

STATE OF GEORGIA

CITY OF LITHONIA

ORDINANCE NO. 2024-02-02

A SUBSTITUTE ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LITHONIA, GEORGIA TO REZONE PROPERTY LOCATED AT 6853 AND 6859 MAGNOLIA STREET FROM R-60 SINGLE FAMILY RESIDENTIAL DISTRICT TO RM-85 MULTIFAMILY RESIDENTIAL DISTRICT; TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the governing body of the City of Lithonia (“City”) is the Mayor and City Council thereof; and

WHEREAS, Article IX, Section II, Paragraph IV of the 1983 Constitution of the State of Georgia authorizes the City to adopt plans and exercise the power of zoning; and

WHEREAS, the governing authority of the City is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government; and

WHEREAS, the Mayor and City Council desire to rezone 6853 and 6859 Magnolia Street from R-60 Single Family Residential District **TO** RM-85 Multifamily Residential District; and

WHEREAS, pursuant to Sec. Sec. 27-832 of the City’s Zoning Code proposed amendments to the official zoning map shall require an application and public hearings before the Mayor and City Council; and

WHEREAS, the Zoning Administrator proposes approval with conditions; and

WHEREAS, from time-to-time amendments may be proposed for public necessity, general welfare, or sound zoning practice that justify such action; and

WHEREAS, the Zoning Administrator recommends approval of a rezoning for property located at 6853 and 6859 Magnolia Street; and

WHEREAS, a public hearing pursuant to the provisions of Georgia's Zoning Procedures Law has been properly held by the City Council prior to the adoption of this Ordinance; and

WHEREAS, the health, safety, and welfare of the citizens of the city will be positively impacted by the adoption of this Ordinance.

BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LITHONIA, GEORGIA, and by the authority thereof:

Section 1. That the Zoning Ordinance of the City of Lithonia be amended, and the official zoning map established in connection therewith be changed so that the properties located at 6853 and 6859 Magnolia Street, parcel numbers: 16 152 04 028, 16 152 04 006 and 16 152 04 015 or as described on the zoning maps and associated site plan attached as Exhibit A FROM R-60 Single Family Residential District To RM-85 Multifamily Residential District and for other purposes.

Section 2. That the rezoning will be approved with the conditions contained within the memorandum prepared by the City's Zoning Administrator attached here as Exhibit A.

Section 3. That the memorandum prepared by the City's Zoning Administrator attached as Exhibit A shall be incorporated herein by reference.

Section 4. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 5. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or section of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 6. The City Clerk, with the concurrence of the City Attorney, is authorized to correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

Section 7. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 8. The Ordinance shall be codified in a manner consistent with the laws of the

State of Georgia and the City of Lithonia.

Section 9. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Lithonia, Georgia.

ORDAINED this 18th day of March, 2024.

[SIGNATURES TO FOLLOW]

CITY OF LITHONIA GEORGIA



Mayor

ATTEST:



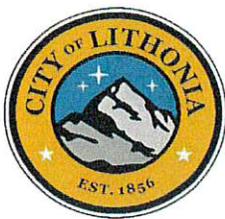
City Clerk

APPROVED AS TO FORM:



City Attorney

EXHIBIT A



City of Lithonia, Georgia

MEMORANDUM

TO: Ashley Waters, City Clerk

FROM: Bill Johnston, Zoning Administrator

DATE: 08 January 2024

RE: Application to rezone 6859 Magnolia Street PIN: 16 152 04 028 and 16 152 04 006 and 6861 Magnolia Street PIN: 16 152 04 015 from an R-60 Single Family Residential District to an RM-75 Multifamily Residential District.

BACKGROUND

Mr. Robert Conley, owner and applicant, has submitted an application to rezone an approximately 2.18-acre, undeveloped and wooded tract from the current R-60 Single Family Residential District to an RM-75 Multifamily Residential District. The property is identified as 6859 and 6861 Magnolia Street. A site plan and architectural renderings have been submitted, intended as conditions of zoning of the property as provided in the City of Lithonia Rezoning Application. These exhibits are attached.

FINDINGS

Division 16. RM-75 (Multifamily Residential) District establishes the purpose and intent of the RM-75 District.

Sec. 27-377. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RM-75 (Multifamily Residential) District is as follows:

- (a) To provide for the development of multifamily neighborhoods within the city at a density of eighteen (18) units per acre where so designated on the comprehensive plan;
- (b) To provide for infill development in multifamily neighborhoods having a density of eighteen (18) dwelling units per acre in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the RM-75 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-378. *Principal uses and structures* establishes the following principal uses in the RM-75 District:

The following principal uses of land shall be authorized in the RM-75 (Multifamily Residential) District:

(a) Dwellings:

- (1) Attached single-family dwelling.
- (2) Detached single-family dwelling.
- (3) Multifamily dwellings.
- (4) Multifamily dwellings, supportive living.

(b) Lodging:

- (1) Rooming house or boardinghouse.

(c) Medical and health services:

- (1) Nursing or convalescent home.

(d) Education:

- (1) Adult day care facility.
- (2) Child day care center or child day care facility.
- (3) Kindergarten.

Multifamily dwellings, attached single family dwelling and townhouses are allowed by right in the RM-75 District and are defined in Sec. 27-31 Definitions as “*Dwelling, multifamily* means a building either designed, constructed, altered, or used for four or more adjoining dwelling units, with each dwelling unit having a party wall or party floor ceiling connecting it to at least one other dwelling unit in the building.” *Dwelling, single-family attached* is defined as a dwelling, single family unit on an individual lot attached to another dwelling unit by a common party wall.” *Townhouses* are defined as “a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.”

2020 Comprehensive Plan Guidance

The Future Land Use and Character Areas Map adopted in the 2020 Comprehensive Plan Update designates the properties at 6859 and 6861 Magnolia Street as “Traditional Residential.” A development pattern cited in the Plan would “Promote construction of new multi-family developments exhibiting high quality design elements compatible with existing single-family homes.” Land uses anticipated in the Traditional Residential character area include detached and attached single family residential uses, multifamily residential uses and recreational uses. The development pattern in this character area states “Require rear-oriented off-street parking.”

The Plan also establishes the Traditional Residential character area as one that includes single family residential neighborhoods with historic building elements and styles that are the foundation of Lithonia’s character. “While existing historic residential structures should be preserved and restored in a manner sensitive to the city’s existing historic character, infill of smaller, detached and attached single-family residences with a similar architectural character on vacant and derelict property would provide additional opportunities for homeownership within the city.”

The proposed development of single family attached dwellings will occur on vacant property, consistent with Traditional Residential character area and will create opportunities for homeownership within the city.

Implementation measures recorded in the Comprehensive Plan include “Reinforce neighborhood stability by encouraging homeownership and maintenance or upgrade of existing properties and Work with PATH Foundation to provide strong pedestrian and bicycle connections in neighborhoods to encourage walking to community facilities and amenities.”

The proposed development furthers many, but not all, of these land use policies, development patterns and implementation measures as the proposed multifamily dwellings are consistent with the land uses anticipated in the Traditional Residential character area. The site plan submitted depicts rear-oriented off-street parking on several, but not all, buildings. Such parking arrangements tend to encourage walking and social interaction. Examples of this design approach are found in Little Five Points in Atlanta and in townhouse developments in Hapeville.

Zoning Ordinance Guidance

Sec. 27-2. General purposes of the Ordinance establishes the following purposes, among others: “To facilitate the creation of a convenient, attractive and harmonious community, and to provide for and promote housing for all income groups and all citizens within the city.” The proposed rezoning will facilitate development within a convenient walking distance to the town center. Promotion of housing for all income groups is consistent with policies inherent to the recently passed House Bill 1405 which serve to encourage a range of housing options, and monthly rental rates, within previously exclusive single family detached neighborhoods.

CONCLUSIONS

Sec. 27-832. Standards and factors governing review of proposed amendments to official zoning map, that is, property rezonings, are established by this section. The following such standards and factors are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the official zoning map. These standards appear below in italics, along with an analysis of the application for rezoning the 6859 and 6861 Magnolia Street properties:

(a) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

As seen in the 2020 Comprehensive Plan Update guidance above, the zoning proposal is consistent with land uses anticipated in the Traditional Residential character area. The Plan emphasizes for sale, single family housing types: “infill of smaller, detached and attached single-family residences with a similar architectural character” and homeownership opportunities.

The Future Land Use and Character Areas map designates the property as Traditional Residential. The proposed single family attached dwellings are consistent with that character area.

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

While single family detached neighborhoods reportedly comprise 75 percent of all land in the nation reserved for residential uses, a nationwide trend is toward higher density and affordability. Given the size of the tract, the presence of heavy tree canopy and the transitional buffer standards applicable to development, the proposed single family detached dwellings may be suitable in view of the development of nearby properties.

However, relative density is a concern given that adjacent and nearby properties are zoned and developed as single family detached housing. Sec. 27-377. Statement of purpose and intent establishes that the purpose and intent of mayor and council in establishing the RM-75 (Multifamily Residential) District is as follows:

To provide for the development of multifamily neighborhoods within the city at a density of eighteen (18) units per acre where so designated on the comprehensive plan.

Two considerations should be noted. One, no multifamily land use designations are found within the vicinity of the properties, and two, with the exception of Granite Crossing in the town center, few if any developments achieve that density. As stated in Sec. Sec. 27-377. Statement of purpose and intent. The purpose and intent of the mayor and city council in establishing the RM-75 (Multifamily Residential) District is as follows:

Sec. 27-377 also establishes the following guidance as concerns adjacent and nearby properties:

To provide for infill development in multifamily neighborhoods having a density of eighteen (18) dwelling units per acre in a manner compatible with existing development.

As this density is not typical in Lithonia neighborhoods, the zoning proposal may permit a use that is unsuitable in view of the use and development of adjacent and nearby properties.

The Comprehensive Plan establishes public policy for development of “new smaller, detached and attached single-family residences with compatible architectural character.” Establishment of architectural standards compatible with existing multifamily development in Lithonia, including Granite Crossing, may render the proposed development suitable in view of the development of other multifamily properties in Lithonia. Architectural renderings have been provided and approval of the proposed rezoning should be conditioned to the design and material standards of these renderings to ensure such compatibility.

A number of uses allowed by right in the RM-75 District could be disruptive to the established neighborhood. Accordingly, a condition that allows only the proposed townhouses should be considered. Sec. 27-378. *Principal uses and structures* lists these authorized uses which should be the only uses allowed on the property:

- (1) Attached single-family dwelling
- (2) Detached single-family dwelling.
- (3) Multifamily dwellings.
- (4) Multifamily dwellings, supportive living.

The proposed density is 13.76 dwelling units per acre which is derived by dividing 30 townhouses by the tract acreage, indicated as 2.18 acres. Given the proximity of established single family detached neighborhoods, consideration should be given to a rezoning to the RM-85 District that accommodates a maximum density of 14 dwelling units per acre rather than the 18 dwelling units per acre allowed in the proposed RM-75 District. The density of the RM-85 District would accommodate the development as proposed while holding the density at a more reasonable number and more responsive to the much lower density of the surrounding context.

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

This tract represents an opportunity for development of a single family detached project and attractive infill residential development. Given the strong demand for housing in the Atlanta market, the property likely has a reasonable economic use as currently zoned which is the R-60 District, the dominate zoning class in Lithonia.

(d) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

Anecdotal evidence exists to the effect that any form of housing that is not low density, single family detached development will adversely affect single family detached neighborhoods. However, the transitional buffer zone standard found in Sec. 27-383, reprinted below in its entirety, can serve to protect the existing low density development characterizing the surrounding neighborhoods.

"Sec. 27-383. Transitional buffer zone requirement. Where a lot in the RM-75 (Multi-family Residential) District is used for attached singlefamily dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential."

(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.

The dominance of the R-60 District in Lithonia precludes development of more affordable housing as this zoning district is reserved for single family detached dwellings. Escalation of housing prices and high home mortgage interest rates represent conditions affecting the use and development of the property which give supporting grounds for approval of the zoning proposal. Rising rental rates are also a factor that may be tempered by bringing more single family attached product to market and represent changing conditions that also give supporting grounds for approval of the zoning proposal.

A shortage of housing in nearly all forms is present in the Atlanta region, including in Lithonia where only three townhouses now under construction represent the entirety of this housing type. Development of this vacant tract could begin to help alleviate this shortage and provide a more affordable housing option compared to single family detached dwellings. This condition also gives supporting grounds for approval of the zoning proposal.

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

The property contains a significant tree canopy and perhaps, has never been developed. Google Images lend credence to this conclusion as a swale that may have rendered development infeasible appears to be present on the property. As a result, no such assets are found on the property. The presence of archaeological resources is unknown.

(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.

Of course, the addition of 30 households in the Lithonia community will generate increased traffic. However, access to Covington Highway S.R. 278, a major arterial which transitions into a four-lane, via Klondike Road, will tend to diminish the traffic impacts of the proposed development. While the impacts on water and sewer services are as yet unknown, the rezoning should be conditioned to a finding that none of the impacts on these systems or services would be unreasonable.

Mr. David Yoke, Planning Manager II at the DeKalb County School District, Department of Facilities & Operation, provided the following "Development Comments:"

"When fully constructed, this development would be expected to generate 9 students: 3 at Stoneview Elementary School, 1 at Lithonia Middle School, 2 at Lithonia High School, 3 at other DCSD schools, and 0 at private school. Current enrollment at Lithonia High and Stoneview Elementary is above capacity, but the impact of this development is expected to be minimal."

Accordingly, given the above caveats, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

RECOMMENDATION

Based on the above analysis applying the Sec. 27-832 *Standards and factors governing review of proposed amendments to official zoning map*, and the findings and conclusions in this report, approval of the proposed rezoning of the 6859 and 6861 Magnolia Street properties from an R-60 Single family residential district to an RM-75 Multifamily residential district may be appropriate. Should Mayor and Council decide to approve the proposed rezoning in light of the consistency of the multifamily housing development with the land uses identified in the Comprehensive Plan for the Traditional Neighborhood character area, the following conditions of approval should be considered:

A. Consideration shall be given to assigning an RM-85 zoning district rather than an RM-75 zoning district to minimize the impact on neighboring, single family residents.

B. Strong consideration shall be given to rear-oriented off-street parking as referenced in the Comprehensive Plan as a Development Pattern, particularly for buildings facing and along the Magnolia Street frontage.

C. Sidewalks along the entire frontage of the properties shall be installed at the sole expense of the applicant. Similarly, any infrastructure found to be required to serve the development as identified by DeKalb County or the City of Lithonia shall also be installed at the sole expense of the applicant. The rezoning shall also be conditioned to a finding by the City that none of the impacts on public infrastructure would be unreasonable.

D. All such improvements contained in these conditions shall be installed prior to issuance of any Certificate of Occupancy (CO).

E. Allowed uses of the property shall be limited to "dwellings," as identified in Sec. 27-378. *Principal uses and structures.*

F. Development of the property shall comply with all applicable standards of the City of Lithonia zoning ordinance, and in particular, DIVISION 16. RM-75 (MULTIFAMILY RESIDENTIAL) DISTRICT or DIVISION 15. RM-85 (MULTIFAMILY RESIDENTIAL) DISTRICT should City Council choose to rezone the property as RM-85 with the exception of development standards reflected on the site plan, provided that the standards of Sec. 27-383. *Transitional buffer zone requirement* will apply as a condition of zoning.

G. The application for rezoning provides that "Applicants may request a property rezoning from one zoning district to another with no further conditions proposed, or may include the following proposed conditions as a part of their application:

(a) Written conditions; or

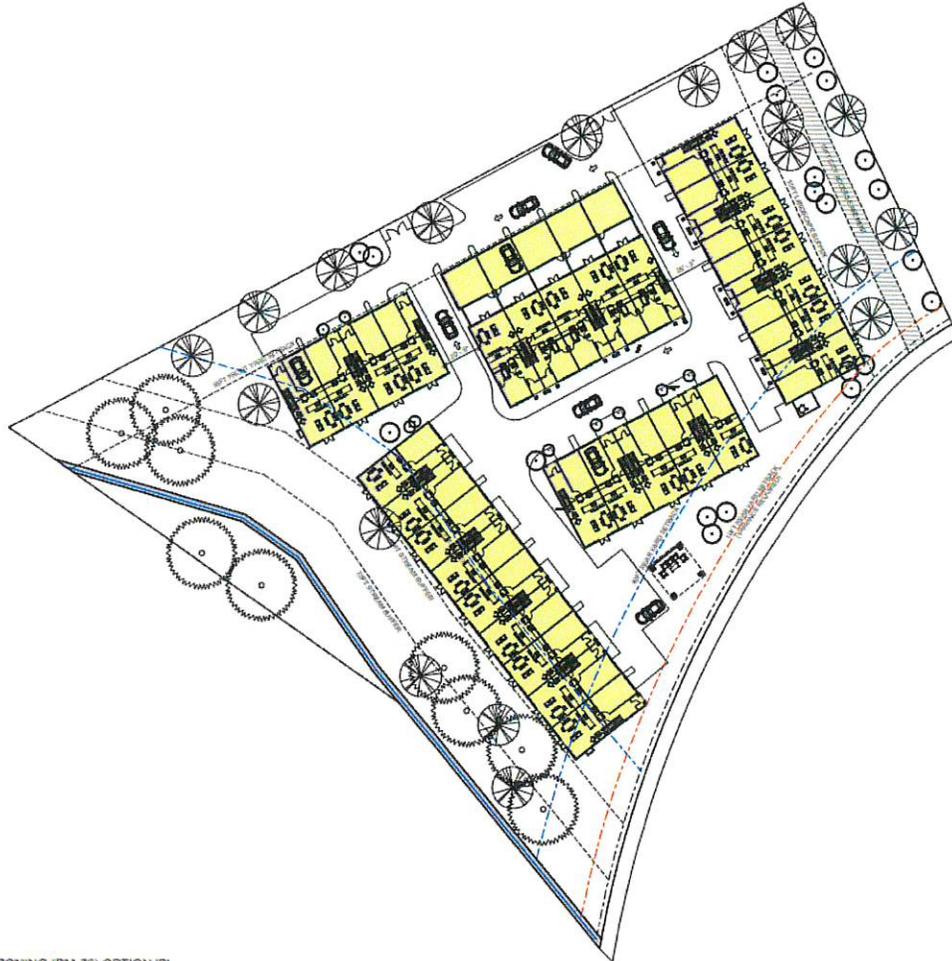
(b) Site plans, architectural renderings, elevations, photographs or other graphic representations of proposed conditions; or

(c) Any combination of the above."

Accordingly, the site plan and architectural renderings submitted shall be conditions of zoning as may be approved by City Council at the public hearing with the notable exception that the transitional buffer zone standards found in Sec. 27-383. *Transitional buffer zone requirement* will apply as a condition of zoning to protect the existing low density development characterizing the surrounding neighborhood.

H. The applicant, developer or future developer shall re-subdivide the properties via a combination plat or other mechanism satisfactory to the City Attorney for the purpose of creating a single lot of record.

SITE PLAN 2



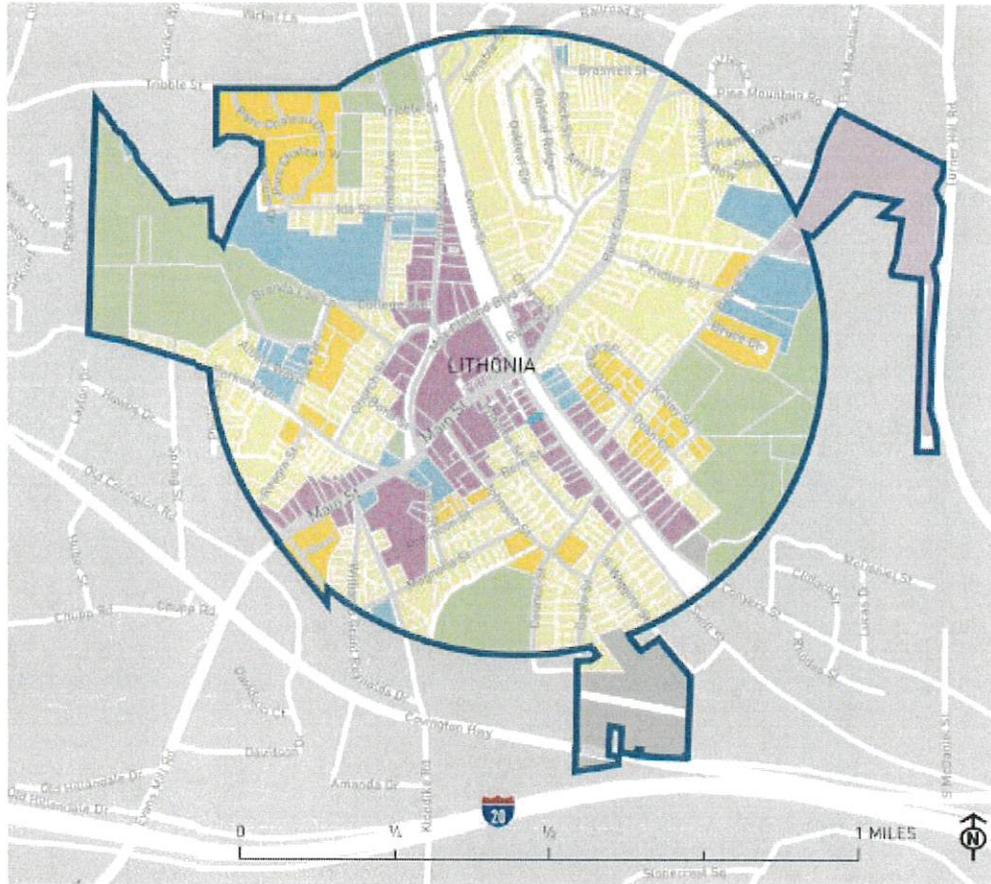
REZONING (RM-75) OPTION 'B'

ARCHITECTURAL RENDERINGS





FUTURE LAND USE & CHARACTER AREAS MAP

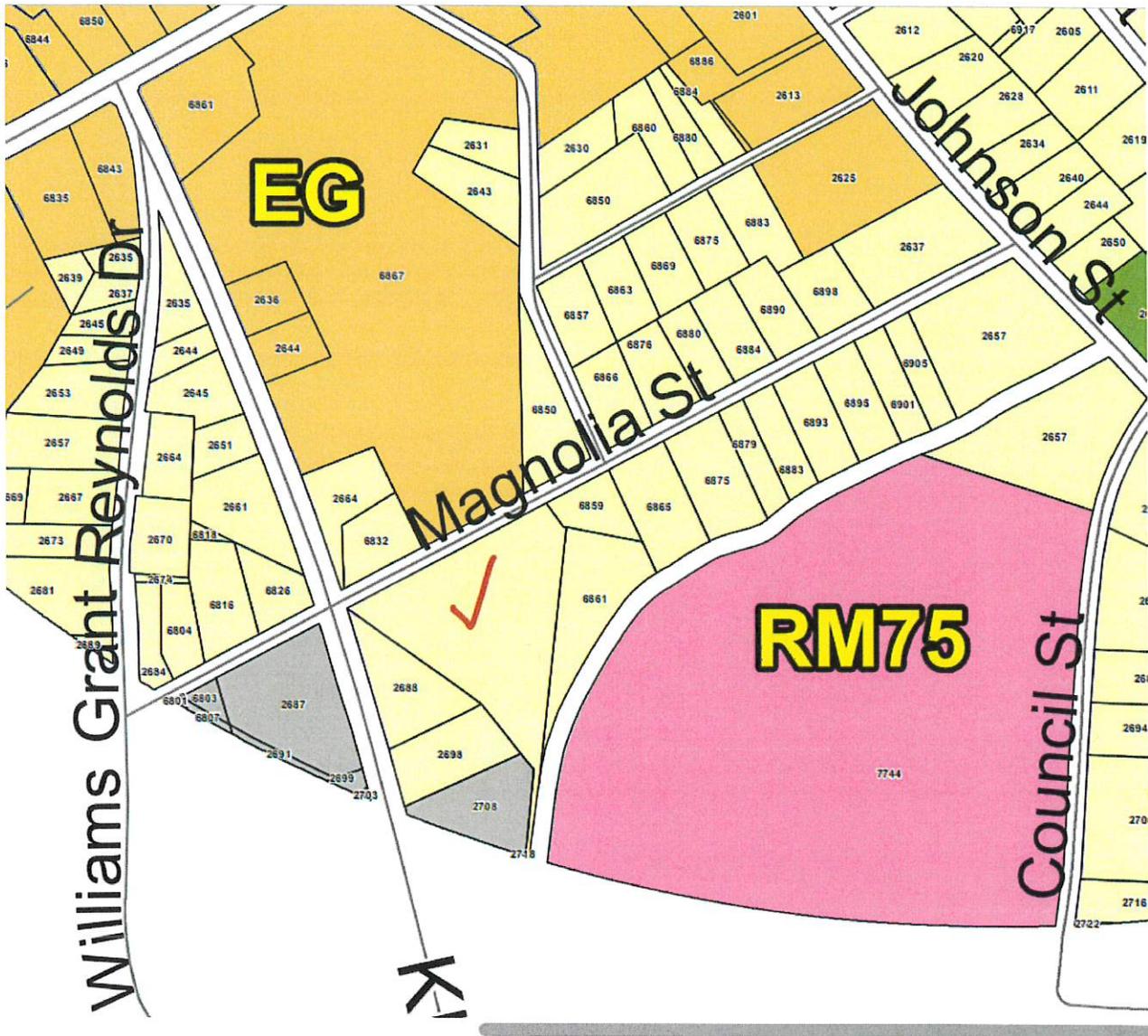


- LITHONIA CITY LIMITS
- TRADITIONAL RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- RECREATION AND OPEN SPACE
- INSTITUTIONAL
- INTOWN MIXED USE
- PERIMETER MIXED USE
- LIGHT INDUSTRIAL

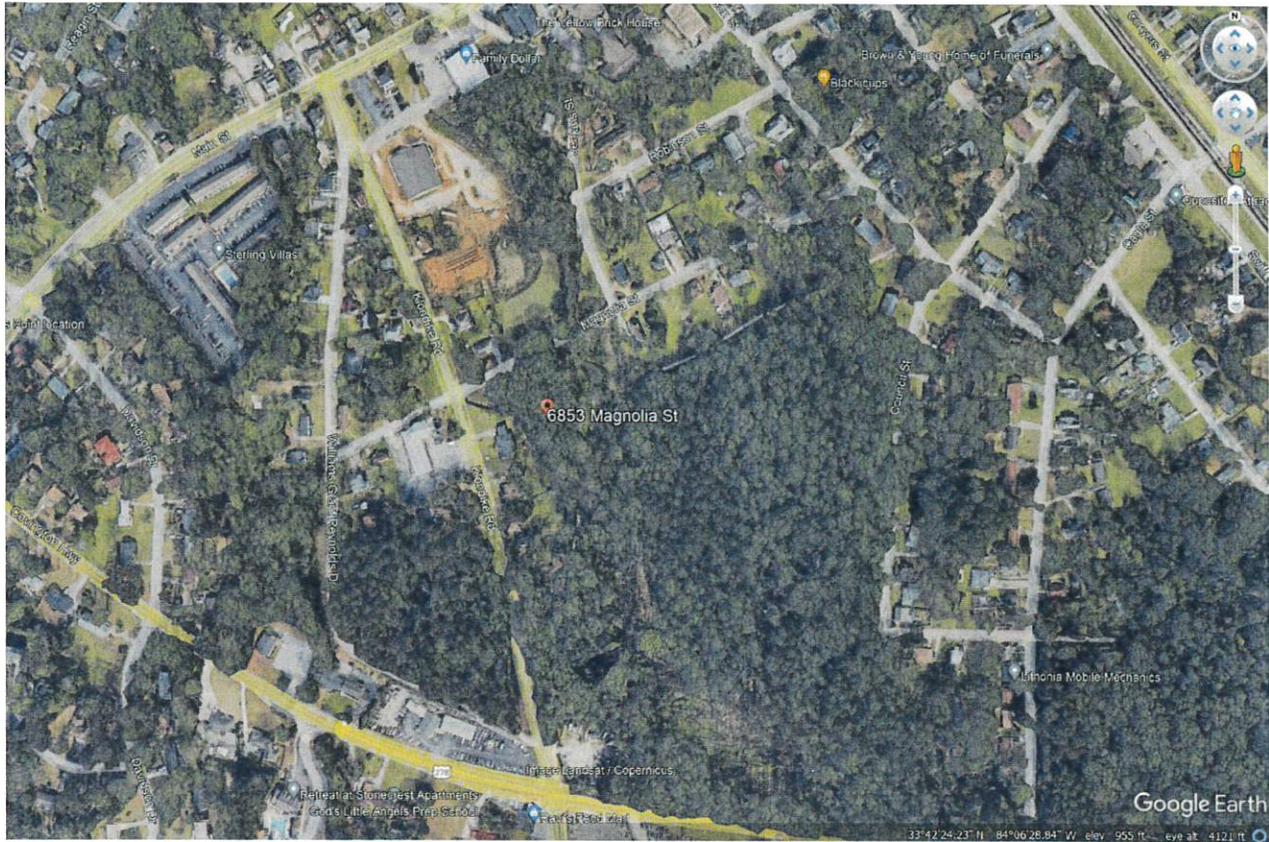
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Atlanta Regional Commission

SNIP OF ZONING MAP



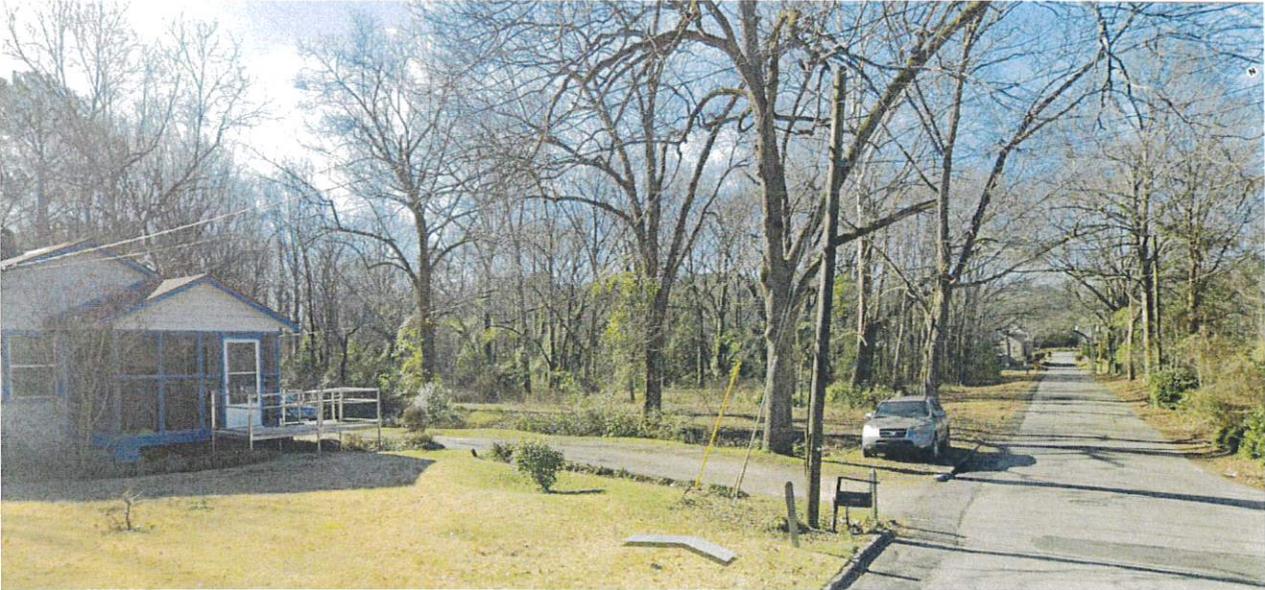
Google Images



WOODED LOT ON THE RIGHT



WOODED LOT ON THE LEFT



APPROXIMATE LOCATION OF THE PROPERTY

