



## Legislation Text

File #: 2023-0583, Version: 1

### SUBSTITUTE

Public Hearing: YES  NO

Department: Planning & Sustainability

#### SUBJECT:

**COMMISSION DISTRICT(S):** Commission District 02 Super District 6

Application of ArcOne Construction Company c/o Battle Law, P.C. to rezone property from R-75 (Residential Medium Lot-75) zoning district to R-60 (Residential Small Lot-60) zoning district to allow for the construction of single-family detached homes.

**PETITION NO:** D1-2023-0583 Z-23-1246452

**PROPOSED USE:** Construction of single-family, detached homes.

**LOCATION:** 1481 LaVista Road, Atlanta, Georgia 30324

**PARCEL NO. :** 18-108-06-006

**INFO. CONTACT:** Adam Chappell, Sr. Planner

**PHONE NUMBER:** 470-618-2642

#### PURPOSE:

Application of ArcOne Construction Company c/o Battle Law, P.C. to rezone property from R-75 (Residential Medium Lot-75) zoning district to R-60 (Residential Small Lot-60) zoning district to allow for the construction of single-family detached homes.

#### RECOMMENDATION:

**COMMUNITY COUNCIL:** Denial (06.13.2023). Denial (10.10.2023) .

**PLANNING COMMISSION:** Approval with Conditions (07.11.2023). Deferral (11.02.2023).

**PLANNING STAFF:** Approval with Conditions.

**PLANNING STAFF ANALYSIS:** The subject property, 1481 LaVista Road, contains a single-family, detached dwelling that was constructed circa 1951, per County records. The applicant proposes rezoning the property to the R-60 (Residential Small Lot-60) zoning district for the construction of three (3) single-family, detached dwellings; a decrease from the four (4) residential lots proposed with this application initially in July 2023. The most recent site plan (received by Staff on April 02, 2024) shows lots that approach R-75 requirements for lot area (10,000 square feet) and exceed R-75 requirements for lot width (75 feet), but are configured to R-60 standards regarding building setbacks, eliminating the need for any future setback variances. Staff considers the proposal to be an appropriate “middle-ground” that takes existing development into account and is an effort to “protect existing, stable single-family neighborhoods” per the *DeKalb County 2050 Comprehensive Land Use Plan*. The proposed R-60 zoning is an appropriate zoning for the Suburban

(SUB) Character Area. The subject property and properties to the south and west are located within the Suburban (SUB) Character Area and, with few exceptions, zoned R-75. To the east of the intersection of LaVista Road and Shepherds Lane begins a series of properties that are currently zoned O-I (Office-Institutional) and MR-2 (Medium Density Residential-2). These properties comprise the western “arm” of a cluster of properties that are in the LaVista Road and Briarcliff Road Neighborhood Center (NC) Character Area, identified in the *DeKalb County 2050 Comprehensive Land Use Plan*. Two lots (1493 and 1501 LaVista Road) to the east of the subject property were recently rezoned with conditions from O-I to MR-2, on May 26, 2022, to allow for the construction of up to 20 townhome-style condominium dwelling units (Z-22-1245477). These properties are adjacent to those currently developed with multifamily dwellings; all are part of the LaVista Road and Briarcliff Road Neighborhood Center. To the north, LaVista Road serves as the dividing line between unincorporated DeKalb County and properties that were recently annexed from the County by the City of Brookhaven in 2019 and rezoned as part of that annexation. According to the City’s parcel map and *Zoning Ordinance*, these properties are within the City’s RS-85 zoning district, which have a minimum lot width requirement of 85 feet and a minimum lot area requirement of 12,000 square feet, larger than the minimum requirements of the County’s R-75 district (75 feet and 10,000 square feet, respectively). With the current proposal, the applicant draws comparisons to the existing lots that front Woodland Hills Drive to the west of the subject property and lots to the immediate south along Shepherds Lane as precedent for the creation of three (3) lots under the proposed R-60 zoning. The lots along Woodland Hills Drive designated as 1445 and 1449 Woodland Hills Drive each meet the minimum lot width and area requirements for the R-75 zoning district; however, 1453 Woodland Hills Drive appears to be short of the minimum lot area requirement. The lots designated as 1449 and 1453 Woodland Hills Drive are the result of a simple lot division in 2005 and given the deficiency in lot area for the latter, the lot division may have been approved in error. Variances to reduce yard setback requirements were required prior to zoning approval of each property for new construction: **1449 Woodland Hills Drive:** a request for a variance to reduce the required rear setback from 40 feet to 25 feet was allowed to be withdrawn without prejudice by the DeKalb County Zoning Board of Appeals (ZBA) in May 2006 (A-06-1872). An administrative variance was granted by Planning Staff to reduce the front yard setback from 30 feet to 27 feet and to reduce the rear yard setback from 40 feet to 36 feet (AV-07-10032). A building permit to screen an existing rear porch was issued in error and revoked in April 2008; an application to reduce the rear yard setback to 22.5 feet (to bring said porch into compliance) was applied for and subsequently denied by the ZBA on July 9, 2008 (A-08-14813). **1453 Woodland Hills Drive:** a request for a variance to reduce the required rear setback from 40 feet to 7.5 feet was allowed to be withdrawn without prejudice by the ZBA in May 2006 (A-06-1874). An administrative variance was granted by Planning Staff to reduce the front yard setback (along Lavista Road) from 45 feet to 40.5 feet, reduce the rear yard setback from 40 feet to 36 feet, and reduce the street side yard setback (along Woodland Hills Drive) from 30 feet to 27 feet (AV-07-13185). The lots to the immediate south of the subject property (along Shepherds Lane) are nonconforming with respect to the required lot width of 75 feet under the current R-75 zoning; most appear to be 65 feet wide. The proposal would be unlikely to establish a precedent for further rezonings along Lavista Road and local streets in the vicinity. All existing properties on Lavista Road to the west of Woodland Hills Drive are interior lots of similar size and lack the required lot widths to subdivide as they currently exist. Any future attempts to rezone properties here or to the south or southwest would likely fall under the category of “spot zoning”. The subject property is thus unique in location, area, and development potential. The subdivision proposal also meets the definition of a *minor subdivision*, per Section 9.1.3. of the *Zoning Ordinance*: “*Subdivision, minor: A division of land into not more than four (4) lots, provided: A minor subdivision does not require the construction of any public improvements including street, sidewalks, sewer or water lines and street trees. All lots and any remaining tract shall be consistent with all applicable requirements of this zoning ordinance, including lot size, setbacks, frontage on a public road, width to depth ratio, and lot width. At the time of filing of a subdivision plat, the property owner shall be required to show all possible lots which are permitted to be created through minor subdivision provisions of this Zoning Ordinance. All driveway permits shall be subject to the review of*

*the DeKalb County Department of Transportation and Development or the State of Georgia Department of Transportation.*” Although not required per the definition of *minor subdivision*, streetscape improvements in the form of sidewalks and landscaping are nonetheless proposed by the applicant along both Lavista Road and Shepherds Lane. At District 2 Community Council meetings held throughout 2023, members voted unanimously to recommend *Denial* of the applicant’s proposals, citing issues surrounding traffic, density, and the lack of stormwater facilities. Subsequent Planning Commission and Board of Commissioners meetings have deferred this proposal until a detailed traffic study and the addressing of potential stormwater concerns were provided. Since these meetings, said traffic study has been provided that confirms that the proposal would not create any adverse effects on existing traffic patterns, and Transportation does not foresee any problems with the proposed locations of driveways along Shepherds Lane. Lastly, proposals for stormwater detention have been confirmed to meet minimum requirements established by the *DeKalb County Land Development Code*. In summary, it appears that the applicant’s proposal would create lots that would average the size and density of surrounding properties, while establishing a transition or “buffer” between higher density properties to the east and larger and less dense properties to the south and west. In order to establish this “buffer” and to address community and Staff concerns, the Planning & Sustainability Department recommends *Approval with Conditions*.

**BOARD OF COMMISSIONERS VOTE: Two-Cycle Deferral to the November 16, 2023 BOC meeting (07/27/2023). Deferral to the December 19, 2023 BOC a.m. hearing (11/16/2023). Deferral to the February 27, 2024 BOC a.m. hearing (12/19/2023). Deferral to the April 09, 2024 BOC a.m. hearing (02/27/2024).**

**PLANNING COMMISSION VOTE: Approval with Conditions (07/11/2023). Two-Cycle Deferral (11/02/2023). .**

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial (06/13/2023). Denial (10/10/2023).**