

Memorandum

Date: April 3, 2023.
To: Mayor and Council
From: Community Development
Subject: **PZ 22-034. Rezoning Request. To rezone an approx. 56 Acre Tract from R-20, NRC, LRO in the County to Conditional MXU in the City – within Land Lots 717, 718, 764 and 765, 19th District, 2nd Section, Cobb County, Georgia.**

Action:

A motion to Approve with the following conditions:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Subject Property shall be developed in substantial conformity to that certain revised site plan, dated March 20, 2023, prepared by Joel G. Bowman, RLA, of b & c studio, and inclusive of City Staff and TSW recommendations.
3. Residential Component: The construction of a maximum number of 51 detached single-family homes, 98 townhomes, 297 multi-family units at an overall maximum density of 9.4 units per acre. A minimum of 20 single family lots shall be 55' by 100' and have the larger detached units. The site plan may be varied administratively to allow for more 55' wide single-family lots.
Commercial Component: The construction of a minimum 6,000 square feet of retail space in a mixed-use building and a building pad developed to accommodate a 5,000 square foot commercial building.
4. The subject property shall be submitted for subdivision into 4 parcels (multi-family, commercial, townhome, and single family) within 12-months of City Council's approval, and prior to the issuance of the Land Disturbance Permit. The Land Disturbance Permit for multi-family and commercial tracts shall be filed and completed as a single LDP.
5. The architectural style and composition of the homes shall be thematically and stylistically aligned and consist of traditional architecture on all sides in substantial conformity to the revised architectural renderings/elevations being submitted concurrently herewith. The side elevations of all detached single-family units shall have at minimum a brick or stone water table.
6. Electric Vehicle (EV) Charging. Residential garages within the detached single-family and townhome components shall be pre-wired with the minimum standards for level 2 EV charging

capability with NEMA 14-50 receptacle. The multifamily and commercial components shall have industry leading electric vehicle charging stations installed, the minimum number of which to be at least 10% of the total number of multifamily apartment units, with a minimum of 4 located on the commercial parcel.

7. The nature trails are intended to be a usable outdoor amenity for all phases and shall be supplemented with the installation of park benches and dog litter stations along the entire network of nature trails.

8. Stormwater management facility must be designed by a registered landscape architect as formal or natural amenities, and may not be fenced or enclosed by walls over 30 inches in height.

9. The applicant agrees to dedicate to the city right-of-way along Nose's Creek for a potential future city trail.

10. The applicant agrees to provide a sign easement for a City of Powder Springs gateway sign on Barrett Parkway. In order to accommodate the sign, an area of 30' x 30' is required. Water and electrical service must be supplied and stubbed up to this easement from the developer. The city will establish its own meter at sign for city electrical services.

11. There shall be open space consisting of approximately 30% of total acreage. All areas located in the undisturbed stream buffer shall be placed in a conservation easement subject to all rules and regulations required of the conservation easement program which rules when in conflict shall supersede this condition. Where individual residential lots meet conservation areas, those lots shall be separated from conservation areas by a split real fence with signage denoting conservation area. Access to the conservation area is subject to ongoing city review and approval to support the preservation of the conservation area.

12. The building setbacks shall be as indicated below except in conditions where the approved zoning site plan differs, in which case setbacks may be considered administratively and not require Council approval. Any building locations changes deviating from the attached site plan, dated March 20, 2023, prepared by Joel Bowman of B+C, but consistent with the approved setbacks shall be considered administratively and not require Council approval.

1. **Multifamily.**

Front: 20' minimum setback from property lines (internal and external)
Between Buildings: 20'

2. **Single Family.**

Front: 20' minimum setback from right-of-way
Side: 7.5'

Internal Side Major: 10'
Rear: 20'

3. Townhome.

Front: 10' minimum setback from right-of-way
Side: 5' at corner lots
Alley: 5' apron
Between Buildings: 10'

4. Retail.

Front: 15' minimum setback from property line

5. Multifamily ancillary buildings.

Front: 15' minimum setback from property line
Between Buildings: 15'

13. A third-party certified and professional management company shall be hired to manage the day-to-day operations of the Residential HOAs and shall also be responsible for the management of all Association monies as well as insuring that the Association is properly insured until such time as the HOA makes a determination that it can undertake such responsibilities.

14. The creation of a mandatory Homeowners' Association ("HOA") which shall include, among other components, strict architectural controls shall be required and the submission of Declaration of Covenants, Conditions and Restrictions ("CCRs") shall be required during the Plan Review process. The mandatory HOA shall be responsible for the ongoing maintenance and upkeep of buffer areas, fencing, landscaping, interior private streets, open space areas, nature trails, sidewalks, community areas, stormwater detention and/or water quality ponds, lighting, the entrance to the Residential Community and any amenities.

15. All perimeter and roadway buffer areas will either be owned by the HOA or deed restricted with maintenance easements in favor of the HOA.

16. Declarant or any builder construction homes within the proposed residential single-family and townhome components of the community must sell any such homes for owner occupancy only. Thereafter, any leasing of units within the entire development, shall require a minimum lease term of one (1) year. The HOA documents shall be a deed restriction or other recorded document on each individual lot. The mandatory homeowner's association must maintain records of any lease within the single family and townhome Development, and such records shall be subject to review by the City of Powder Springs personnel with regard to enforcement of this provision limiting the total number of leases within the Development to no more than 5% ("Lease Restriction"). The homeowner association shall agree to provide, upon request to the City of Powder Springs, the existence of leases at the time of any such request by the City. The City shall have the ability to confirm the Lease Restriction is being enforced by the HOA and shall be able to enforce the leasing provision against the HOA and/or the individual property owner determined to be in violation.

17. The Community Development Director shall be notified in advance of any changes to the management company of the multi-family component or changes to the mandatory HOA requirements.

18. The submission of a landscape plan is required during the Plan Review process which shall be subject to review and approval by the Community Development Director and/or designee. The landscape plan shall include, but is not limited to, the following requirements:

- a. Landscaping and screening around the proposed stormwater detention and water quality areas with Cryptomeria, Arborvitae and/or other evergreen trees, and/or bushes. Also where possible to do so and following Staff direction, the utilization of natural/existing vegetation where feasible.
- b. A landscape screening, vegetative buffer around the perimeter of the Subject Property which has contiguity to existing residential developments.
- c. The landscape plan shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed Horticulturist and shall identify open space areas which presently consists of 10.4 acres or 30% of the Subject Property; landscaped common areas; and other components of the proposed Residential Community which will be further identified during the Plan Review process.
- d. The installation of underground utilities and the utilization of decorative lighting themed to the architectural style and composition as above mentioned.
- e. All HVAC, mechanical systems and home utilities within the community shall be screened by way of fencing and/or landscaping, subject to staff approval.
- f. Entry signage for the proposed Residential Community shall be ground-based, monument-style, landscaped, lighted and irrigated.
- g. The installation of landscaped front, side and rear yards and attendant irrigation components where indicated by the Arborist.
- h. Compliance with the City's current Tree Preservation & Replacement Ordinance and substantial conformity to all tree protection measures and the adherence to same during the construction and build out of the three (3) Residential Communities.

Notwithstanding the preceding, when the construction documents are submitted for building permits of the respective developments (multi-family, single family or townhome) for purposes of this condition 18 will have been met.

19. Signage for the Subject Property shall consist of ground-based, monument-style signage and building signage consistent with the City of Powder Springs Sign Ordinance. Additionally, within the interior of the site, there shall be appropriately positioned, ground-based directional signage in order to ensure ease of maneuverability and accessibility.

20. Parking shall be consistent with the referenced site plan, which depicts that the minimum number of parking space requirement is provided for the Residential and Commercial components.

Additionally:

- a. Driveways for the single family and townhome residential units shall be a minimum of 18-feet in length from the garage to the back of the sidewalk. Covenants must include language that states that vehicles shall not be parked in a manner that will encroach in the sidewalk.
- b. So long as the drive isles are 26' wide, multi-family and commercial surface parking spaces shall be 9'x18'.
- c. Bicycle parking racks shall be located at the amenity areas and distributed throughout the commercial and multifamily area. At minimum of 6 bicycle parking U racks are to be provided.

21. Approval is subject to recommendations from the City of Powder Springs Engineer and/or the City's consultants concerning hydrology, stormwater management, detention, water quality and downstream considerations, including recommendations regarding the ultimate positioning and configuration of on-site detention and water quality. Also, compliance with the following engineering considerations:

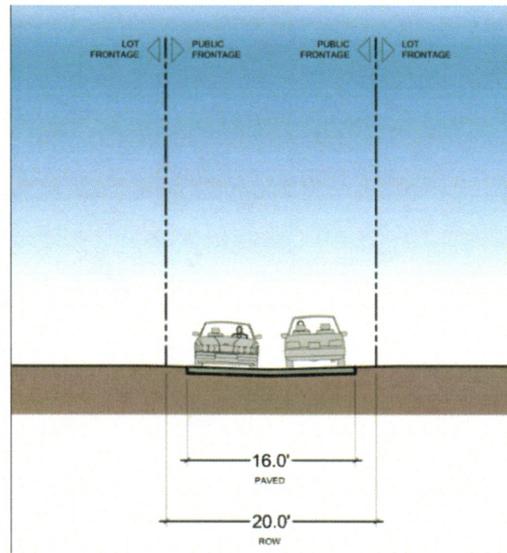
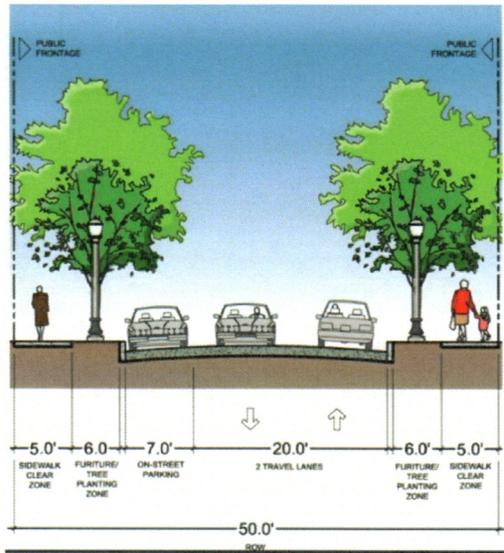
- a. Providing the City Engineer and/or the City's consultants with a Hydrology Plan for the Subject Property during the Plan Review process.
- b. Compliance with City Engineer's requirements for low impact design and bio retention, to include runoff capture or infiltration practices into the site either upstream of storage facilities or integral with grading and drainage and/or pavement and /or landscaping. These practices need to be integral with the site layout, for example: islands within the parking lot for bioretention etc. At the time of design and plan production the applicant will be within the 1-mile of an impaired stream, therefore the applicant shall provide 4 additional BMPs in Appendix 1 checklist.
- c. Verifying all points of discharge with respect to detention/water quality.
- d. Compliance with the protections required under State and Local Law

concerning adjacent streambank buffers and an agreement that there has been no “buffer averaging”.

- e. Impervious surface calculations shall not exceed 50% of the total site area pursuant to and in accordance with UDC requirements and as shown on the revised site plan.

22. Compliance with the recommendations from the City’s Engineer and/or Consultants with respect to Public Works and traffic/transportation issues, as follows:

- a. Streets shall be built to the City of Powder Springs’ Design and Detail Standards, including the construction of sidewalks on both sides of the interior streets (excluding alleys for rear-parked townhomes).
- b. The interior streets shall be designed to provide appropriate access and maneuverability for public safety services and vehicles (excluding alleys for rear-parked townhomes). Notwithstanding the preceding, any alley shall accommodate police and sanitation vehicles.
- c. Compliance with the Fire Marshall’s recommendations with respect to Life Safety & Fire Prevention Issues during the Plan Review process.
- d. The installation of a deceleration lane and taper as shown on the revised site plan.
- e. The Single-family Residential, and Townhome Communities shall have public streets and the Multifamily Residential Community shall be gated and subject to UDC requirements for gated communities.
- f. The applicant shall comply with plans showing typical street section details for streets and alleys in the following exhibits:



23. Common Open Space areas, nature trails, amenities, mail kiosks, and all of the various components for common and public use as described above shall be constructed in compliance with ADA regulations with respect to accessibility and related factors.

24. The Community Development Director shall have the authority to approve minor modifications to these stipulations, the architectural renderings/elevations, the site plan and the overall proposal as it proceeds through the Plan Review process and thereafter except for those that:

- a. Increase the density of the Residential Community.
- b. Relocate a structure closer to the property line of adjacent property which is zoned the same or in a more restrictive zoning district.
- c. Increase the height of a building which is adjacent to property which is zoned in the same or more restrictive zoning district.
- d. Change access locations to different rights-of-way.

25. Traffic impacts will be reviewed as part of the Land Disturbance Permit process. A trip generation memorandum (dated 1-12-2023) has been submitted for this development application. Based on the trip generation shown, this development requires a traffic study submittal based on Cobb County Code 50-76. Applicant agrees to offsite improvements necessitated by this development. This shall include dedication of right-of-way along Macedonia Road.

26. No less than 5,000 square feet of the commercial component shall be permitted concurrently with the proposed residential component. No more than 50% of the total number of dwelling units authorized in the MXU development shall receive Certificates of Occupancy from the city until the completion of the first-floor Commercial building, evidenced by a certificate of occupancy for shell condition. The MXU development shall not receive final certificate of occupancy until the standalone commercial building pad is graded, and utilities stubbed up and tied into all electrical, plumbing and stormwater infrastructure. No site plan designated commercial spaces are to be used by the multifamily development for offices, gym, maintenance, etc.

27. No more than 50% of certificates of occupancy for the Multi-family and mixed use buildings will be issued prior to the completion of amenity building and pool, as evidenced by certificates of completion.

28. No more than 50% of building permits for single family and townhome developments will be issued prior to the completion of their amenity building and pool, as evidenced by certificates of completion.

29. If the development on the site stalls after issuance of an LDP for a period of 6 months or more, as evidenced by a lack of issuance of building permits and inspections requests as would be normal for building construction to proceed to certificate of completion, the site shall be replanted per a plan approved by the Community Development Director showing compliance with minimum tree canopy, street trees and buffer requirements.

30. Pedestrian access shall be provided throughout the development. A pedestrian connectivity plan shall be included with the land disturbance plan clearly showing paths for the single-family and town house developments to amenities and retail area. This pedestrian connectivity plan shall include multiple trail access points and a pedestrian path around the multi-family development along both Macedonia and Barrett Parkway.

31. The central green areas of the townhouse and multifamily developments shall be graded to allow usable fields.

32. The Declaration of Covenants, Conditions and Restrictions (“CCRs”) shall contain a provision that, Workforce Housing Credit (“WHC”) shall be provided in accordance with the following provisions, for the multifamily development, in compliance with UDC Sec. 4-325:

- i. Workforce credit shall apply to 3% of the total units, which shall be spread approximately pro rata across all unit types (# of bedrooms).
- ii. Qualified Tenants must be employed by the City of Powder Springs, Cobb County or another municipality located within Cobb County, or must be employed by a medical facility located within the City of Powder Springs or Cobb County. Additionally, such Qualified Tenants shall have incomes that do not exceed 100% of the Area Median income (AMI) (as published annually by HUD).
- iii. The workforce credit shall be equal to an amount of 20% of market rent. The Qualified Tenants initially shall pay 80% of the applicable market rent.
- iv. Should the property be sold or transferred, the workforce credit program shall carry with the property to the subsequent owner.
- v. The Workforce Units will be made available on a continuous basis to all Households that meet the foregoing Tenant Qualifications on a first come, first served basis. The Workforce Units shall be the same construction and appearance (e.g., type and brand of appliances, materials used for countertops, flooring, etc.) to the “Market Rate Units,” shall not be in isolated areas in the Project and shall be interspersed among the Market Rate Units to the extent possible.

- vi. The property owner (or its property management company) shall deliver calendar quarterly monitoring and compliance reports to the Issuer during the period. Such reports shall include a Compliance Certificate, Rent Roll and Resident Income Certification (collectively, the "Compliance Forms"). The Compliance Forms shall be delivered to the City of Powder Springs no later than twenty (20) days from the end of each calendar quarter.
- vii. Qualified Tenants occupying the workforce credit units must reapply to meet the Tenant Qualifications on an annual basis. Should a Tenant who previously qualified and is inhabiting a workforce credit unit not qualify upon renewal, such Tenant shall have the right to either 1) Execute a market rent lease at lease renewal for the inhabited unit or an alternate market rate vacant unit within the development or 2) Vacate the inhabited workforce credit unit within three (3) months, while still paying the monthly discounted rent over the three (3) month period.

33. No more than 50% of the certificates of occupancy will be issued for the entire multi-family development until the pad for the standalone commercial building is completed per condition 26 and all parking for the commercial pad has been completed per the site plan referenced in condition 2. The standalone commercial building pad shall be grassed as a park until and unless the commercial building pad is under construction. Prior to the construction of a standalone building, the HOA shall activate the park space by holding monthly events (which may include food trucks, movie nights and/or entertainment).

34. The development site shall be maintained to manage unsightly overgrowth of vegetation, and steps taken to prevent and respond to incidence of illegal dumping.

35. The applicant agrees that consideration for the residential component of the site plan was the inclusion and timely development of the commercial component. Any future rezoning application to rezone the commercial properties to residential would not be consistent with this rezoning and the assurances of the Owner that was consideration for this rezoning.

36. If the commercial lot has not been developed 5 years after final zoning approval, as evidenced by the issuance of a certificate of occupancy, then for \$1 the land will be deeded to the City of Powder Springs for use as a public park and multi-family component shall no longer be required to hold monthly events. The applicant may request a one-year extension if demonstrated that a building permit has been issued and is close to completion. The City of Powder Springs may deed this property to the Development Authority of Powder Springs to develop parcel commercially. Parcel will retain access to the parking shown on the site plan for the commercial use.

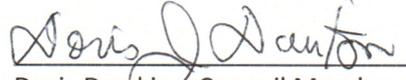
37. If monthly events do not occur as stipulated in stipulation 33, the applicant will be subject to code enforcement action and may be required to pay a fine per event.

So motioned, this 3rd day of April 2023.


Albert Thurman, Mayor

ABSENT

Patrick Bordelon, Council Member

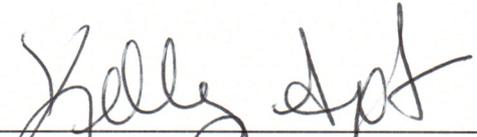

Doris Dawkins, Council Member


Patricia Wisdom, Council Member


Henry Lust, Council Member


Dwayne Green, Council Member

Attest:


Kelly Axt, City Clerk