



DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 500

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov

Planning Commission Hearing Date: March 5, 2019, 6:30 P.M.

Board of Commissioners Hearing Date: March 26, 2019, 6:30 P.M.

STAFF ANALYSIS

Case No.: Z-19-1243046 **Agenda #:** N. 9

Location/Address: 2387 Wellborn Road **Commission District:** 5 **Super District:** 7

Parcel ID(s): 16-071-09-001

Request: Rezone property from C-1 (Local Commercial) to MR-1 (Medium Density Residential-1) for 124 single-family attached townhome units at a density of 8.4 units per acre.

Property Owner(s): Wellborn Road Common Tenancy

Applicant/Agent: Rocklyn Homes, Inc. c/o Battle Law, P.C.

Acreage: 14.75 acres

Existing Land Use: Undeveloped, wooded.

Surrounding Properties: To the northwest, west, north, and northeast: single-family attached townhomes; to the east and southeast: undeveloped land and a telecommunications tower; to the south: a Citgo service station; to the southwest: single-family residential.

Adjacent Zoning: **North:** MR-1 **South:** C-1 **East:** RSM **West:** MR-1 **Northeast:** MR-1 **Northwest:** MR-1
Southeast: C-1 **Southwest:** RSM

Comprehensive Plan: **CRC (Commercial Redevelopment Corridor)** **Consistent** **Inconsistent**

Proposed Density: 8.4 units per acre	Existing Density: not applicable (property is undeveloped)
Proposed Units: 124	Existing Units: not applicable (property is undeveloped)
Proposed Lot Coverage: information not provided	Existing Lot Coverage: not applicable (property is undeveloped)

Zoning History: The subject property was rezoned in 1998 from RM-100, R-A, and R-100 to C-1 with conditions, pursuant to CZ-98075. The zoning conditions limited vehicular access to one point on Covington Highway and one point on Wellborn Road; required a fifty-foot undisturbed buffer on the three rear property lines; required sidewalks on Wellborn Road; prohibited pawn shops, liquor stores, adult entertainment establishments, flea markets, check

cashing establishments, storage facilities, beeper retail outlets, and billboards; required that lighting be directed away from adjoining residential property; and allowed a maximum of two monument signs.

SITE AND PROJECT ANALYSIS

The subject property is located approximately one mile north of Interstate 20 and approximately .72 mile east of Panola Road, in southeast DeKalb County. The 14.75-acre site is heavily wooded. The Covington Station and Windgate townhome subdivisions adjoin the property to the northwest, north, and northeast. Both subdivisions are zoned MR-1 and were developed in 2002 with a density of 10 units per acre.

The property is part of a Commercial Redevelopment Corridor character area that extends from the subject property approximately .45 miles to the east along Covington Highway. Like the subject property, all other properties in the corridor are undeveloped and wooded, with two exceptions: a .4-acre property on the southeastern corner of Covington Highway and Wellborn Road, which is developed with a Shell service station; and a property on the opposite side of Wellborn Road from the subject property, which was cleared of trees for construction of a telecommunications tower. The majority of the properties in the corridor are zoned C-1 (Local Commercial), including a 5.2-acre property at 6434 Covington Highway that juts into the center of the subject property. A MARTA bus stop is located on Covington Highway, near the intersection with Wellborn Road.

The proposal is for a 124-unit townhome development with a playground on its eastern side, a “dog run” park, and a 2.7-acre park on its west side. The site plan shows a detention pond next to Wellborn Road. Vehicular access to the subdivision is proposed via a three-lane driveway on Wellborn Road, which leads to a grid of 22-foot wide private drives. Five-foot landscape strips and five-foot sidewalks are shown on each side of the private drive.

The proposed density of 8.4 units per acre exceeds the base density by .4 units per acre. The applicant proposes public art to allow the increase in density.

LAND USE AND ZONING ANALYSIS

Section 27-832 of the Zoning Ordinance, “Standards and factors governing review of proposed amendments to the official zoning map” states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.

- A. **Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:** The proposed development is consistent with Commercial Redevelopment Corridor Policy No. 6: “Cluster high density development at nodes and along major corridors outside of established residential areas.”
- B. **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 proposal will permit a use that is suitable in the context of surrounding development. Its density and layout is similar to that of the adjoining townhome subdivisions.
- C. **Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:** The property has economic use as currently zoned, but it has remained undeveloped for the 21 years following the rezoning action that changed its classification to C-1. Thus, it does not appear to be marketable with its current zoning classification.
- D. **Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:** The proposed development is similar in character to adjacent property and is not expected to have adverse effects on these properties, nor on nearby residential subdivisions.

- E. **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:** Staff has not identified existing or changing conditions that would support approval or disapproval of the zoning proposal.
- F. **Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:** No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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: Staff of the Public Works Traffic Engineering Division has commented that plan and field reviews indicated “no problem that would interfere with traffic flow.” The DeKalb County School Board has commented that the assigned middle and high schools have capacity for the additional students that are expected to be generated by the proposed development, but “Panola Way Elementary School is over capacity and additional students from this development may [necessitate an] additional portable classroom on campus.” There has been no indication that utilities would be overburdened.

- G. **Whether the zoning proposal adversely impacts the environment or surrounding natural resources:** There are no streams or designated conservation areas on the property. Apart from the usual effects of developing a natural, wooded area, the zoning proposal is not expected to have adverse impacts on the environment. In this case, the effects of development are mitigated by the preservation of a 2.7-acre park on the western side of the development.

Compliance with District Standards:

MR – 1 STANDARD – FEE-SIMPLE TOWNHOMES	REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MAX. D.U.s/ACRE (BASE, W/BONUSES)	Base: 8 units/acre W/Bonuses: 12 units/ac.	8.4 units/acre (includes density bonus for Public Art which allows up to 1.6 add'l. units per acre)	Yes
MIN. OPEN SPACE	20%	Information not provided	
MIN. TRANSITIONAL BUFFER	None required.	N. A.	N.A.
MIN. LOT AREA	Not applicable.	N.A.	N.A.
MIN. LOT WIDTH	Not applicable.	N.A.	N.A.
MIN LOT WIDTH - NEW CORNER LOT	Not applicable.	N.A.	N.A.
MAX. LOT COVERAGE	80%	Information not provided	
MINIMUM UNIT SIZE	1,200 square feet	Minimum 1,200 square feet	Yes

MR – 1 STANDARD – FEE-SIMPLE TOWNHOMES		REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MAX. BLDG. HEIGHT		3 stories or 45 feet	2 ½ stories	Yes
BUILDING SETBACKS	FRONT	Determined only by utility placement, ROW, and streetscape.	20 feet	Yes
	INTERIOR SIDE	None required.	N.A.	N.A.
	SIDE – CORNER LOT	Same as front: Determined only by utility placement, ROW, and streetscape.	N.A.	N.A.
	REAR W/O ALLEY	15 feet	25 feet	Yes
PARKING		Min.: 1.5 space/unit + .25 guest spaces/unit Max.: 3 spaces/unit + .25 guest spaces/unit Min. 31 guest spaces	2 spaces per unit and 28 guest spaces	Unit spaces – Yes Guest spaces – A 10% administrative variance will be required.
STREETSCAPING ALONG WELLBORN ROAD		Min. 10' landscape strip, min. 6' sidewalk; street trees 50' apart	5-foot landscape strip, 5-foot sidewalk, street trees not shown	Variances might be necessary.
STREETSCAPING ALONG PROPOSED PRIVATE DRIVES		5-foot landscape strip back of curb; 5-foot sidewalk; street trees 50 ft. on center or every other unit, whichever is less	5-foot landscape strip; 5-foot sidewalk; street trees every other unit	Yes

QUALITY OF LIFE METRICS

Open Space: More than 2.57 acre (17%)

Linear Feet of New Sidewalk or Trails: Information not provided.

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS.

The proposed development is consistent with Commercial Redevelopment Corridor Policy No. 6: “Cluster high density development at nodes and along major corridors outside of established residential areas.” The zoning proposal will permit a use that is suitable in the context of surrounding development. Its density and layout is similar to that of the adjoining townhome subdivisions. Thus, is not expected to have adverse effects on these properties, nor on nearby residential subdivisions. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following conditions:

1. The development shall be for a maximum of 124 townhome units.
2. No wooden fencing shall be permitted along Wellborn Road or Covington Highway.

3. The roof line for each building shall be varied.
4. Exterior building materials shall comply with the Article 5 standards of the Zoning Ordinance.
5. Public art shall be displayed at the main entrance to the development so that it is visible from Wellborn Road.
6. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Board of Education Comments
4. Application
5. Site Plan
6. Zoning Map
7. Land Use Plan Map
8. Aerial Photograph
9. Site Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✔ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✔ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✔ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
 - **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- ✔ • **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
 - **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
 - **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- ✔ • **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
 - **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
 - **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
 - **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
 - **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT

The following areas below may warrant comments from the development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site. Recommend Low Impact Development features/Green Infrastructure be included in the proposed site design to protect as much as practicable.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.

Zoning Comments

N1 & N2. Rock Chapel Road is SR 124. GDOT review and permits required. . Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Rock Chapel Road is classified as a major arterial. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Right of way dedication of 50 feet from centerline required. All public infrastructure is required on public right of way- even if it exceeds 50 feet from centerline. Applicant is encouraged to seek an access easement across private property to obtain access to the traffic signal at Rock Mountain Rd and Rock Chapel Road. Street lighting along Rock Chapel Road required.


N3. No customer parking within public right of way along Chantilly Road due to close proximity of multiple intersections. Chantilly Road is classified as a local road. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Right of way dedication of 27.5 feet from centerline of Chantilly Road. These requirements will be applied with any land development permits.

N4. Rice Road, Classified as a local road. No comment.

N5. Lexington Trace is classified as a local road. Agape Way is classified as a local road. Agape Road is located within the I-285 right of way. GDOT review and approval is required. Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Applicant must coordinate with the Major Mobility Improvement Projects (MMIP) proposed managed lanes project along the east wall of I-285. Contact Tim Matthews (TMatthews@dot.ga.gov) prior to permitting. Local roads require a 27.5 foot right of way dedication from centerline, 5 foot landscape strip, 5 foot sidewalk. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Streetlights required. Infrastructure improvements required on all frontages.

N6. Nicole Lane is classified as a local road. Reginald Court is classified as a local road. No comment.

N7 & N8. E. Tupelo Street is classified as a local roads. Oldfield Road is classified as a local road. All local public roads require a 27.5 foot right of way from centerline, five foot landscape strip, five foot sidewalk and street lights. Infrastructure improvements required on all frontages. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements.

 N9. Wellborn Road is classified as a collector road. Collector Roads require a 35 foot right of way dedication from centerline, 6 foot sidewalk, 4 bike lane, 5 foot landscape strip, and streetlights. Covington Hwy is classified as major arterial. Requires GDOT approval and review. Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Major arterials require a 50 right of way dedication from centerline, 6 foot sidewalks, 4 foot bike lane, 5 foot landscape strip and street lights. Number of units requires two access points per code. Eliminate the acceleration lane at entrance. GDOT has just awarded an intersection project at the intersection of Covington Hwy at Wellborn Rd/Cove Lake Road. Coordinate with construction awarded to Baldwin Paving. Install a roundabout at the access point on Wellborn Road- eliminates the right turn lane and the left turn lane. The Transportation Division will support the one entrance with the installation of a roundabout, but still requires Board action to vary from the code.

N10. Flowers Road is classified as a collector road. . Collector Roads require a 35 foot right of way dedication from centerline, 6 foot sidewalk, 4 foot bike lake, 5 foot landscape strip, and streetlights. Covington Hwy is classified as major arterial. Extend infrastructure improvements along all property lines. Intersection, stopping and left turn sight distance required to be verified by Professional Engineer at entrance on Wellborn Road due to curve and possible hill crest along Wellborn Road. Minimum sight distance requirements must be met for permitting.



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DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MICHELLE ALEXANDER MMALEXANDER@DEKALBCOUNTYGA.GOV OR JOHN REID
JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM: PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: 2-19-1243046 Parcel I.D. #: 16-071-09-001

Address: 2387
Wellborn Rd
LITHONIA, GA 30058

Adjacent Roadway (s): Covington Hwy Major

(classification) (classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____	Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1, 000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Plans and field reviewed. Found nothing that would disrupt traffic flow.

Signature: [Signature]



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER mmalexander@dekalbcountyga.gov OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER

Case No.: Z-19-1243046

Parcel I.D. #: 16-071-09-001

Address: 2387 Wellborn Road

Lithonia, Georgia

WATER:

Size of existing water main: 6" CI Water Main (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Pole Bridge Creek Basin

Is sewer adjacent to property: Yes () No (X) If no, distance to nearest line: Approximately 428 feet South of Property

Water Treatment Facility: Pole Bridge WTF () adequate () inadequate

Sewage Capacity; * (MGPD)

Current Flow: 6.48 (MGPD)

COMMENTS:

* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

Signature: 

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

2/15/2019

N.9

Z-19-1243046 /2019-3216/16-071-09-001

2387 Wellborne Rd., Lithonia, GA

Amendment

- Note: Property 2018 located in the same area has septic installed 11/02/1985. Septic installation may apply.

N.10

SLUP-19-1243047-2019-3217/18-266-01-001,18-266-01-004

2891 Mercer University Drive, Chamblee, GA

Amendment

- Septic was located at 3000 Flowers Road installed on 09/24/1970.

- Please see general comments.

2/15/2019

To: Ms. Madolyn Spann, Planning Manager
Mr. John Reid, Senior Planner
From: Ryan Cira, Environmental Health Manager
Cc: Alan Gaines, Technical Services Manager
Re: Rezone Application Review

General Comments:

DeKalb County Health Regulations prohibit use of on-site sewage disposal systems for

- multiple dwellings
- food service establishments
- hotels and motels
- commercial laundries
- funeral homes
- schools
- nursing care facilities
- personal care homes with more than six (6) clients
- child or adult day care facilities with more than six (6) clients
- residential facilities containing food service establishments

If proposal will use on-site sewage disposal, please contact the Land Use Section (404) 508-7900.

Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

This office must approve any proposed food service operation or swimming pool prior to starting construction.

Public health recommends the inclusion of sidewalks to continue a preexisting sidewalk network or begin a new sidewalk network. Sidewalks can provide safe and convenient pedestrian access to a community-oriented facility and access to adjacent facilities and neighborhoods.

For a public transportation route, there shall be a 5ft. sidewalk with a buffer between the sidewalk and the road. There shall be enough space next to sidewalk for bus shelter's concrete pad installation.

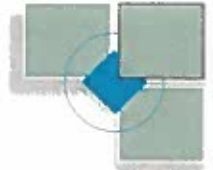
Since DeKalb County is classified as a Zone 1 radon county, this office recommends the use of radon resistant construction.



DeKalb County Department of Planning & Sustainability

Michael L. Thurmond
Chief Executive Officer

Andrew A. Baker, AICP
Director



APPLICATION TO AMEND OFFICIAL ZONING MAP
OF DEKALB COUNTY, GEORGIA
JAN 03 2019
BY:

Z/CZ No. 1243046
Filing Fee: 2750

Date Received: _____ Application No.: _____

Applicant: Rocklyn Homes, Inc. c/o Battle Law, P.C. E-Mail: mlb@battlelawpc.com

Applicant Mailing Address: One West Court Sq., Suite 750, Decatur, GA 30030

Applicant Phone: 404-601-7616 Fax: 404-745-0045

Owner(s): See Attached E-Mail: _____
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: See Attached

Owner(s) Phone: _____ Fax: _____

Address/Location of Subject Property: 2387 Wellborn Road

District(s): 16 Land Lot(s): 071 Block: 09 Parcel(s): 001

Acreage: 14.75 Commission District(s): 5 & 7

Present Zoning Category: C-1 (cond) Proposed Zoning Category: MR-1

Present Land Use Category: CRC

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted.

Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered:

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes X No

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the Planning Department and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.



NOTARY
May 04 2020
EXPIRATION DATE / SEAL

By: _____
SIGNATURE OF APPLICANT / DATE

Check One Owner Agent X

330 West Ponce de Leon Avenue - Suites 100-500 - Decatur, Georgia - 30030
[voice] 404.371.2155 - [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007
Web Address <http://www.dekalbcountyga.gov/planning>
Email Address: planninganddevelopment@dekalbcountyga.gov



Commercial Real Estate & Zoning

ONE WEST COURT SQUARE, SUITE 750

DECATUR, GA 30030

What is a Community Meeting?

Community meetings are designed to inform the surrounding communities of current rezoning, and special land use permit applications. It's an opportunity for the community to learn about the proposed projects, ask questions, present concerns, and make suggestions. We take this opportunity to encourage you to come out and participate. Owner? Renter? Doesn't matter. All are welcome.

For More Info Contact Batoya Clements at:

Phone: 404-601-7616 ext. 2

Fax: 404-745-0045

Email: bdc@battlelawpc.com

REZONING FROM C-1 TO MR-1 TO ALLOW FOR THE DEVELOPMENT OF A TOWNHOME SUBDIVISION

Community Meeting

Wednesday, December 12, 2018

7:00 pm until 8:00 pm

Redan Trotti Library

1569 Wellborn Road

Lithonia, GA 30058

**PROPOSED LOCATION:
2387 WELLBORN ROAD
LITHONIA, GEORGIA 30058**

SIGN IN SHEET
 2387 WELLBORN ROAD
 REZONING COMMUNITY MEETING
 REDAN - TROTTI LIBRARY - 1569 WELLBORN ROAD, LITHONIA
 WEDNESDAY, DECEMBER 12, 2018 7:00 PM - 8:00 PM

Please print legibly

First Name	Last Name	Address	City, State	Zip Code	Phone Number	Email Address
Ozzy	Jackson	2536 Rock Creek RD	Lithonia	30058		
Yvonneiah	Wynn	7408 Congress St	Lithonia	30058	7-984-6692	Sadiede 63@gmail.com
MARVIN	SAGGUS	2947 Valley Ridge Dr	Decatur	30032	404-2994170	
Jim	Custello	1813 S Hidden Hills Pkwy	Stu MA	30088	770 815 2105	janriostello@gmail.com
Marty	Garrison	2399 Lake Cove Ct.	Lithonia	30058	770-866-4010	martyvirgo@yahoo
Rose	Sheppard	5799 Cedar Point Ln	Lithonia			
Walter	Anderson	5727 Windfall Lane	Lithonia	30058	(678) 5593	ms1010ce@hotmail.com

I. STATEMENT OF INTENT

The Applicant, Rocklyn Homes, Inc., is seeking to rezone the 14.75 acres of undeveloped land located at 2387 Wellborn Road, Lithonia, GA (the "Subject Property") from C-1 (cond) to MR-1 for the development of 124 fee simple single family attached units at a density of 8.4 units per acre. The Subject Property has a land use designation of Commercial Redevelopment Corridor.

This document is submitted both as a Statement of Intent regarding this Application, a preservation of the Applicant's constitutional rights, and the Impact Analysis of this Application as required by the DeKalb County Zoning Ordinance. A surveyed plat and conceptual site plan of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

II. IMPACT ANALYSIS

- (a) **Suitability of use:** The proposed rezoning will permit uses that are suitable in view of the uses and developments adjacent and nearby the Subject Property. The Subject Property is abutted along its northern, eastern and western boundaries by the Covington Station and Windgate townhome communities which are zoned MR-1, and the southern boundary of the Subject Property wraps around 6434 Covington Highway which is 5.28 acre tract of undeveloped land zoned C-1. The proposed development will allow for townhome units to be developed which are a step up in design and price points from the townhome units located in the Covington Station and Windgate subdivisions.

Additionally, Covington Highway is a commercial node which will benefit greatly from the development of the Subject Property townhome units. The viability of a

commercial area is determined in large part by the number of roof tops in the area. As the Subject Property surrounds an undeveloped commercial tract with frontage on Covington Highway, the proposed rezoning will support the potential development of commercial uses that would allow for an integrated mixed-use project with interparcel connectivity through pedestrian walkways. It will also support the doctors, nurses and other medical personal that have a desire to live in the area near the DeKalb Medical Center in newer more contemporary dwelling units, as the majority of the housing stock in the area is in excess of 20 years old.

(b) Effect on adjacent property: The proposed development will have a positive impact on the surrounding community, as it will support the continued recovery of the area from the 2007 economic downturn which devastated South DeKalb. It is anticipated that the proposed units will have a sales price in the low \$200,000 based upon recent sales of new units developed by the Applicant in the area. This significant increase in the current value of the Subject Property will only benefit the surrounding properties which were built over 18 years ago and suffered significantly during the economic downturn. Additionally, the proposed development will allow for the continued development and resurgence of the Covington Highway corridor and encourage the development of the adjacent 5.28 tract.

(c) Economic use of current zoning: The Subject Property has no use as currently zoned. In 1998 the Subject Property was rezoned from RM-100, RA and R-100 to C-1 (conditional) CZ-98075 in anticipation of the property being developed for commercial use. Unfortunately, the Subject Property has remained undeveloped for the past 20 years, despite having been listed for sale during various periods since the rezoning. Additionally, the Subject Property surrounds a 5.28 acre tract of undeveloped land located at 6434

Covington Highway which has also remained undeveloped over the past 20 years. Due to the lack of interest in the development of the Subject Property for commercial usage, it is the Applicant's and property owner's contention that the Subject Property has not viable or marketable use as currently zoned C-1 (conditional).

- (d) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed rezoning will not cause excessive use of streets, transportation facilities, or utilities in the area. The Applicant will be installing sidewalks along Wellborn Road and Covington Highway, which will support the continued improvement of the County's public right of ways.
- (e) Effect on historic building, sites, etc. The approval of this Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.
- (f) Compatibility with Comprehensive Land Use Plan. The Subject Property has a land use designation of Commercial Redevelopment Corridor. The MR-1 zoning district is a permitted use within the CRC Land Use District and will support the policies to encourage housing diversity and the development of townhome units within the CRC Land Use District.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application. Please note that the Applicant's Notice

of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 3rd day of January, 2019.

Respectfully submitted,

Michèle L. Battle, Esq.
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF
CONSTITUTIONAL RIGHTS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the DeKalb County Board of Commissioners to rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Rezoning & Land Use Decisions
September 22, 23 & 24, 1998

1. Martha R. Mann - LP-98040 - Denied.
2. Martha R. Mann - Z-98084 - Deferred to 10/13/98 at 10:00 a.m. for decision only.
3. Crim Development, Inc. - LP-98037 - Withdrawn without prejudice.
4. Crim Development, Inc. - CZ-98080 - Withdrawn without prejudice.
5. Crim Development, Inc. - CZ-90011 - Withdrawn without prejudice.
6. Fred K. Glenn - LP-98027 - Deferred to 10/13/98 at 10:00 a.m. for decision only.
7. Fred K. Glenn - CZ-98069 - Deferred to 10/13/98 at 10:00 a.m. for decision only.
8. Landed Gentry Development, Inc. - LP-98036 - Withdrawn without prejudice.
9. Landed Gentry Development, Inc. - Z-98079 - Denied.
10. Greenforest Community Development, Inc. - LP-98054 - Deferred to 10/27/98 at 10 a.m. for public hearing.
11. Greenforest Community Development, Inc. - CZ-98102 - Deferred to 10/27/98 at 10:00 a.m. for public hearing.

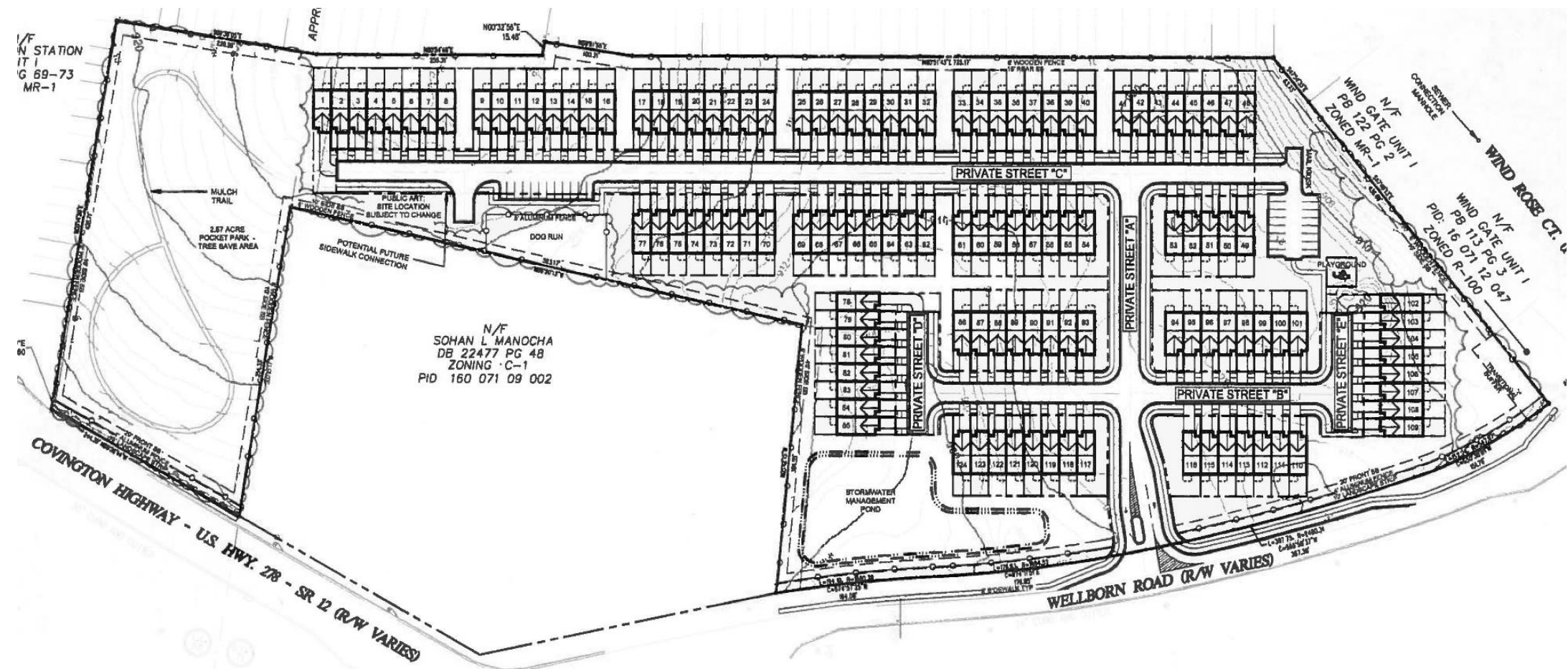
12. Wellborn Road Common Tenancy - LP-98032 - Approved L.I.C.

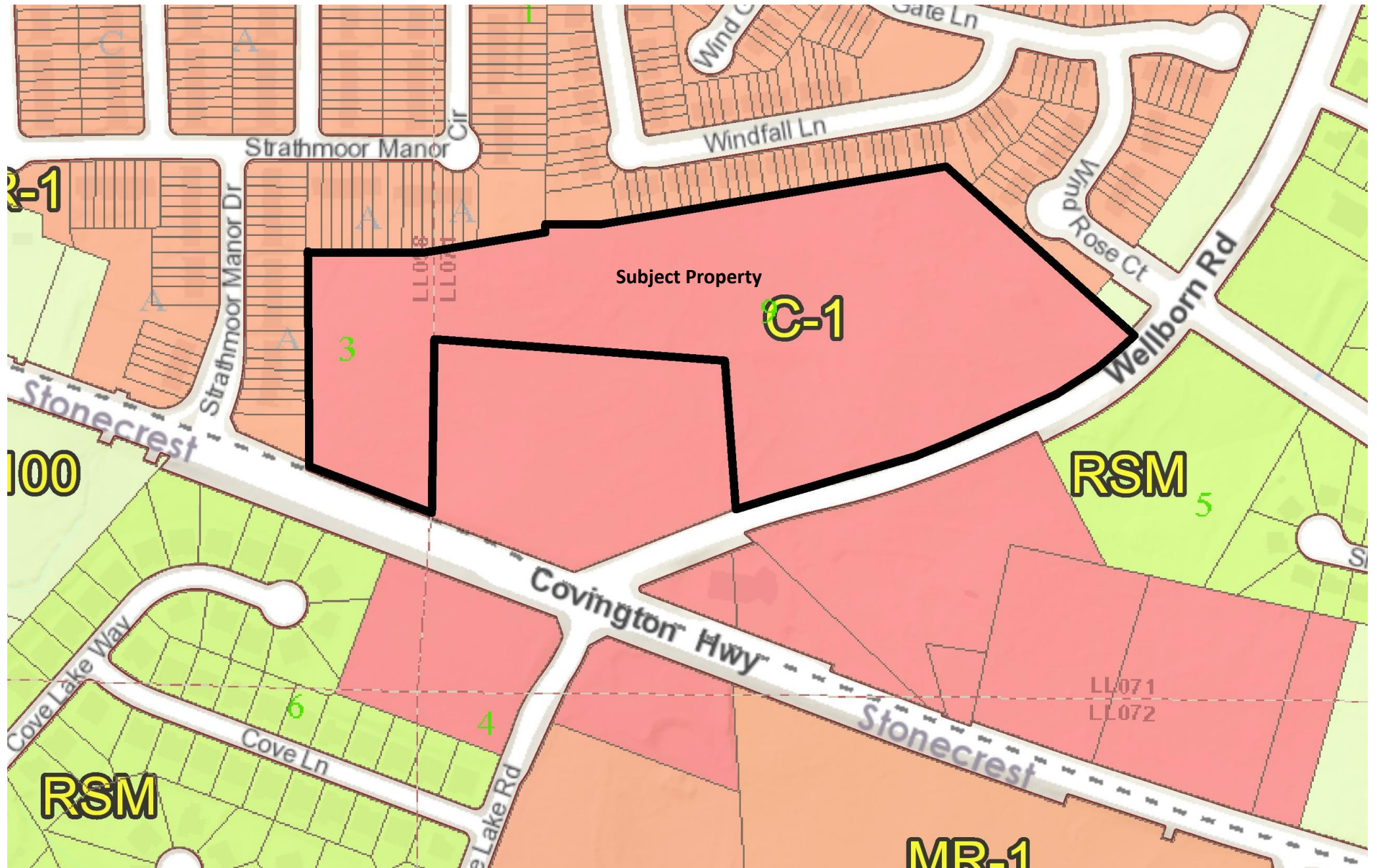
* 13. Wellborn Road Common Tenancy - CZ-98075 - Approved C-1 subject to the following conditions:

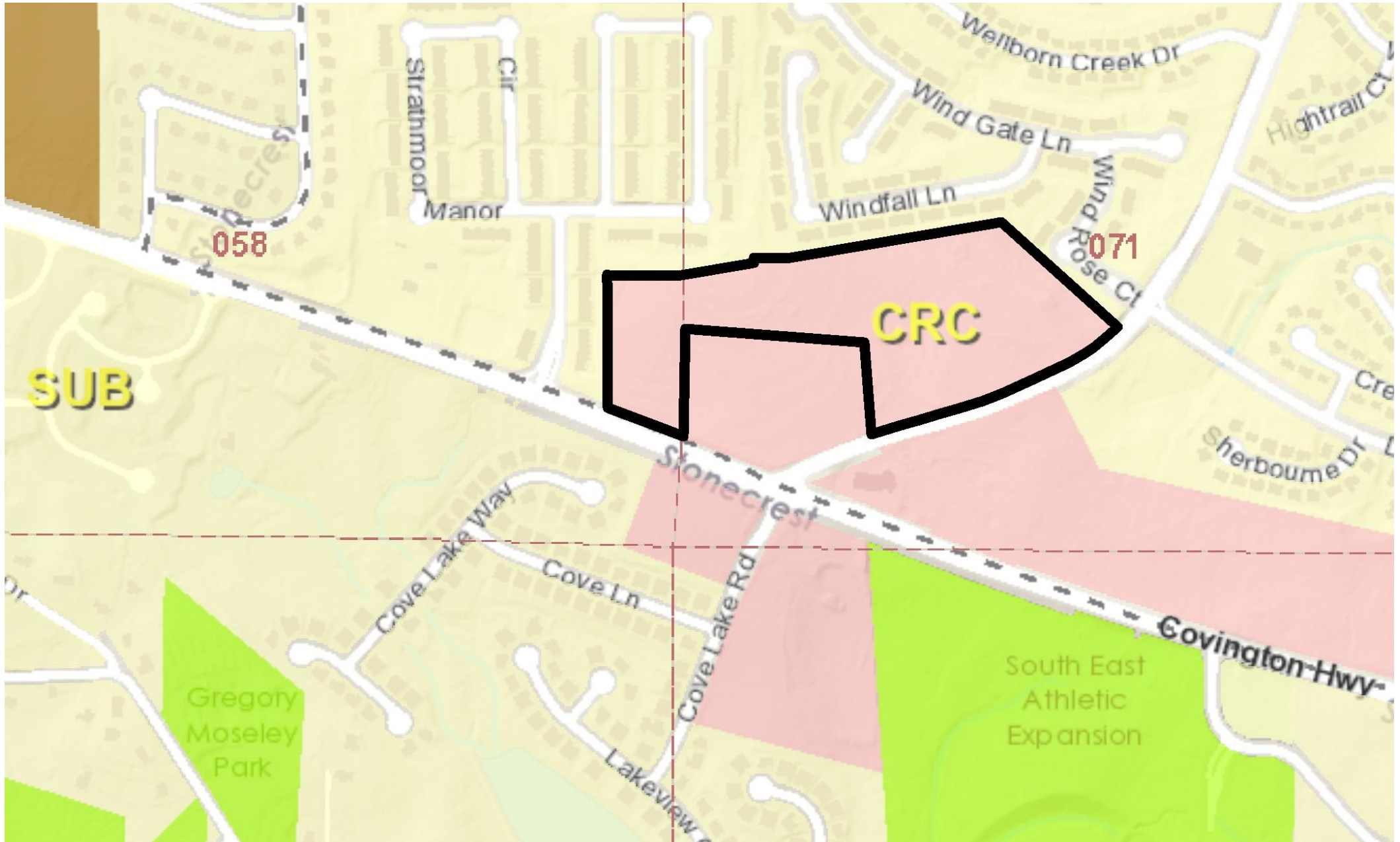
1. No more than one point of access on Covington Highway and no more than one point of access on Wellborn Road;
2. Road improvements and access location to be determined by the Public Works Department and Georgia Department of Transportation;
3. Fifty (50) feet undisturbed buffer on the three rear property lines;
4. Sidewalks on Wellborn Road;
5. Prohibit the following uses: (pawn shops, liquor stores, adult entertainment establishments, flea market, check cashing establishments, storage facilities, beeper retail outlets);

6. No billboards be constructed on property;
7. All lighting be directed away from the adjoining residential property; and
8. Two monument signs only.

14. Jacqueline C. Kiadij - LP-98031 - Denied.
15. Jacqueline C. Kiadij - CZ-98074 - Denied.
16. Vernon Tharps - LP-98047 - Denied.
17. Vernon Tharps - CZ-98093 - Denied.
18. Compton Oliver - CZ-86015 - Denied alteration.
19. Glenn Sims - LP-98029 - Approved O.P.R.
20. Glenn Sims - Z-98072 - Approved OI.
21. Andrew Logan - LP-98044 - Approved LIC.
22. Andrew Logan - CZ-98089 - Approved C-I for expansion of the adjoining personal care home based on the attached site plan and the following:
 1. The use is limited to the extension of the adjoining assisted living facility (personal care home).
 2. The property is developed consistent with the attached site plan.
 3. Road and drainage improvements shall be provided as required by the Public Works Department.
 4. No pylon sign.
 5. Food & service delivery between 8:00 a.m. and 6:00 p.m. only.
 6. Twenty foot landscape buffer on north and south lines.
 7. Planted buffer on west line.
 8. Lighting directed downward and toward interior of property.
23. Douglas Frassrand - LP-98043 - Denied.
24. Douglas Frassrand - CZ-98088 - Denied.
25. Penny Lea Hall - LP-98030 - Approved OPR.
26. Penny Lea Hall - CZ-98073 - Approved OI conditioned on the following:
 1. As requested, the property is joined with the adjoining land.











(left) Subject property, viewed towards the north.



(right) View towards the south and Covington Highway.