



Legislation Details (With Text)

File #: 2023-0067 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 1/9/2023 **In control:** Board of Commissioners
On agenda: 4/25/2023 **Final action:** 4/25/2023
Title: COMMISSION DISTRICT(S): Commission District 5 Super District 7
Application of Land Engineering and Surveying to rezone property from R-100 (Residential Medium Lot) zoning district to M (Light Industrial) zoning district to allow for the construction of a proposed landscaping company, at 1450 Rock Chapel Road.

Indexes:

Attachments: 1. Z-23-1246241 March 2023 BOC Staff Report 1450 Rock Chapel Rd

| Date | Ver. | Action By | Action | Result |
|-----------|------|---|---------------------------------|--------|
| 4/25/2023 | 1 | Board of Commissioners | withdrawn without prejudice | Pass |
| 3/30/2023 | 1 | Board of Commissioners - Zoning Meeting | deferred for 30 days | Pass |
| 3/7/2023 | 1 | Planning Commission | denial per staff recommendation | Pass |

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

SUBJECT:

COMMISSION DISTRICT(S): Commission District 5 Super District 7
Application of Land Engineering and Surveying to rezone property from R-100 (Residential Medium Lot) zoning district to M (Light Industrial) zoning district to allow for the construction of a proposed landscaping company, at 1450 Rock Chapel Road.

PETITION NO: N4-2023-0067 Z-23-1246241

PROPOSED USE: Construction of proposed landscaping company.

LOCATION: 1450 Rock Chapel Road, Lithonia, Georgia 30058

PARCEL NO. : 16-189-01-002

INFO. CONTACT: Howard Johnson, Sr. Planner

PHONE NUMBER: 404-371-2155

PURPOSE:

Application of Land Engineering and Surveying to rezone property from R-100 (Residential Medium Lot) zoning district to M (Light Industrial) zoning district to allow for the construction of a proposed landscaping company. The property is located on the northeast corner of Rock Chapel Road and Rock Mountain Road, at 1450 Rock Chapel Road, Lithonia, Georgia. The property has approximately 285 feet of frontage along Rock Chapel Road and contains 3.97 acres.

RECOMMENDATION:

COMMUNITY COUNCIL: Approval.

PLANNING COMMISSION: Denial

PLANNING STAFF: Denial.

STAFF ANALYSIS: The applicant, Cornelius Ani / Land Engineering and Surveying, Inc., is seeking to rezone the property located at 1422 Rock Chapel Road from R-100 (Residential Medium Lot -100) to M (Light Industrial) to operate a landscaping company, upgrade and expand the existing building, and add additional parking. The site is partially developed and was used by the previous owner to store dump trucks and large amounts asphalt, gravel and sand utilized in highway construction. Since the land is zoned residential, these illegal uses were discovered because of a complaint to DeKalb County Code Enforcement. Code Enforcement conducted a site visit and opened active use violation case (1244106) in April 2019 for parking business vehicles on an R-100 zoned property, a violation of Chapter 27-6.1.3. A Final Notice and a Court Summons were initiated in November 2022. The case is still pending based on the outcome of this Rezoning case and the Land Use Amendment. The applicant stated that a landscaping company with trucks recently purchased the property and is now is operating on the property. The landscaping company plans to provide the on-site sale and the off-site installation of landscaping materials, plants, pine straw and accessories. The applicant has submitted a companion Land Use Amendment (LP) application to amend the Future Land Use Map from Suburban (SUB) to Light Industrial (LIND) to allow for the expansion of an existing landscaping company with this rezoning request. Therefore, the total request is to rezone and amend the Land Use Plan for two parcels. 1422 Rock Chapel Road is the northern parcel and 1450 Rock Chapel Road is the southern parcel in the two-parcel tract. The requested rezoning from R-100 (Residential Medium Lot -100) to M (Light Industrial) is inconsistent with both the *Comprehensive Plan* and *Zoning Ordinance*. The subject property is surrounded by other properties zoned R-100. The purpose and intent of this district is to provide for protection of stable neighborhoods; provide for compatible infill developments and new developments; to provide protections for existing development as new subdivisions are created; to provide flexibility in design on the interior of new development while protecting surrounding development; and to provide for appropriately sized and accessible open space for health, recreational and social opportunities for county residents (Section 2.5.1 *DeKalb County Zoning Ordinance*). The proposed use of the property as a landscaping company with onsite business vehicles, dirt moving equipment, and storage of materials does not fulfill this purpose and intent. The staff report from the companion Land Use Amendment case (2023-0064) states that the future land use designation for this property is Suburban. The report states: *Per the 2050 Unified Plan, "The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses." The subject property is bordered on all sides to parcels designated as Suburban. The intent of the Suburban Character area designation is to preserve the residential status of these area by limiting the amount of non-residential development. This application to amend the Future Land Use map is inconsistent with the surrounding properties' Future Land Use and the policies of the 2050 Unified Plan.* In addition, approval of this application would undermine the residential development pattern of the area. This site is located along major thoroughfare, Rock Chapel Road (State Route 124) which already has significant movement of heavy industrial goods by truck in and out of the immediate area. On the site plan submitted by the applicant, the applicant included the required 75-foot transitional buffer along the northern perimeter of the property but failed to include the same required 75-foot buffer along the eastern edge of the parcel, adjacent to residential R-100 parcels. The existing truck parking area in the southwestern corner already encroaches into this required 75-foot transitional buffer. An additional variance would be required for this parking area to remain. The southern edge of this same parking area encroaches into the side yard setback, this may also require a variance, unless the two (2) parcels are consolidated into one (1) large parcel. The site plan also fails to show the 5 (five)-foot landscape strip and the 10-foot multiuse path along Rock Chapel Road per GDOT

(Georgia Department of Transportation) requirements. There are approximately 10 homes nearby which are negatively impacted by the existing and proposed light industrial use of this site. There are land use conflicts because there are residential properties adjacent to the northern, western and eastern edge of an established Industrial district. The rezoning requests along with the companion cases are inconsistent with both the *Comprehensive Plan* and *Zoning Ordinance*. Therefore, staff recommends “Denial”.

PLANNING COMMISSION VOTE: Denial 5-3-0. Jan Costello moved, Deanna Murphy seconded for Denial, per Staff recommendation. Jana Johnson, Edward Patton, and Tess Snipes opposed. Vivian Moore was not present for this vote.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: Approval 10-0-0.