

# Agenda Item

File ID: 2022-2262

Substitute

4/25/2023

Public Hearing: YES  NO

Department: Planning and Sustainability

## SUBJECT:

Commission District(s): Commission District 03 Super District 06

Application of Toll Brothers c/o Kathryn Zickert, Smith, Gambrell, & Russell LLC to rezone property from O-I (Office Institutional) zoning district to RSM (Small Lot Residential Mix) zoning district to allow the construction of single-family attached townhomes, at 1065 Fayetteville Road.

Petition No.: Z-22-1246092

Proposed Use: Single-family, attached townhomes.

Location: 1065 Fayetteville Road, Atlanta, Georgia 30316

Parcel No.: 15-147-07-001

Information Contact: Planning & Sustainability

Phone Number: 404-371-2155

## PURPOSE:

Application of Toll Brothers c/o Kathryn Zickert, Smith, Gambrell, & Russell LLC to rezone property from O-I (Office Institutional) zoning district to RSM (Small Lot Residential Mix) zoning district to allow the construction of single-family attached townhomes. The property is located on the east side of Interstate 20, the north side of Graham Circle, and the west side of Fayetteville Road, at 1065 Fayetteville Road in Atlanta, Georgia. The property has approximately 1,068 feet of frontage along Interstate 20, 536 feet of frontage along Graham Circle, 612 feet of frontage along Fayetteville Road and contains 17.2 acres.

## RECOMMENDATION:

COMMUNITY COUNCIL: (Feb. 8, 2023) Approval. (Oct. 12, 2022) Denial.

PLANNING COMMISSION: (March 7, 2023) 30-Day Deferral. (Nov. 1, 2022) Full Cycle Deferral.

STAFF RECOMMENDATION: Approval with conditions.

**PLANNING STAFF ANALYSIS:** The applicant is requesting a rezoning from the O-I (Office Institutional) Zoning District to the RSM (Small Lot Residential Mix) Zoning District for development of a 102-unit (condominium) townhome community. The requested rezoning to RSM is consistent with the *Comprehensive Plan*. The subject property is located in the Suburban (SUB) future land use character area, which includes RSM as a permissible zoning district (pg. 116) and lists “townhomes” as a primary land use (pg. 115). The proposed zoning appears to be suitable based on its surroundings. Interstate 20 (I-20) abuts the subject property to the west. The proposal provides a reasonable land use transition from the interstate to nearby single-family, detached residential uses north and east of the subject property. Moreover, the subject property would be within 300 feet of another RSM zoned townhome development (*Collection at East Lake*). From a wider viewpoint, the subject property would add to the desired pattern of moderate density zoning (e.g., MR-2, RSM, and MR-1) along the I-20 corridor. The applicant is requesting a density bonus of two (2) dwelling units per acre (2DUs/acre) for the maximum density allowed within RSM of six (6) dwelling units per acre (6DUs/acre). In exchange for the density bonus, the applicant proffers the installation of a pocket park and dog park. The revised site plan removes all residential lots from the floodplain. A larger swath of dedicated open space for a pocket park is included.

Additionally, a linear greenway is proposed at the center of the development. Therefore, upon review of Section 7.3.5. (A – H) of the *Zoning Ordinance*, staff recommends approval with conditions.

**PLANNING COMMISSION VOTE: (March 7, 2023) 30-Day Deferral 8-1-0.** Jon West moved; Jan Costello seconded for a 30-day Deferral to the April 25, 2023 Board of Commissioners' a.m. meeting. Tess Snipes opposed. **(November 1, 2022) Full Cycle Deferral 7-1-0.** Vivian Moore moved; Jon West seconded for a one-full cycle deferral to the January 2023 zoning agenda. Tess Snipes opposed.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: (February 8, 2023) Approval 5-2-0. (October 12, 2022) Denial 3-2-1.** Council recommended denial due to concerns about fire safety with the units being too close to each other, potential flooding impacts, and the fact that geological studies had not yet been done regarding adequacy of the soils. The Council indicated that even though the Planning & Sustainability Department was charged with ensuring these issues were addressed during the land development permit phase, it appeared that in many cases these issues remained during or after construction.

**SUBSTITUTE  
REZONING CONDITIONS  
Z-22-1246092 (2022-2262)  
4-24-23**

1. The development shall contain no more than 102 condominium units and shall generally comply with the Site Plan, dated April 24, 2023, entitled "Sugar Creek." The Site Plan is conceptual and should there be any conflicts between the Site Plan and the *Zoning Ordinance*, the *Zoning Ordinance* shall prevail.
2. The exceptions to the Site Plan are as follows:
  - A. The secondary entrance from Graham Circle will be moved to the north as far as possible while still maintaining a slope of 10%, and subject to approval of the DeKalb County Department of Public Works-Transportation Division. This entrance shall be gated, but is not limited to emergency vehicle access.
  - B. There shall be at least 20 guest parking spaces within the development.
  - C. Streetscape requirements shall be subject to compliance with the *Zoning Ordinance* and approval of the DeKalb County Department of Public Works-Transportation Division.
  - D. Subject to approval of the DeKalb County Department of Public Works-Transportation Division, the developer shall install, at its expense, a rapid flashing beacon to facilitate crossing Fayetteville Road. This crosswalk and device shall be installed prior to issuance of the first certificate of occupancy for any condominium unit.
3. Pocket parks, foundation plantings, transitional buffers and other open spaces shall incorporate productive urban landscaping consisting of fruit bearing trees, shrubs and other native plants that support pollinating insects, where proper light and soil conditions permit. The landscape plan shall be submitted to the DeKalb County arborist for approval.
4. Electric panels in each house shall be sized to accommodate a 40-amp double-pole breaker labelled "reserved for solar." The developer will offer a solar package upgrade for each unit. Additionally, the developer shall provide a 240v. AC plug in each garage to accommodate electric vehicle charging. All units also shall be equipped with "smart" thermostats with internet-ready connection.
5. A mandatory Homeowners' Association ("HOA") shall be established and shall be responsible for maintenance of all common areas/facilities, including roads.
6. A maximum of 10% of units may be leased as rental units, in whole or in part, but rentals of less than six months shall be prohibited. This restriction shall be written into the covenants of the HOA described in condition 5.
7. Maximum allowable density shall not exceed 6 dwelling units per acre. In exchange for the bonus density, the developer shall provide open space (i.e., greens and edible landscaping) as shown on the site plan. The dwelling units are not required to be located on individual lots. But, to achieve the density bonus, Developer shall subdivide the Subject Property into at least two lots. Parts of the subject property may be subdivided and owned separately and/or conveyed as separate tracts and to separate owners with different ownership structures. As a condominium development,

building setbacks shall comply with minimum distance requirements from the boundary of the overall project site.

8. In the event of a subdivision, separate ownership of parts of the subject property and/or a conveyance of part of the subject property to different owners, all conditions and variances shall remain applicable to any portion of the subject property, regardless of what person or entity owns the property.
9. Separate ownership of parts of the subject property and/or conveyance of part of the subject property to different owners shall not create non-conforming uses and shall not require any changes to the Site Plan for the development nor any variances.
10. Setbacks, buffers and other zoning requirements shall be measured from existing right-of-way, versus any future right-of-way that may be dedicated incidental to development, unless any future right-of-way modification results in a right-of-way width reduction.
11. The product to be developed on the site plan shall be consistent with the elevations attached as Exhibit B.
12. The approval of this rezoning application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the authority of the Planning Commission, the Zoning Board of Appeals, or other entity whose decision should be based on the merits of the application under review by each entity.

Exhibit A: Proposed Site Plan

Exhibit B: Proposed Elevations





