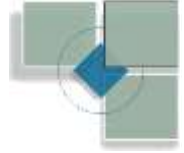




Lee May
Interim Chief Executive Officer

DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 500
Decatur, GA 30030
(404) 371-2155 / plandev@dekalbcountyga.gov



Planning Commission Hearing Date: January 5, 2017, 6:30 P.M.
Board of Commissioners Hearing Date: January 24, 2017, 6:30 P.M.

STAFF ANALYSIS

Case No.: Z-17-21122 **Agenda #:** N. 6

Location/Address: The northeast side of Flat Shoals Road, approximately 325 feet southeast of Fayetteville Road, at 2084, 2074, 2030, and 2022 Flat Shoals Road and 1743 Pine Trail, Atlanta. **Commission District:** 3 **Super District:** 6

Parcel ID(s): 15-148-02-031, -036, & -164, and 15-147-05-004 & -005

Request: Rezone property from R-75 (Single-Family Residential) to RSM (Residential Small Lot Mix) to develop up to 68 single-family attached townhome units at a density of 7.4 units per acre.

Property Owner(s): Melvin D. Williams, Joe Don Kellum

Applicant/Agent: 2030 Flat Shoals, LLC

Acreage: 8.64 acres

Existing Land Use: Five single-family residential homes.

Surrounding Properties: To the northwest, north, and northeast: single-family residential. To the east and southeast: Longdale Park. To the south, southwest, and west: commercial land uses.

Adjacent Zoning: **North:** C-1 **South:** C-1 **East:** R-75 **West:** City of Atlanta **Northeast:** R-75 **Northwest:** O-I **Southeast:** MR-2 **Southwest:** C-1

Comprehensive Plan: Suburban **Consistent** **Inconsistent**

Proposed Density: 5.5 units/acre	Existing Density: .12 units/acre
Proposed Units: 48	Existing Units: 1
Proposed Lot Coverage: approx. 51%	Existing Lot Coverage: (estimate) .014%

Zoning History: Based on DeKalb County records, it appears that the R-75 zoning of the property has not changed since adoption of the first zoning ordinance and map in 1956.

PROJECT ANALYSIS

The subject property consists of four parcels with a total land area of 8.64 acres and 651 feet of frontage on Flat Shoals Road, a two-way, two-lane minor arterial. A portion of the assemblage is the rear of a 4.7-acre parcel that has

frontage on Pine Trail. Single-family homes are located on the Pine Trail end of this parcel and on 2030 Flat Shoals Road. In addition, two out parcels located on Flat Shoals Road, which interrupt the continuous street frontage of the subject property, are developed with single family homes. Except for cleared areas around the homes, the property is wooded.

Sugar Creek forms the eastern property line of the tract. The western floodplain bank of Sugar Creek, which is located on the subject property, is flat for an approximate width of 85 to 185 feet. The rest of the property is 10- 60 feet higher than the stream bank. The difference in grade is achieved by some steep drops and some areas of gradually sloping ground. It does not appear that there will be any retaining walls next to or near existing single-family homes. The steepest part of the property is to be left as open space.

The property is located approximately 350 feet southeast of the intersection of Flat Shoals Road and Fayetteville Road. This intersection is a commercial node that includes a Shell station, a Chevron station, a Family Dollar Store, and a small multi-tenant commercial building with a package store, a Metro PCS store, and a restaurant. Properties in this node have City of Atlanta commercial zoning (C-1). The properties directly across from the subject property are developed with a Family Dollar store and the "Highlands at East Atlanta" apartment development, and are zoned C-1 and MR-2. The adjoining property to the east, across Sugar Creek, is zoned MR-2 and is developed with an apartment complex called "Vineyards of Flat Shoals". Single-family residential neighborhoods, zoned R-75, are located to the east.

The applicant proposes to develop a 48-unit development of fee-simple attached townhomes. Fifteen of the units would have rear entry, two-car garages from alleys, and 42-foot wide front yards. The remaining units would have front-entry, two-car garages. These units have a 20-foot wide patio in the rear of the homes. A five-foot sidewalk and six-foot landscape strip border both sides of the internal private street. The units are proposed to be three stories or 45 feet high.

The applicant proposes to install walking trails in the floodplain to increase the enhanced open space to at least 20% of the site and earn a density bonus of 1.6 units per acre. The proposed bus shelter would also earn a density bonus of 20%, for a total bonus of 3.2 units. When added to the base allowed density of 4 units per acre, the development could have up to 7.2 units per acre. The actual proposed density is 5.5 units per acre.

Vehicular and Pedestrian Access: Flat Shoals Road is a two-way, two-lane minor arterial and Fayetteville Road is a two-way, two-lane major arterial. A sidewalk is located in front of the subject property. The applicant proposes to extend this sidewalk into the development, on both sides of the entrance from Flat Shoals Road. A MARTA bus stop is located in front of the property. The site plan indicates that a bus shelter is proposed.

LAND USE AND ZONING ANALYSIS

Section 27-832 of the Zoning Ordinance, "Standards and factors governing review of proposed amendments to the official zoning map" states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:

The zoning proposal is consistent with the following policies and strategies of the 2025 Comprehensive Plan: "Enhance the County's existing supply of housing." (HP3) and "Ensure that new development and redevelopment is compatible with existing residential areas." (LUP6)

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:

At 5.5 units per acre, the proposed density of the development is an appropriate transition between the R-75 properties to the northeast and east, which allow 4.35 units per acre, and the commercial properties to the northwest and across Flat Shoals Road. The development would be compatible with the apartment development located on the adjoining MR property to the southeast, which is buffered from the homes on the subject property by a floodplain.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

The property to be affected by the zoning proposal has reasonable economic use as currently zoned since the neighborhood to the southeast, an adjoining property, and two contiguous properties along Flat Shoals Road are developed for single-family residential homes.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. The house on the adjoining property to the north that is closest to a proposed building on the subject property is located approximately 90 feet from the northern property line of the subject property. Because of the separation between existing houses and proposed buildings, the development is not expected to have negative effects on adjoining properties to the north. The mature trees in the flood plain along the eastern portion of the site will provide a visual screen for the apartment development to the east.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:

Staff is unaware of any other conditions that would support either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:

There are no historic buildings, sites, districts, or archaeological resources on or near the subject property.

G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

The Department of Public Works Traffic Engineering Division has commented that the proposed development would not interrupt traffic flow on surrounding streets. The School District has indicated in its comments that there is adequate capacity for the number of elementary, middle, and high school students who are projected to live in the development.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources:

There has been no indication that the proposed development would impact the natural environment or surrounding natural resources any more than what is typical for residential redevelopment of a predominantly wooded site.

Compliance with District Standards:

RSM STANDARD		REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MAX. D.U.s/ACRE		Base: 4; with bonuses: up to 8 d.u.s/acre (4 + 3.2 bonus units = 7.2 allowed)	5.5 d.u.s/acre	Yes
MIN. OPEN SPACE /ENHANCED OPEN SPACE (Applicable if project is > 5 ac. or ≥ 36 d.u.s)		Not required; however, enhanced open space provided for density bonus.	Enhanced open space provided for density bonus.	N.A.
MIN. LOT AREA		Not applicable to “fee simple” building type	Not applicable	Not applicable
MIN. LOT WIDTH		Not applicable to “fee simple” building type	Not applicable	Not applicable
MAX. LOT COVERAGE (of total parcel acreage)		70% of total parcel acreage	Approx. 51%	Yes
BUILDING SETBACKS	FRONT (for entire bldg. site)	Min. 20 ft.; max. 30	25 - 70 feet	Yes
	INTERIOR SIDE (for entire bldg. site)	Not applicable to single-family attached	Not applicable to single-family attached	N.A.
	REAR W/O ALLEY (for entire bldg. site)	Superseded by required transitional buffer and floodplain	Superseded by required transitional buffer and floodplain	N.A.
MINIMUM UNIT SIZE		1,200 sq. ft.	1,200 s.f.	Yes
MAX. BLDG. HEIGHT		Single-fam. attached: 3 stories or 45 ft.	3 stories or 45 ft.	Yes
PARKING		Minimum 1.75 spaces; maximum 3.25 space per unit = minimum 84 spaces; maximum 156 spaces	4 spaces for 43 homes = 172, two spaces for 5 homes = 10, and 11 guest parking spaces, for a total of 193 spaces.	A variance will be required to exceed the parking maximum.
MIN. STREETScape DIMENSIONS - PROPERTY FRONTAGE		5-ft. landscape strip and 5-ft. sidewalk on each side, and street trees 50 ft. on center or for every unit	Existing sidewalk is 5 ft. wide. Trees are proposed in 23 – 54 foot wide landscape strip.	Yes. Sidewalk next to curb is legally non-conforming.
MIN. STREETScape DIMENSIONS - PRIVATE DRIVES		5-ft. landscape strip and 5-ft. sidewalk on each side; street trees every 50 ft. or for every other unit.	6-ft. landscape strip and 5-ft. sidewalk on each side, and street trees every 40 - 50 ft.	Yes

RSM STANDARD	REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
TRANSITIONAL BUFFERS	20-ft. buffer & screening fence required along all interior property lines.	20-foot buffers	A screening fence shall also be provided.

STAFF RECOMMENDATION:

The zoning proposal is consistent with the following policies and strategies of the 2025 Comprehensive Plan: “Enhance the County’s existing supply of housing.” (HP3) and “Ensure that new development and redevelopment is compatible with existing residential areas.” (LUP6) At 5.5 units per acre, the proposed density of the development is an appropriate transition between the R-75 properties to the northeast and east, and the commercial properties to the northwest and across Flat Shoals Road. The development would be compatible with the apartment development located on the adjoining MR property to the southeast, which is buffered from the homes on the subject property by a floodplain. The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. The house on the adjoining property to the north that is closest to a proposed building on the subject property is located approximately 90 feet from the northern property line of the subject property. Because of the separation between existing houses and proposed buildings, the development is not expected to have negative effects on adjoining properties to the north. The mature trees in the flood plain along the eastern portion of the site will provide a visual screen for the apartment development to the east. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following conditions:

1. The proposed development shall have a maximum of 48 units.
2. Developer shall install a bus shelter on Flat Shoals Road in front of the property, subject to approval by MARTA.
3. Pedestrian crossing strips shall be installed across the driveway to each unit, consistent with Sec. 27-5.4.3(B)(3), and across the main entrance to the development.
4. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Board of Education Comments
4. Application
5. Site Plan
6. Zoning Map
7. Land Use Plan Map
8. Aerial Photograph
9. Site Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✔ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✔ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✔ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- ✔ • **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

**NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV**

COMMENTS FORM:

PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: Z-17-21122 Parcel I.D. #: 15-147 05-004 + 005
2084, 2074, 2030 Address: 2022 Flatwoods Road
+ 1713 Pine Trail
Atlanta, Ga.

Adjacent Roadway (s):

Collector _____
 (classification) (classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____	Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Did not see any traffic engineering concerns at this time.

Signature: Jeffrey Russell



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

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MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID IREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER

Case No.: Z-17-21122

Parcel I.D. #: 15-148-02-031, -036, & -164 and 15-147-05-004 & -005

Address: 2084, 2074, 2030, 2022 Flat Shoals Road and 1743 Pine Trail

Atlanta, Georgia

WATER:

Size of existing water main: 6" CI Water Main (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Entrenchment Creek Basin

Is sewer adjacent to property: Yes () No () If no, distance to nearest line: _____

Water Treatment Facility: Snarfinger WWTP () adequate () inadequate

Sewage Capacity; * (MGPD)

Current Flow: 22.175 (MGPD)

COMMENTS:

* Please note that the determination of available capacity expressed herein is not guaranteed as it is based upon the known conditions as of the date of this correspondence and on the anticipated capacity needs associated with your project.

Signature: 

12/13/2016

To: Ms. Madolyn Spann, Planning Manager
Mr. John Reid, Senior Planner
From: Ryan Cira, Environmental Health Manager
Cc: Alan Gaines, Technical Services Manager
Re: Rezone Application Review

General Comments:

DeKalb County Health Regulations prohibit use of on-site sewage disposal systems for

- multiple dwellings
- food service establishments
- hotels and motels
- commercial laundries
- funeral homes
- schools
- nursing care facilities
- personal care homes with more than six (6) clients
- child or adult day care facilities with more than six (6) clients
- residential facilities containing food service establishments

If proposal will use on-site sewage disposal, please contact the Land Use Section (404) 508-7900.

Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

This office must approve any proposed food service operation or swimming pool prior to starting construction.

Public health recommends the inclusion of sidewalks to continue a preexisting sidewalk network or begin a new sidewalk network. Sidewalks can provide safe and convenient pedestrian access to a community-oriented facility and access to adjacent facilities and neighborhoods.

For a public transportation route, there shall be a 5ft. sidewalk with a buffer between the sidewalk and the road. There shall be enough space next to sidewalk for bus shelter's concrete pad installation.

Since DeKalb County is classified as a Zone 1 radon county, this office recommends the use of radon resistant construction.

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

12/13/2016

N.1

SLUP-17-21108

2754 North Decatur Road, Decatur, GA

Amendment

- Please see general comments.

N.2

CZ-17-21129/18-116-15-008

2476 Lawrenceville Highway, Decatur, Georgia

Amendment

- Please see general comments.

N.3

SLUP-17-21106/15-066-01-013

✓ 5364 Flat Shoals Parkway, Atlanta, GA

Amendment

- Please see attached letter for general comments.

- For the record : Property 5365 located across for 5364 had septic installed on 4/28/68.

N.4

SLUP-17-21117/15-085-01-055

3203 Candace Drive, Atlanta, GA

Amendment

- Please see comments.

**DeKalb County School District
Zoning Review Comments**

Analysis Date: 12/19/2016

Submitted to: DeKalb County **Case #:** Z-17-21122

Name of Development: 2030 Flat Shoals, LLC
Location: 2084, 2074, 2030, 2022 Flat Shoals Road

Description: Rezoning property from R-75 (Single-Family Residential) to RSM (Small Lot Residential Mix) to allow for the construction of 68 townhome units.

Impact of Development: This rezoning, if approved, would add 9 students with 5 attending local DCSD schools (3 McNair ES, 1 McNair MS and 1 McNair HS) 3 attending other DCSD schools and 1 attending private school.

Current Condition of Schools	McNair ES	McNair MS	McNair HS	Other DCSD Schools	Private Schools	Total
Capacity	978	1,214	1,522			
Portables	0	0	0			
Enrollment (Oct 2016)	821	715	784			
Seats Available	157	499	738			
Utilization (%)	83.9%	58.9%	51.5%			
New students from development	3	1	1	3	1	9

New Enrollment	824	716	785
New Seats Available	154	498	737
New Utilization	84.3%	59.0%	51.6%

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.043700	0.021850	0.010197	0.075747
Middle	0.011653	0.009468	0.000000	0.021121
High	0.018208	0.008740	0.004370	0.031318
Total	0.0736	0.0401	0.0146	0.1282

Student Calculations

Proposed Units **68**

Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	2.97	1.49	0.69	5.15
Middle	0.79	0.64	0.00	1.43
High	1.24	0.59	0.30	2.13
Total	5.00	2.72	0.99	8.71

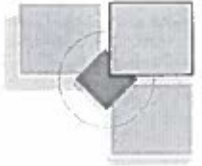
Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
McNair ES	3	1	1	5
McNair MS	1	1	0	2
McNair HS	1	1	0	2
Total	5	3	1	9



DeKalb County Department of Planning & Sustainability

Lee May
Interim Chief Executive Officer

Andrew A. Baker, AICP
Director



APPLICATION TO AMEND OFFICIAL ZONING MAP
OF DEKALB COUNTY, GEORGIA

NOV 03 2016

Date Received: Application No.: 21122

Applicant: 2030 Flat Shoals, LLC E-Mail: laurel@glawgp.com

Applicant's Mailing Address:
550 Pharr Rd, Suite 220, Atlanta GA, 30305

Applicant's Phone No.: 404-965-3680 Fax:

Owner(s): see attached sheet E-Mail: yossi@zevcap.com
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address:

Owner(s) Phone No.: 917-753-2826 Fax:

Address/Location of Subject Property: 2084, 2074, 2030 and 2022 Flat Shoals and 1743 Pine Trail
District(s): 15 147 05 004 and 005 Land Lot(s): 15 148 02 031, 036, and 164 Parcel(s):

Acreage: approx. 8.639 Commission District(s): 3 and 6

Current Zoning Category: R-75 Proposed Zoning Category: RSM

Current Land Use Category: SUB Land Use Amendment Filed? Yes X No

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted. 20 collated copies must be submitted.

Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following question must be answered: Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes No If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

- 1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

Notary Signature: Michele Oliver
Notary Seal: GEORGIA PUBLIC NOTARY
Expiration Date: April 16, 2021

Signature of Applicant: [Handwritten Signature]
Check One: Owner Agent [checked]

Laurel
David

THE
GALLOWAY
LAW GROUP

NOV 03 2016

October 13, 2016

**INFORMATION MEETING CONCERNING PROPERTY LOCATED AT
2084, 2074, 2030, AND 2022 FLAT SHOALS ROAD
AND 1743 PINE TRAIL, ATLANTA, GEORGIA**

We are notifying all nearby property owners of a proposed Rezoning from R-75 to MR-2 for the properties indicated above. A public information meeting will take place on November 2, 2016, from 7:00 p.m. to 8:00 p.m. to discuss the proposal. This meeting will be held near the subject properties, at CHRIS 180, located at 1017 Fayetteville Road, Suite B, Atlanta, GA 30316 in the Harkey Conference Room on the first floor (please use the Counseling Center entrance on the front porch).

Please feel free to attend this meeting should you have any questions regarding the proposed rezoning. If you are unable to attend the meeting and would like to obtain information, please contact Laurel David at (404) 965-3680.

Sincerely,

THE GALLOWAY LAW GROUP

NOV 03 2016

MEETING SIGN-IN SHEET	
Project: 2030 Flat Shoals LLC	Meeting Date: Nov. 2, 2016
Facilitator: Laurel David, Esq.	Location: CHRIS 180, 1017 Fayetteville Road

Name	Address	Phone	E-Mail
Robert Dennis	987 Joseph Ct Decatur GA	4-243-0493	
Dula Wright	1779 Fayetteville Road	404-278-9491	
Christine Dennis	1987 Joseph Ct	404-243-2493	Christinedennis@aol.com
Shirley Hill	1891 Valencia Rd	404-509-3463	irish.hill@att.net
Lillie Harris	1858 Valencia Rd, Dec.	678-640-6839	
Alice Turpin	1717 Valencia Rd	4-243-6506	
Annet Howard Randolph	1733 Valencia Rd Dec. Ga. 30033	241-8132	Polly 54R at Gmail. Com
Daisy Mason	1868 JOSEPH CT Decatur GA 30032	404 241-4402	
Thelma Curry	1727 VALENCIA Decatur, GA	243 404-2899	
Charis Shropshire	1897 Valencia Rd Decatur, GA		
Cecile Shropshire	1897 Valencia Rd Decatur, GA 30032	(404)212-8806	cnshoop@yahoo.com
Sylvia Patterson	1987 Joseph Ct Decatur	404/243/8631	Sylvia_patterson1980@yahoo.com
Cathy Douglas	PO Box 18232 Atlanta 30316		cathydoug1@yahoo.com
Arthur Holloway	1006 Fayetteville Rd Atlanta 30316	30316	aholloway2@aol.com
Betty Jenkins	1764 Donnanee Ave. SE Atlanta 30316	30316	lianna_beth@aol.com
Willie Patterson	1988 JOSEPH CT. Decatur, GA 30032	(404)243-8631	WRPATERSON50@yahoo.com
Yosef Kagan		917-753-2826	
VINCENT GOARD	2063 FLAT SHOALS RD	404 218.1133	V.GOARD@GMAIL.COM
Michael Moreland	1701 Valencia Rd	404 642 3574	mickem 864@gmail.com
Stefanie Steele	2136 Somerset Pl		steffst@comcast.net

**LETTER OF ANALYSIS
APPLICATION FOR REZONING
DEKALB COUNTY, GEORGIA**

NOV 03 2016

The Applicant, 2030 Flat Shoals, LLC, on behalf of the Owners requests a rezoning to RSM of property consisting of approximately 8.639 acres located at 2084, 2074, 2030 and 2022 Flat Shoals and 1743 Pine Trail, parcel numbers 15 147 05 004/005 and 15 148 02 031/036/164 (the "Property"). The Applicant proposes a maximum of sixty-eight (68) single family attached homes.

The Applicant respectfully submits this request, as the proposal comports with the following standards and factors set forth in Article 7.3 of the DeKalb County Zoning Ordinance:

A. Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan

The zoning proposal conforms to the policy and intent of the Comprehensive Plan. The Property is designated to the Suburban character area. DeKalb County Comprehensive Plan 2005-2025, amended December 2013 (hereafter "Comprehensive Plan"), Community Agenda Table 4-5. The intent of the Suburban Character Area is to "recognize those areas of the county that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility." Comprehensive Plan Community Agenda at 61. The proposed density for areas of this type is up to 8 dwelling units per acre. Comprehensive Plan Community Agenda at 61.

The Applicant proposes a single family attached development at a maximum of eight (8) units per acre. The development will be walkable with pocket parks and will include a large greenspace area comprising floodplain and stream buffer. Therefore the Applicant's request is in conformity with the policy and intent of the Comprehensive Plan.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties

The zoning proposal will permit a use that is suitable and beneficial to the community in view of the use and development of adjacent and nearby properties. The Applicant proposes a single family development in an area next to existing single family homes. The attached homes will be concentrated towards the western side of the property and along Flat Shoals Road, providing a transition from the commercial and multi-family uses to the south to neighborhoods to the north and east.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned

The Property is located in the eastern quadrant of the intersection of Fayetteville and Flat Shoals Roads, which is characterized by gas stations and commercial and multi-family uses. However, much of the Property is undevelopable as it is in the County-required stream buffers and floodplain. As a result, the Property does not have a reasonable economic use as currently zoned.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby properties

The zoning proposal will have no adverse effect on the existing use or usability of adjacent or nearby properties. The area includes a mix of densities and various zoning districts, including MR-2 across the street and RSM to the southeast. Nearby properties zoned to commercial and residential districts have not experienced any adverse impact from the existing RSM-zoned development to the east of the Property and should not experience any adverse impact from the rezoning of this Property in the future.

E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal

Much of the Property is undevelopable as it is in the County-required stream buffer and floodplain. Nevertheless, the Applicant is proposing a development compatible with the Suburban Character area that will cluster homes in the western area of the Property and will include additional green space to supplement the floodplain and buffer areas.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources

The DeKalb County Comprehensive Plan does not appear to indicate the existence of any natural or cultural resources, historic districts or areas, or nationally and locally registered historic sites in the area. The Applicant is not aware of any historic buildings, sites, districts or archaeological resources on the site or located in the immediate vicinity.

G. Whether the zoning proposal will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools

If approved, the zoning proposal will not result in a use that will cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The Applicant is proposing a maximum of sixty-eight (68) homes. The area is currently developed with relatively intense commercial uses and medium density residential uses. The Applicant will work with

Dekalb County DOT to minimize the traffic impact and to provide safe ingress and egress for the development. The project will not cause excessive burdens on utilities, as capacity already exists.

Because this zoning proposal meets all the standards and factors set forth in Article 7.3 of the DeKalb County Zoning Ordinance, the Applicant respectfully asks that the DeKalb County Board of Commissioners grant the rezoning as requested by the Applicant above.

Sincerely,

THE GALLOWAY LAW GROUP, LLC

By: 

Laurel A. David

Attorney for the Applicant

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225122

**CONSTITUTIONAL OBJECTIONS
DeKalb County, Georgia**

Georgia Law and the procedures of DeKalb County require us to raise Federal and State Constitutional objections during the rezoning application process. While the Owner/Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Owner/Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of DeKalb County, Georgia, as applied to the Property, that would result in a denial of the rezoning as requested, are, or would be, unconstitutional in that they would destroy property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Code of DeKalb County or the DeKalb County Zoning Ordinance to the Property which restricts its use to any use in a manner other than that requested is unconstitutional, illegal and null and void because such an application constitutes a taking of property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Owner/Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would also constitute an arbitrary and capricious act by Board of County Commissioners of DeKalb County without any rational basis therefore, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to grant the rezoning as requested would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner/Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the rezoning subject to conditions that are different from the conditions requested, to the extent such different conditions would have the effect of further restricting the utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

In addition, this constitutes formal written notice to DeKalb County, pursuant to O.C.G.A. § 36-11-1, that the Owner/Applicant plans to seek to recover all damages that it sustains or suffers as a result of the denial of this Application and/or the unconstitutional zoning of the Property by DeKalb County. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Owner/Applicant respectfully requests that the Board of County Commissioners of DeKalb County grant the rezoning as requested.

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