

## Memorandum

**Date:** January 18, 2022.  
**To:** Mayor and Council  
**From:** Community Development  
**Subject:** **PZ 21-045: Rezoning Request: From NRC and R-20 to PUD-R, property located at 3189, 3215, and 3149 New Macland Road.**  
**Action:**

A motion to APPROVE this rezoning request, with the follow stipulations:

1. The within stipulations apply to the applicant and owner herein, their heirs, successors and assigns, regardless of the party to which any particular stipulation may be addressed.
2. The applicant shall submit a revised site plan compliant with these stipulations for Administrative Review. Except as otherwise provided herein, Site Plan must be consistent with PUD-R regulations, all other applicable regulations identified in the Unified Development Code, and the City's Comprehensive Plan concept. The revised site plan shall provide for the addition of greenspace recommended by the Comprehensive Plan. The applicant shall agree to work with TSW (Comprehensive Plan Consultant) to revise the site plan and architectural features of the structures and shall pay a fee up to \$2500 for this review. This site may include the use of "dead-end" roads as shown on the concept plan as requested as part of the PUD-R application if this is included in the final recommended design.
3. No housing units shall be constructed within the potential break point zone of the adjacent wireless communication tower. The specific distance for the radius of the "breakpoint zone" shall be determined by and reported to staff by a structural engineer or other qualified expert. This provision may be modified based on Design Review with Mayor and Council.
4. The existing cell tower on the site does not meet the zoning stipulations of [PZ 17 - 008](#). If a variance for this cell tower is applied for and denied within 60 days of this approval, a revised site plan may be required subject to Mayor and Council design review. If the owner of the cell tower does not apply for a variance within 60 days of approval of this application, the applicant of this application may proceed as approved. The owner of the existing cell tower may be subject to code enforcement action for failure to comply with zoning stipulations and the creation of a lot not meeting requirements of the CRC zoning district.

5. Each deed to a purchaser or purchasers of any or all residential units constructed on the subject property shall contain the following notice:

Grantee(s) herein acknowledge and do not object to the presence or operation of the existing telecommunications tower located at 3215 New Macland Road (19072500270).

6. A recreation area shall be provided at a ratio of 1 acre per 50 units (or a proportional percentage thereof) with a minimum of 10,000 square feet provided. Such area shall be developed with at least one recreational feature, such as a walking trail, pavilion, gazebo, picnic area, swimming pool, playground or tennis courts. Recreational areas must be outside of any floodplain area. Any recreation area must be located in an area with a slope of less than 15%; however, all recreation areas or applicable green space must meet ADA requirements for accessibility.
7. All residential units shall have two-car garages, and the parking pads/driveway in front of the garage shall be a minimum of 22 feet in length.

8. The setback are as follows:

**Front:** 15 feet from right-of-way

**Perimeter:** 35 feet setback (except for along New Macland Rd)

**New Macland Road:** 20 ft building setback

**Between buildings:** Minimum of 10 feet

**Rear Setback:** 20 feet

Design Review shall be conducted via Administrative Review.

9. Units must be staggered to the extent required by code, they must provide some staggering or variation as approved by an Administrative Design Review.
10. Materials to be used on exterior facades of all buildings shall include no less than 50% brick or stone, on the front and side facades. If the rear of the building faces the main right-of-way, 50% brick on the rear façade that is visible to the main road will be required. The architectural style and composition of the homes shall consist of traditional architecture on all sides. Variety in the neighborhood will be provided using stone and different shades of brick. An administrative design review will be required.
11. The creation of a mandatory Homeowners' Association ("HOA") and the submission of Declaration of Covenants, Conditions and Restrictions ("CCRs") during the Plan Review process, which shall include, among other components, strict architectural controls. The mandatory HOA shall be responsible for the maintenance and upkeep of fencing, landscaping, open space areas, sidewalks, community areas, stormwater detention and/or water quality ponds, lighting, the entrance to the Residential Community and any and all amenities and infrastructure not specifically dedicated to the City by written and recorded deed.
12. The submission of a landscape plan during the Plan Review process which shall be subject to review and approval by the Community Development Director. Additionally, the landscape plan shall include, but not necessarily be limited to, the following:

- a. Detention pond landscaping and screening plan for around the proposed detention and water quality areas with Cryptomeria, Arborvitae and/or other evergreen trees.
  - b. Compliance with landscape section renderings/elevations which will be submitted under separate cover during the Plan Review process.
  - c. The landscape plan, which shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed Horticulturist and shall identify open space areas; 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.
  - 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.
  - 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 Residential Community.
13. A third-party management company shall be hired to manage the day-to-day operations of the HOA 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 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.
15. Road frontages will be heavily and professionally landscaped which may include the use of berms, fencing, and substantial plant material to provide for visual screening. 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. Sidewalk and gutter shall be developed along the New Macland Road frontage.
17. If actual construction on the site is inactive for a period of 6 months or more, the site be replanted per a plan approved by the Community Development Director showing compliance with minimum tree canopy, street trees and buffer.

18. The recorded covenants for this property shall provide: (a) Declarant or any builder constructing homes within the proposed community must sell any such home for owner occupancy only. (b) Thereafter, leasing of any units within the entire development, shall have a minimum lease term of one (1) year. (c) The mandatory homeowners association must maintain records dealing with any lease within the Development, and such records shall be made available and 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%. (d) The homeowner association shall agree to provide, upon request to the City of Powder Springs, and all information relating to existing leases at the time of any such request by the City. (e) The City shall be named a third-party beneficiary entitled but not obligated to enforce this provision of the covenants.
19. Traffic improvements shall be required as followed: a potential deceleration lane on New Macland Road and Cross access into the adjacent retail center. This traffic improvement and all other traffic improvements required as a result of city engineer review shall be the responsibility of the applicant.

So motioned, this 18th day of January 2022.



Albert Thurman, Mayor



Patrick Bordelon, Council Member



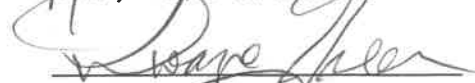
Doris Dawkins, Council Member



Patricia Wisdom, Council Member



Henry Lust, Council Member



Dwayne Green, Council Member

Attest:

  
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Kelly Axt, City Clerk