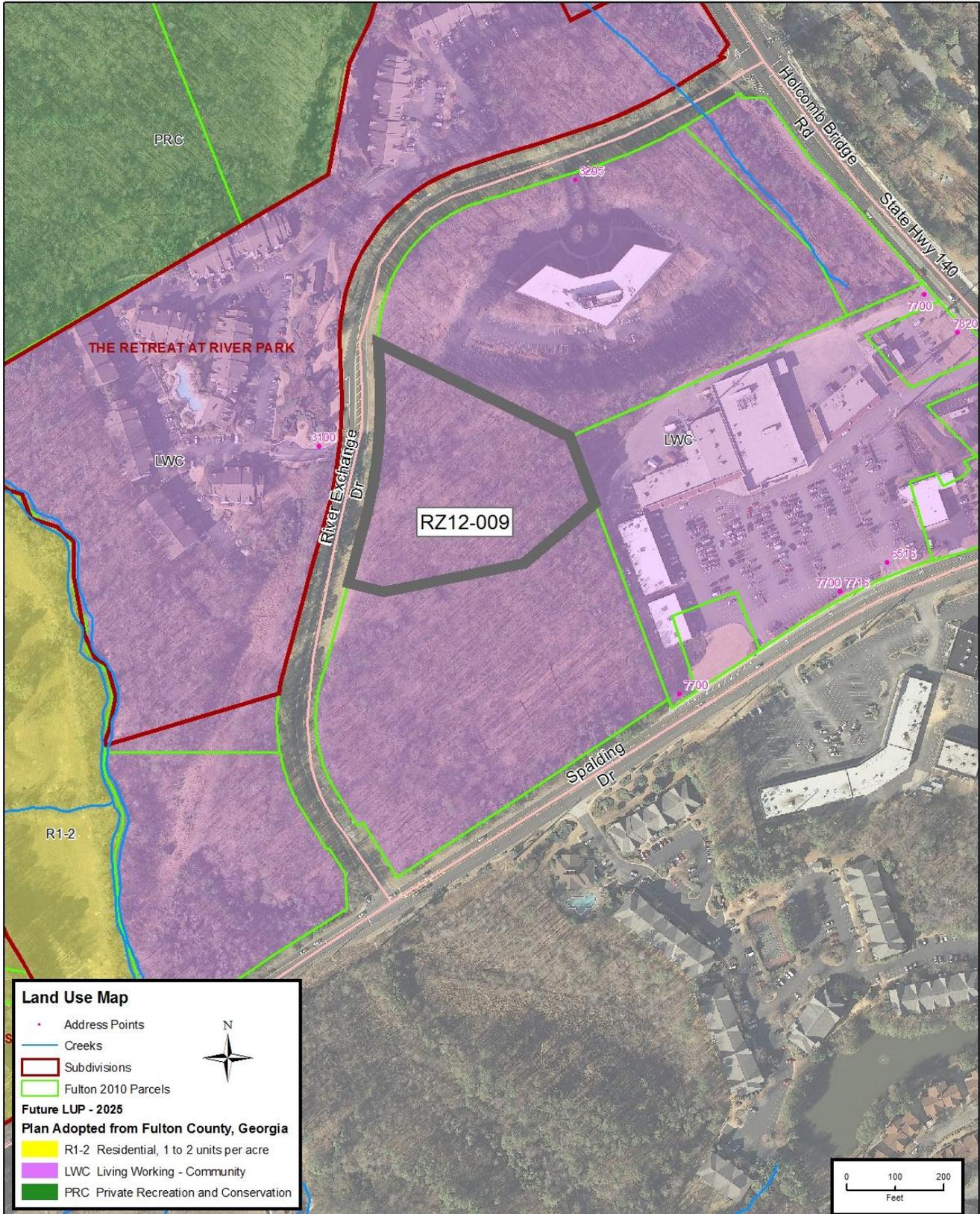
Zoning Map

NE corner of Spalding Drive and River Exchange Drive



Future Land Use Map

NE corner of Spalding Drive and River Exchange Drive





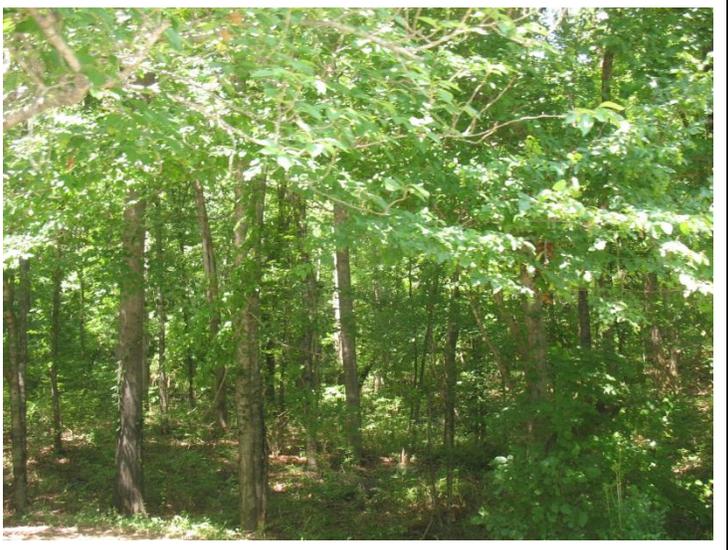
Subject Property



Subject Property



Property to the West



Property to the South (Spalding Drive)

SITE PLAN ANALYSIS

The site plan submitted shows a proposed 4 story building. The site plan indicates the subject property to slope primarily to the southwest. Additionally, the site plan indicates the following:

- Building Area of 47,000 s.f. (25%)
- Total Impervious Area of 112,500 s.f. (60%)
- Landscape Area of 40,000 s.f. (21.3%)
- Undeveloped Area of 35,077 s.f. (18.7%)

PARKING

The applicant is requesting a variance from section 18.2.1 to reduce the required parking from 163 spaces to 110 spaces.

LANDSCAPE PLAN ANALYSIS

The applicant has provided Development Statistics as follows:

- Landscape Area of 40,000 s.f. (21.3%)
- Undeveloped Area of 35,077 s.f. (18.7%)

ENVIRONMENTAL SITE ANALYSIS

The Environmental Site Analysis Report is sufficient and satisfies the requirements of the Sandy Springs Zoning Ordinance. The reporting on all items of the analysis stated either positive, minimal, or no environmental issues. The report indicates the subject property is located in the river corridor and will be developed in accordance with the Atlanta Regional Commission requirements. The report, in its entirety, is within the case file as a matter of record.

DEPARTMENT COMMENTS

The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on July 11, 2012 at which the following departments commented:

Sandy Springs Landscape Architect/Arborist	<ul style="list-style-type: none"> ▪ Site is located in the River Corridor
Sandy Springs Transportation Planner	<ul style="list-style-type: none"> ▪ Meet Development Ordinance requirements for driveway design, spacing, and sight distance. ▪ Provide a left-turn lane and right-turn deceleration lane at entrance or as may be required by Public Works department. ▪ Provide a 24-hour traffic count for River Exchange Drive and trip generation and distribution data generated by proposed development. ▪ Provide sidewalks per the Development Ordinance standards on frontage of River Exchange Drive as well as a minimum 5-foot wide accessible route from River Exchange Drive to accessible entrances on site per the <i>Americans with Disabilities Act</i>. ▪ Dedicate right-of-way along entire property frontage on River Exchange Drive 30-feet from centerline of River Exchange Drive or 10.5 feet from back of curb, whichever is greater.

The staff has not received any additional comments from the Fulton County Board of Education.

PUBLIC INVOLVEMENTRequired Meetings

The applicant attended the following required meetings:

- Community Zoning Information Meeting held June 26, 2012 at the Sandy Springs City Hall
- Community/Developer Resolution Meeting held July 26, 2012 at the Sandy Springs City Hall

Public Comments (no attached letters)

None

Notice Requirements

The petition will be advertised in August 8, 2012 (Sandy Springs Neighbor) and August 10, 2012 (Sandy Springs Reporter). The applicant posted a sign issued by the Department of Community Development along the frontages of River Exchange Drive and Spalding Drive on July 13, 2012.

Public Participation Plan and Report

The applicant has met the Public Participation Plan requirements. The applicant was required to submit the Public Participation Report seven (7) days prior to the Mayor and City Council Hearing on September 18, 2012.

ZONING IMPACT ANALYSIS

Per Article 28.4.1, *Zoning Impact Analysis by the Planning Commission and the Department*, the staff shall make a written record of its investigation and recommendation on each rezoning petition with respect to the following factors:

A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Finding: The staff is of the opinion that the proposed use is suitable in view of the use and development of adjacent and nearby property. The surrounding area consists of: Multi-family (north, south and west), office (northeast) and commercial (east and south). The proposal allows for a proper transition between these areas.

B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

Finding: The staff is of the opinion that the proposal will not have an adverse impact on the use or usability of adjacent or nearby property.

C. Whether the property to be affected by the zoning proposal may have reasonable economic use as currently zoned.

Finding: The staff is of the opinion that the subject property has a reasonable economic use as currently zoned.

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

Finding: The staff is of the opinion that the proposal will not result in a use which will cause an excessive or burdensome use of the existing infrastructure.

E. *Whether the zoning proposal is in conformity with the policies and intent of the land use plan.*

Finding: The staff is of the opinion that the proposed use is consistent with the Future Land Use Map, which designates the property as Living-Working Community (LWC). The corresponding zoning for Live Work -Community (LWC) in MIX (Mixed Use District). Multifamily dwelling units are a permitted use under the MIX (Mixed Use District). The senior living use would complement the mixture of uses in the surrounding area.

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.*

Finding: The staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

G. *Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of Sandy Springs.*

Finding: The staff is of the opinion that the proposal will not permit a use which could be considered environmentally adverse to the natural resources, environment, or citizens of Sandy Springs. The site will have to meet all Atlanta Regional Commission (ARC) guidelines and current City and State regulations.

VARIANCE CONSIDERATIONS

Article 22 of the Zoning Ordinance indicates the following are considerations in granting variances, of which only one has to be proven:

- A. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or,*
- B. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,*
- C. *Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.*

The applicant is requesting three (3) concurrent variances as follows:

1. Variance from Section 18.2.1. of the Zoning Ordinance to reduce the required off-street parking for an Residential Senior Housing from one hundred sixty-three (163) spaces to one hundred ten (110) spaces.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

*The applicant has indicated that there extensive history of other senior living facilities indicates that .85 spaces per unit are typical for this type of facility. The applicant has also indicated that many residents do not own or operate cars. The facility will also have an on-call transportation option. Additionally there is a shopping center with a grocery store and a drug store within walking distance. The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public. Therefore, based on these reasons, the staff recommends **APPROVAL** of the variance to reduce the required one*

hundred sixty-three (163) spaces to one hundred ten (110) spaces.

2. Variance from Section 18.3.1.D of the Zoning Ordinance to allow parking within the required front yard setback.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

The property is located in the Chattahoochee River Corridor and the amount of impervious surface is limited to specific categories. In order to accommodate these requirements the applicant is proposing to locate parking in the front yard setback. The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to allow parking to be located within the front setback.

3. Variance from Section 4.23.1.A of the Zoning Ordinance to reduce the required 40 foot front landscape strip to 22 feet.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

The property is located in the Chattahoochee River Corridor and the amount of impervious surface is limited to specific categories. In order to accommodate these requirements the applicant is proposing to reduce the front landscape strip to allow Parking to be located along the front of the property. The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to reduce the front landscape strip from forty (40) feet to ten (22) feet.

CONCLUSION TO FINDINGS

It is the opinion of the staff that the proposal is in conformity with the intent of the Comprehensive Plan Policies, as the proposal involves a use and density that is consistent with abutting and nearby properties and provides appropriate transition. Therefore, based on these reasons, the staff recommends APPROVAL CONDITIONAL of this petition. The staff also recommends APPROVAL of the associated concurrent variances numbered 1 through 3.

STAFF RECOMMENDED CONDITIONS

Should the Mayor and City Council decide to rezone the subject property from C-1 (Community Business District) conditional to A-L (Apartment Limited Dwelling District) to construct a senior living facility, the staff recommends the approval be subject to the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to abide by the following:
 - a. Senior housing and associated accessory uses at a density of 31.71 units per acre or 130 units, whichever is less.
2.
 - a. To the site plans received by the Department of Community Development on August 28, 2012 Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
 - a. Variance from Section 18.2.1. of the Zoning Ordinance to reduce the required off-street parking for an Residential Senior Housing from one hundred sixty-three (163) spaces to one hundred ten (110) spaces (CV12-011).
 - b. Variance from Section 18.3.1.D of the Zoning Ordinance to allow parking within the required front yard setback. (CV12-011).
 - c. Variance from Section 4.23.1.A of the Zoning Ordinance to reduce the required 40 foot front landscape strip to 22 feet. (CV12-011).

Attachments

Site Plans, Date Received June 4, 2012

Topography and tree survey, Date Received June 4, 2012

Letter of Intent, Date Received June 1, 2010

Letter Fulton County Dept. of Health Services received August 7, 2012

RZ12-009 / CV12-011
RECEIVED

JUN 04 2012

City of Sandy Springs
Community Development

River Exchange Senior Housing

Letter of Intent

6/4/12

We are requesting the rezoning from C-1-C to A-L of a 4.31 acre undeveloped tract of land on River Exchange off Spalding Drive in Sandy Springs. We propose to develop a senior living facility on the parcel.

The development will be a four-story with partial fifth story building of approximately, 140-150,000 total square feet. We will build a maximum of 130 units, the smallest of which will be a few studio apartments of no less than 600 square feet. The average size of the units will be approximately 825 square feet.

We also request three concurrent variances:

- 1) To reduce the parking ratio from 1.25 spaces/unit to .85 spaces/unit.
- 2) To allow parking within the required setback for the front yard.
- 3) To reduce the front landscape strip to 10 feet.

The primary hardship and justification for our request of all three variances is that the project is located within the Chattahoochee River Corridor. Such tight restrictions are placed on the amount of disturbed areas and impervious areas within various corridor land categories that it was necessary to locate the building and parking toward the street to accommodate these requirements. We tried several location alternatives and found this layout the only feasible option.

In addition to our limitation of disturbed and impervious areas within the river corridor, we seek the parking reduction variance because our extensive history with other senior living facilities clearly indicates that .85 spaces per unit is generous parking for this type of facility. Many of the residents of these senior living facilities are at a point in their lives when they do not own or operate a car. Our facility will have on-call transportation options and the location of the shopping center, with a grocery store and a drug store, adjacent to the site, allows that most essential shopping can be accommodated within walking distance from the facility.

Thank you for your consideration of our requests.



MEMORANDUM

RECEIVED
AUG 07 2012

TO: Patrice S. Dickerson, Manager of Planning & Zoning
City of Sandy Springs, Department of Community Development

FROM: Monica Robinson, B.S., M.B.A., Environmental Planner
Department of Health Services, Office of the Director

City of Sandy Springs
Community Development

DATE: July 31, 2012

SUBJECT: Zoning Comments for August 2012

AGENDA ITEM	ZONING COMMENTS
RZ12-008	<p>This proposed cleaning service must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air.</p> <p>The Fulton County Health Department recommends that the existing internal plumbing within this facility be inspected for adequacy for the capacity and the intended use.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.</p>
RZ12-009/ CV12-011	<p>The Fulton County Department of Health Services recommends that the applicant be required to connect the proposed senior living facility to public water and public sanitary sewer available to the site.</p> <p>Since this proposed development constitutes a premise where people work, live, or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.</p> <p>This proposed facility must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air.</p> <p>If this proposed development includes a food service facility, the owner must submit kitchen plans for review and approval by this department before issuance of a building permit and beginning construction. The owner must obtain a food service permit prior to opening.</p> <p>If this proposed development includes a public swimming pool as defined in the regulations including spas, whirlpools, etc., the owner or contractor must submit plans for review and approval by this department and must obtain a Department of Health Services permit to construct before issuance of a building permit. Also, the owner of the facility must obtain a Department of Health Services permit to operate the pool prior to opening.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.</p> <p>The Department recommends that this property be designed the walking paths and intersections with vehicular traffic so as to prevent the risk of injury of pedestrians particularly the senior residents.</p>

AGENDA ITEM	ZONING COMMENTS
RZ12-010/ U12-001/ CV12-012	<p>The Fulton County Department of Health and Wellness recommends that the applicant be required to connect the proposed apartment building to public water and public sanitary sewer available to the site.</p> <p>Since this proposed development constitutes a premise where people work, live or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.</p> <p>Any common areas of this proposed apartment development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air.</p> <p>Since this proposed development includes a public swimming pool as defined in the regulations including spas, whirlpools, etc., the owner or contractor must submit plans for review and approval by this department and must obtain a Department of Health Services permit to construct before issuance of a building permit. Also, the owner of the facility must obtain a Department of Health Services permit to operate the pool prior to opening.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse container be submitted for review and approval.</p>
ZM12-007	<p>The Fulton County Department of Health Services does not anticipate any health problems with 1) modifying condition 11 of the zoning case Z80-0043 to remove the requirement for a minimum five (5)-foot landscape strip along the northerly property and 2) removing condition 14 regarding signage so long as no development/redevelopment is proposed at this time. This Department will require that the owner/developer seek the approval of this Department prior to issuance of any building permit for any future development/redevelopment of this property.</p>