



# City of Tucker

**Land Use Petition:** RZ-21-0002

**Date of Staff Recommendation Preparation:** September 28, 2021

**Planning Commission:** October 21, 2021

**Mayor and City Council, 1<sup>st</sup> Read:** November 8, 2021

**Mayor and City Council, 2<sup>nd</sup> Read:** December 13, 2021

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<b>PROJECT LOCATION:</b>	3281 Tucker Norcross Road
<b>APPLICATION NUMBER</b>	RZ-21-0002
<b>DISTRICT/LANDLOT(S):</b>	Land District 18, Land Lot 288
<b>ACREAGE:</b>	8.43 acres
<b>EXISTING ZONING</b>	MR-1 (Medium Density Residential – 1) CZ-15-19934
<b>EXISTING LAND USE</b>	Townhome Development Site
<b>FUTURE LAND USE MAP DESIGNATION:</b>	Suburban
<b>OVERLAY DISTRICT:</b>	N/A
<b>APPLICANT:</b>	Dennis Webb Jr. – Smith, Gambrell & Russell, LLP
<b>OWNER:</b>	Rocklyn Homes, Inc.
<b>PROPOSED DEVELOPMENT:</b>	Major modification to approved conditions of zoning for CZ-15-19934
<b>STAFF RECOMMENDATION:</b>	Denial of RZ-21-0002

## Background

In 1978, the subject property was rezoned from R-85 to OI and was developed as a tennis center (CZ-78020). In 2003, the parcel was rezoned from O-I to RM-100, pursuant to CZ-02042, to allow for the development of 100 townhomes. With this rezoning, 25 conditions were placed on the property regarding required materials, minimum square footage requirements, sidewalks throughout the development, maximums on the number of bedrooms, guest parking spaces, additional plantings and a fence along properties to the south, and 50' landscape strips along the boundaries common to single-family residential zoning districts.

In 2004, the property changed hands and in 2006, the new owner, Spring Village Holdings, LLC, requested a change in conditions to delete condition 17, which limited the number of townhome units to 100 and prohibited more than 15% of the units be developed as three bedroom units. The change in conditions was approved, pursuant to Z-06-1164, to delete the 15% limitation on three-bedroom units and to reduce the total number of units to be developed from 100 to 88 units. In 2006, the infrastructure for the townhomes had been constructed, including street, curb, and gutter.

In 2009, Spring Village Holdings, LLC, requested to rezone the property from RM-100 to RM-75 for the development of an apartment community, consisting of 150 multi-family units, at a density of 17.80 units per acre. The applicant hosted a community meeting in which at least 32 community members attended. Through documentation obtained from DeKalb County, the applicant withdrew the 2009 application after being heard by the Board of Commissioners, however the reason for and date of the withdrawal were not included.

In 2011, a new owner, Cornerstone Bank, obtained the property. In 2012, Cornerstone Bank filed a major modification to allow for a change in conditions to eliminate the requirement for an acceleration/deceleration lane. The application was approved, pursuant to CZ-12-17717, with two additional conditions which required a sidewalk along the Norcross-Tucker Road frontage and required mitigation of stormwater run-off from the Spring Meadows subdivision to the north.

In 2015, Lifestyle Family Group, LLC was granted a major modification of approved zoning conditions, pursuant to RZ-15-19934. With this modification, 24 conditions were amended/added to the property including a reduction in the number of allowed units from 88 to 84, additional material standards for the townhomes, elimination of the requirement for internal sidewalks for lots adjacent to the detention pond, reduction in the number of required guest parking spaces, reduction in the required landscape strips adjacent to the Arbor Cove subdivision, and the addition of "a deed restriction to establish that a maximum of 25% of the units can be rented, including to tenants with hardships."

The previous zoning cases have had extensive neighborhood involvement, with many conditions being agreed upon by the North Tucker Neighborhood Alliance, the Spring Meadow Neighborhood Association, and DeKalb County. These conditions include the one limiting 25% of the units as rentals.

In 2020, the subject property received a Land Disturbance Permit (LDP) from the City of Tucker. Rocklyn Homes acquired the site and began development. During the land development stage, Rocklyn submitted the current application to amend several conditions in order to create a rental townhome product rather than a fee-simple development.

## Project Data

The applicant is requesting a major modification to a large, unfinished, single-family attached development site, to remove and amend several conditions of zoning that currently exist on the property. The subject site is approximately 8.43 acres and was rezoned in DeKalb County, most recently in 2015, pursuant to CZ-15-19934, to allow for a development that was never constructed. The requested amendments to existing conditions specifically relate to allowing the proposed development to consist of 80 rental townhomes rather than fee-simple, owner-occupied, townhomes.

The subject property is a large, somewhat triangularly shaped parcel, located on the southeastern side of Tucker-Norcross Road, along the northern boundary of the city of Tucker. The site is completely graded and partially developed, consisting of a single-full access curb cut, at the northern end of the parcel, streets, curb and gutter. Proposed access to the site would be provided via two drives, a full access curb cut and a right-in/right-out only curb cut. A wireless telecommunications facility exists along the southern property line, near the southwestern corner of the parcel. A stream and its buffers are located in the northern portion of the site, adjacent to the northeastern property line.

The City of Tucker approved an administrative modification to condition 10 in December of 2019. This condition previously required a sidewalk to be constructed along the Tucker Norcross frontage of the subject parcel and also required that the sidewalk be extended to the south to Pleasantdale Road and north to the Gwinnett County boundary line. The modification allowed the cost of the sidewalk extensions (beyond the Tucker Norcross frontage) to be paid to the City of Tucker sidewalk fund in lieu of constructing the extensions. This was approved based on the challenges presenting with installing an off-site sidewalk.

The applicant is currently proposed to remove the words “fee-simple” from condition one and remove conditions 14 and 24 entirely.

1. The development shall consist of 87 ~~fee-simple~~ townhome units.
14. The developer shall establish a mandatory homeowners’ association and shall record a declaration of covenants, conditions, and restrictions. (CZ-02042)
24. The developer shall execute a deed restriction to establish that a maximum of 25% of the units can be rented, including to tenants with hardships.

If approved, the townhomes will remain under single ownership and will be leased individually to residents. Therefore, the developer is proposing to have all 80 units on one lot, similar to an apartment development. In discussions with the owner, Rocklyn Homes would be amenable to a condition placed on the property regarding short-term rentals and minimum lease lengths. Staff has included a condition regarding a 6-month lease minimum, per the applicant’s statement. A growing model in Georgia, the rental townhomes will be marketed to those with the means to own, but with the desire to rent.

The Tucker Zoning Ordinance does not define building types by ownership. A townhouse is defined as “one of a group of three or more single-family dwelling units, attached side-by-side by a common wall.” A multifamily dwelling unit is defined as “one or more rooms with a private bath and kitchen

facilities comprising an independent, self-contained residential unit in a building containing four or more dwelling units.”

**CHARACTER AREA (Future Land Use)**

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and ensuring that new development does not diminish the character of existing neighborhoods. While a greenspace is proposed central to the development, the comprehensive plan specifically states “higher density developments should incorporate suburban aesthetic of increased greenspace, such as cottage and courtyard developments, with large greens and an expanse of open and natural spaces.” The proposed development does not meet the intent of the Comprehensive Plan in terms of density, as the design considerations of the Suburban Character Area state up to 4 units per acre may be allowed. The proposed project would have a density of approximately 9.5 units per acre, more than double the recommended amount for this area. While the density is not increasing with this proposal, it is important to note that the development is not consistent with the Tucker Tomorrow Comprehensive Plan.

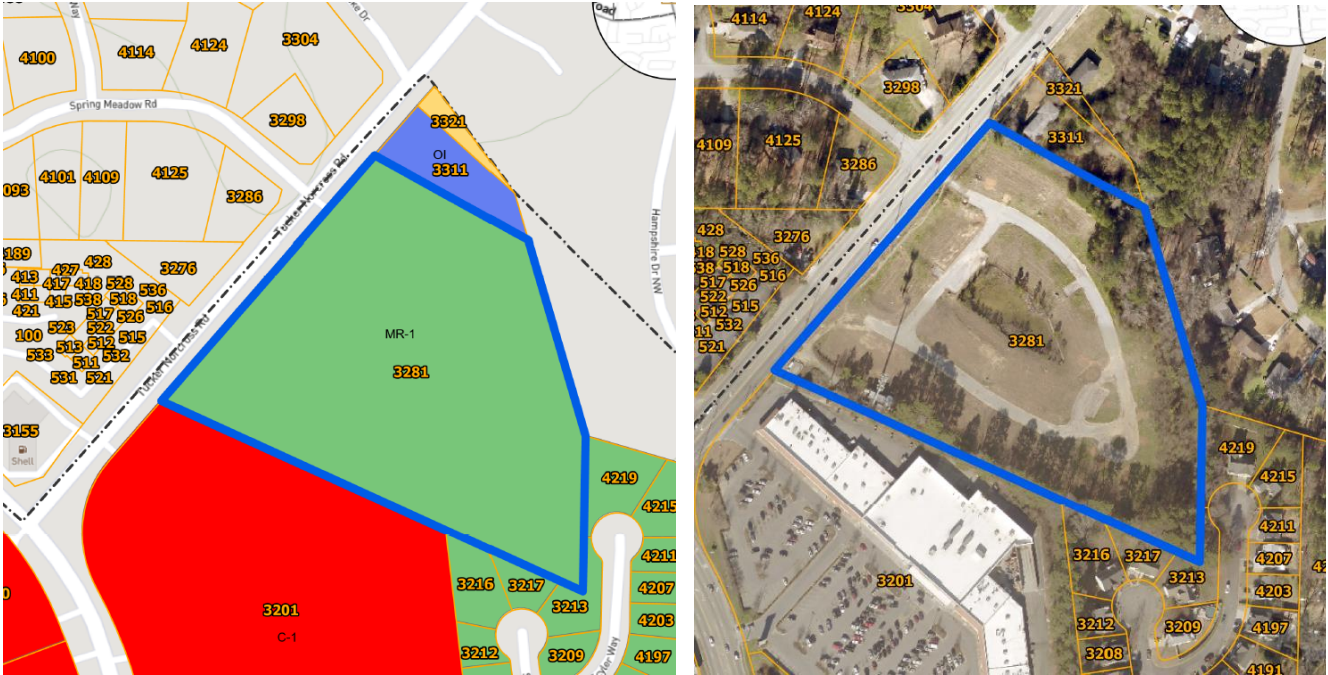
**PUBLIC PARTICIPATION PLAN REPORT**

The applicant hosted two virtual public participation meetings. Because of improper notification to the City of the first meeting, a second public participation was required. Both meetings were held via zoom and lasted approximately an hour on August 5, 2021 and September 9, 2021, respectively. Prior to both meetings, the applicant mailed a letter and site plan explaining the proposed project to all property owners within 500 feet of the subject parcel. Forty people were in attendance for the August 5<sup>th</sup> meeting and 26 people were in attendance on September 9<sup>th</sup>.

During the meeting the project and site plan were explained to the audience, then questions were taken. Several questions were asked regarding traffic, schools, plans for a traffic signal at the entrance, limitations on guest occupancy, lease terms, onsite management, parking for residents and visitors, the leasing model (as opposed to a for-sale product), and screening for the residents in the neighboring homes. Other concerns related to sidewalks, the size of the units, amenities, and rental increases were also discussed. It does not appear that any changes were made to the site plan as a result of the Public Participation Meeting, although the request is only to change the conditions of approval, not the site plan

**NEARBY/SURROUNDING LAND ANALYSIS**

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	OI (Office-Institution)	Residential structure
Adjacent: East	Unincorporated Gwinnett County	Single-family detached homes
Adjacent: South	C-1 (Local Commercial) and MR-1 (Medium Density Residential -1)	Commercial shopping center and Arbor Cove Subdivision
Adjacent: West	Unincorporated DeKalb County	Condominiums



*Zoning and Aerial Exhibits showing surrounding land uses.*

### Major Modification/Rezoning (RZ-21-0002)

The process and regulations for modifications and changes to approved conditions of zoning are outlined in Sec. 46-1565 of the City of Tucker Zoning Ordinance. This section falls under Division 3: Zoning and Comprehensive Plan Amendments and Procedures. Minor changes can be handled administratively, but major changes such as changes to conditions of approval require the full public hearing process and review. Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff’s findings which are independent of the applicant’s responses to these criteria.

**1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

The proposed development does not meet the policy and intent of the Tucker Tomorrow comprehensive plan. The subject property is located within the Suburban Character Area. The plan specifically states, “along major corridors, in areas of existing commercial development or with the redevelopment of existing multi-family developments, up to 6 units per acre may be allowed.” While townhomes are consistent with the Suburban Character Area, the proposed density, at approximately 9.5 units per acre, is too great for this area.

Although the property was most recently rezoned in 2015, prior to the incorporation of Tucker, with an allowable density of over 9 units per acre, conditions were placed on the property ensuring that surrounding property owners were protected. Altering conditions that intensify the development would not appropriate in the Suburban Character Area.

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

Amending and eliminating several conditions of zoning to allow for the development of an 80-unit rental townhome community that is under common ownership will permit a use that is not suitable in the view of the use and development of adjacent and nearby properties at the present time. The surrounding properties include neighborhood commercial uses to the south and are surrounded by single-family detached homes to the north, east, and part of the south. While townhomes do serve as an appropriate use transition from commercial to residential, incorporating a rental component more typically seen with multifamily would not be appropriate abutting single-family residential.

In 2003, a condition of zoning was placed on the property requiring “a 50-foot landscape strip to be placed along the boundaries common to single-family attached residential zoning districts to provide for infill plantings and additional landscaping”. In 2015, the condition was revised to read “a 30-foot landscape strip be provided along the southeastern boundary common to the Arbor Cove subdivision, and a 20-foot landscape strip shall be provided along the southern boundary common to the Arbor Cove subdivision.” The protection to adjacent single-family residences has already diminished during previous modifications. Increasing the intensity of the development while maintaining smaller buffers would not be suitable and could adversely impact adjacent residential properties.

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

The subject property does have a reasonable economic use as currently zoned. The existing parcel is conditionally zoned to allow for fee simple, single-family attached homes. The developer purchased and began developing the site under the existing conditions.

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

The zoning proposal may adversely affect the existing use or usability of nearby properties as it intensifies a legal non-conforming development with limited buffers to protect neighboring properties.

**5. 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.**

There are no known existing or changing conditions that affect the use and development of the parcels that are a part of this rezoning application. The developer closed on this property on December 14, 2020 and began developing the site under the 2015 zoning conditions.

Staff will note that there have been some delays in developing this site over the years. One big issue has been access to sewer. This portion of Tucker is currently served by Gwinnett Water Resources (DWR). However, Gwinnett County has demanded DeKalb Watershed find a way to divert all sewer back to DeKalb County treatment facilities. The developer previously had a written agreement with

Gwinnett, but the agreement was never signed so Gwinnett refused to honor it. The applicant is having to construct a pump station on site to address these issues. Staff does not consider these conditions to affect the condition changes that are a part of this application.

**6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.**

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

**7. 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.**

When fully constructed, this development would be expected to generate 19 students: 6 at Livsey Elementary, 2 at Tucker Middle School, 6 at Tucker High School, 2 at other DCSD schools, and 2 at private schools. Although enrollment at Tucker HS, Tucker MS, and Livsey Elementary are already over capacity, the development is expected to have minimal impact.

A previous zoning condition required a minimum of a one-car garage. The City of Tucker code requires a two-car garage to provide ample parking. Providing one car garages could be burdensome on the streets within this development.

**8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**

The proposed zoning modification request will not impact the physical site. However, it is important to note that there is a stream and associated buffers on the site.

**CONCLUSION**

While this type of rental development would offer a unique housing type in the city, the proposed development and the modification requests do not meet the intent of the comprehensive plan nor does it provide sufficient protection to the surrounding residential properties. The condition changes that have been requested would further intensify the development and remove conditions that were fundamental in previous approvals.

Therefore, Staff recommends **DENIAL** of the requested rezoning.



## Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition **RZ-21-0002**.

Should the governing bodies choose to approve the major modification/rezoning request, Staff recommends the request be approved subject to the following conditions, with amendments that no longer are relevant to the development (*changes in italics*):

1. The development shall consist of *80 rental* townhouse units.
2. The development shall substantially comply with the site plan *received by the City of Tucker Community Development Department on September 15, 2021*.
3. Where sidewalks cross driveways, pedestrian crossing strips shall be demarcated with striping, a contrasting texture or color, or a contrasting material.
4. An entrance door shall be provided for each of the units located in the nine-unit building next to Tucker-Norcross Road. A walkway shall connect each door to the sidewalk along Tucker-Norcross Road. At least 60% of each façade that faces Tucker-Norcross Road shall consist of window and door openings.
5. At least 30% of the side walls of the units with their sides to Tucker-Norcross Road shall consist of window or door openings.
6. A 30-foot landscape strip shall be provided along the southeastern boundary common to the Arbor Cove subdivision, and a 20-foot landscape strip shall be provided along the southern boundary common to the Arbor Cove subdivision. *No structure or patio shall encroach into the required landscape strips.*
7. Sidewalks shall be installed along public streets within the development, except in front of the lots that abut the detention structure located in the center of the development.
8. There shall be a minimum of 22 visitor parking spaces in addition to the spaces required for the townhouse units.
9. No acceleration and deceleration lane shall be required, in accordance with the letter dated April 4, 2012 from David W. Pelton to Michele L. Battle re: Spring Meadow Village Development on Tucker Norcross Road.
10. A sidewalk shall be constructed along the Tucker-Norcross Road frontage of the subject property and shall be extended to connect with the curb ramp at the Pleasantdale Road signal and with the existing sidewalk at the Gwinnet County line. The cost of the sidewalk extensions (beyond the Tucker Norcross frontage) can be paid to the City of Tucker sidewalk fund in lieu of constructing the extensions.
11. The storm water drainage system shall be modified to prevent stormwater runoff from the subject property from flowing to the northwest side of Tucker-Norcross Road, as follows:
  - a. Stormwater catch basins located on the southeast side of Tucker-Norcross Road, which abut the subject property, shall be connected to appropriately-sized and engineered stormwater drainage and detention pond facilities located on the Subject Property, in substantial accordance with the Grading and Drainage Plan for Spring Meadow Village dated June 12, 2012,



prepared by Southeast Engineering, Inc., dated and submitted to the Board of Commissioners on June 26, 2013, subject to any amendments and modifications required by the Dekalb County Land Development Department, and in accordance with all Dekalb County and Georgia regulations.

- b. Stormwater modification requirements shall be attached to the subject property in perpetuity.
  - c. Pursuant to Section 14-40(b)(16)(G), the County shall assume maintenance responsibility for the detention pond one (1) year after the release of the performance bond for subdivision streets.
  - d. The modifications to the stormwater drainage facilities must be completed prior to the issuance of any building permits for the subject property.
12. Exterior walls shall be finished in brick, stacked stone, hardi-plank siding, or a combination of same. No stucco or vinyl siding shall be used. The buildings that front Tucker-Norcross Road shall have the same exterior materials on all four sides and shall have rear garages.
  13. The average size of the townhouse units, calculated as an average of all the units in the development, shall be a minimum of 1,400 square feet.
  14. Each unit shall have a garage with space for a minimum of one passenger vehicle.
  15. The entrance sign(s) shall be constructed of brick or stacked stone and shall comply with the Sign Ordinance.
  16. Lights that illuminate all signs in the development shall be designed to eliminate glare.
  17. Utilities shall be underground.
  18. The southernmost access point on Norcross-Tucker Road shall be right-in, right-out only, subject to approval by the Department of Transportation.
  19. There shall be no access to the proposed development from Skylar Place or Skylar Way.
  20. In order to avoid confusion with the single-family subdivision across the street from the Subject Property, the words "Spring Meadow" will not be used in the name of the subdivision.
  21. *The minimum lease term shall not be shorter than 6 months.*
  22. *An on-site leasing office with property maintenance staff shall be provided to serve as a contact point for residents and local authorities.*

## Department Comments

### DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

Applicant has addressed sewer capacity.

### DEKALB COUNTY FIRE MARSHAL OFFICE

- If building height is greater than 30 ft, the access road shall be 26 feet wide.
- Fire Lane signs shall be posted along fire apparatus access roads that are 20 to 26 feet wide.

DEKALB COUNTY SCHOOL SYSTEM

When fully constructed, this development would be expected to generate 19 students: 6 at Livsey Elementary, 2 at Tucker Middle School, 6 at Tucker High School, 2 at other DCSD schools, and 2 at private schools. Although enrollment at Tucker HS, Tucker MS, and Livsey Elementary are already over capacity, the development is expected to have minimal impact.

CITY ENGINEER

No comments.

LAND DEVELOPMENT

No comments.