



Legislation Details (With Text)

**File #:** 2021-2903    **Version:** 1    **Name:**

**Type:** Ordinance    **Status:** Preliminary Item

**File created:** 7/23/2021    **In control:** Board of Commissioners - Zoning Meeting

**On agenda:** 3/24/2022    **Final action:** 3/24/2022

**Title:** COMMISSION DISTRICT(S): Commission District 04; Super District 06  
Application of Avondale Park, LLC c/o Battle Law, PC for a Major Modification of the conditional site plan and other conditions of MU-5 (Mixed-Use Very High Density) zoning approved pursuant to CZ-18-22125, to change the mixture of multifamily, office, and retail land uses, and to revise the single-family detached and townhome exterior designs, at 3458 Mountain Drive.

**Indexes:**

**Attachments:** 1. CZ-21-1245061 Recommended Conditions March 2022 BOC, 2. CZ-21-1245061 Two Additional Conditions 2022 03.24, 3. CZ-21-1245061 3458 Mountain Dr. Staff Report March 2022, 4. CZ-21-1245061 2021-2903 Mountain Dr. Staff Report Nov. 2021, 5. CZ-21-1245061 Staff Report Sept. 2021

Date	Ver.	Action By	Action	Result
3/24/2022	1	Board of Commissioners - Zoning Meeting	approved with conditions	Pass
3/1/2022	1	Planning Commission	approval per staff recommendation	Pass
11/18/2021	1	Board of Commissioners - Zoning Meeting		
11/4/2021	1	Planning Commission	deferred for two full cycles	Pass
9/30/2021	1	Board of Commissioners - Zoning Meeting		
9/9/2021	1	Planning Commission	deferred for two full cycles	Pass

**Public Hearing:** YES  NO     **Department:** Planning & Sustainability

**SUBJECT:**

**COMMISSION DISTRICT(S):** Commission District 04; Super District 06  
**Application of Avondale Park, LLC c/o Battle Law, PC for a Major Modification of the conditional site plan and other conditions of MU-5 (Mixed-Use Very High Density) zoning approved pursuant to CZ-18-22125, to change the mixture of multifamily, office, and retail land uses, and to revise the single-family detached and townhome exterior designs, at 3458 Mountain Drive.**

**PETITION NO:** D1. CZ-21-1245061 (2021-2903)

**PROPOSED USE:** To modify zoning conditions pursuant to CZ-18-22125.

**LOCATION:** 3458 Mountain Drive, Decatur, Georgia 30032

**PARCEL NO. :** 15-251-01-020; 15-251-01-027; 15-251-01-028

**INFO. CONTACT:** Melora Furman, Sr. Planner

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of Avondale Park, LLC c/o Battle Law, PC for a Major Modification of the conditional site plan and other conditions of MU-5 (Mixed-Use Very High Density) zoning approved pursuant to CZ-18-22125, to change the mixture of multifamily, office, and retail land uses, and to revise the single-family detached and townhome exterior designs. The property is located on the north side of Mountain Drive, approximately 250 feet east of Farrar Court, at 3458, 3468, and 3478 Mountain Drive, Decatur, Georgia. The property has approximately 356 feet of frontage on Mountain Drive and contains 9.30 acres.

**RECOMMENDATION:**

**COMMUNITY COUNCIL:** (2/15/2022) Denial. (10/19/2021) Denial. (8/17/2021) Denial.

**PLANNING COMMISSION:** (3/1/2022) Approval. (11/4/2021) Two-Cycle Deferral. (9/9/2021) Two-Cycle Deferral.

**PLANNING STAFF:** (March 1, 2022) Approval of withdrawal of Non-Residential; Approval of Residential Modification. (November 4, 2021) Deferral.

**STAFF ANALYSIS:** The applicant has requested withdrawal of the non-residential portion of the application and wishes to pursue only the modification of the revised elevations for the residential buildings. Modification of the residential elevations will enable the applicant to proceed with the residential portion of an application that was deemed by the Board of Commissioners to be consistent with the policies of the Comprehensive Plan. Modification of the townhome and single-family residential elevations will not adversely affect the use or usability of adjacent or nearby property, the public infrastructure, or the natural environment. Staff concurs with withdrawal of the non-residential portion of the development. Therefore, the Department of Planning and Sustainability recommends **“Withdrawal” of the non-residential portion of the application and approval of modification of the residential elevations, with the previously approved conditions remaining unchanged except for those conditions that pertain to the residential elevations.**

**PLANNING COMMISSION VOTE:** (3/1/2022) Approval of the withdrawal of Non-Residential; and, Approval of modification to the residential elevations, per Staff recommendation 6-0-2. LaSonya Osler moved, Edward Patton seconded for Approval of the withdrawal of the non-residential portion; and Approval of the modification to the residential elevations. Jon West and Gwendolyn McCoy abstained; Jana Johnson was not present for this vote. (11/4/2021) Full Cycle Deferral 8-0-0. LaSonya Osler moved, Vivian Moore seconded for a 2-cycle deferral, per Staff recommendation to the March 2022 zoning cycle. (9/9/2021) Two-Cycle Deferral 9-0-0. LaSonya Osler moved, Jana Johnson seconded for a Two-Cycle Deferral to the January 2022 zoning cycle.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION:** (2/15/2022) Denial 8-0-0 based upon there having been no substantive changes since the last time this item was considered by the council, and because the developer has not stabilized and secured the site after a recent flooding event. (10/19/2021) Denial 9-1-0. Council recommended denial because the developer has not acted in good faith over the past several years, shown by not complying with the current zoning conditions; and, it was not appropriate to allow the zoning conditions and site plan to be changed given this track record. (8/17/2021) Denial 10-0-0. Discussions included: the application needs to specify the specific changes being made to the previously adopted zoning conditions, including how the percentage of each land use has changed and how an appropriate mixture of land uses is being maintained; the property has not developed in the past five years, and the flooding impacts that have occurred on the adjacent single-family subdivision due to mismanagement of Best Management Practices by the developer.