



**STAFF REPORT
MASTER PLANNED DEVELOPMENT
1140 DR. MARTIN LUTHER KING JR. PKWY
PD-2024-08-1597
November 7th, 2024**

APPLICANT:Ed Lane/SPG Planners + Engineers
OWNER:Bhatthal Properties, LLC
FUTURE LAND USE REQUEST:From *Traditional Neighborhood* to *General Business & Traditional Neighborhood*
ZONING REQUEST:RS-8 to C-G & RM-1 (PD)
TYPE OF REQUEST:Type I
LOCATION:1140 Dr. Martin Luther King Jr. Pkwy
TAX MAP NUMBERS:163B1 B001
COUNTY COMMISSION DISTRICT:District 9
PROJECT SIZE:4.62 Acres
PRESENT USE:Residential Single-Family
PROPOSED USE:Quick Vehicle Servicing & Residential Multi-Family
PUBLIC NOTICE POSTED:August 21st, 2024
STAFF RECOMMENDATION:**TABLE**
PLANNING COMM. RECOMMENDATION:**PENDING**
MAYOR & COMMISSION AGENDA SETTING: ...November 19th, 2024
MAYOR & COMMISSION VOTING SESSION:December 3rd, 2024

I. Summary Recommendation

The applicant is requesting a Planned Development for 1140 Dr Martin Luther King Jr Parkway. The proposal is for a multi-tenant convenience store with gas pumps and five townhomes. The location is a 4.62-acre parcel on the corner of MLK Jr Pkwy and Conrad Dr., next to the GA-10 Loop. The commercial development will service drop-in customers and existing neighborhoods while the residential component will provide a housing option near other housing, vehicular connections, and the greenway network.

In order to construct multifamily residential and commercial uses, the applicant is asking to rezone the property from Single Family Residential (RS-8) to Commercial General (C-G) and Mixed Density Residential (RM-1) as part of a proposed Planned Development (PD). To accommodate the zoning change, the applicant is also requesting a change to the Future Land Use Map of the subject area from the current *Traditional Neighborhood* designation to *Traditional Neighborhood* and *General Business*.

The proposal has elements that are compatible with the Comprehensive Plan. It utilizes an infill site in an area with transportation options. It proposes walkable interconnectivity with two single family neighborhoods. The ACC Greenway Network, though not immediately accessible to the property via a trail network or sidewalks, is within a half-mile of the property. However, because no expansion of

the ACC Greenway Network is planned to the property, pedestrian access to the Greenway will be limited until more sidewalks are built along MLK Pkwy.

The parcel is currently residential with two private single-family residences and a garage. If approved, this request would create three new parcels from the existing one. The development will include the removal and replacement of existing clay pipe sewer infrastructure.

Progress has been made with this development in making alterations to the proposal which meet engineering and safety standards as well as code requirements. Staff supports the one requested waiver concerning required conserved tree canopy for each parcel of the development. However due to comments from Transportation and Public Works, specifically those addressing the TIA, staff recognizes that further work needs to be done before we can make a recommendation. The traffic impact assessment (TIA) was conducted during the summer when schools and the university were not in session. To accurately determine the proposal's impact on levels of service, staff recommends a TIA be conducted when school and the university are in session. **Staff recommends table.**

If seeking approval or denial, staff recommends the following conditions:

Conditions:

1. Project must adhere to technical standards as requested by the Transportation and Public Works Department.
2. All plans, excepting the tree management plan, are binding. No element of the site plan, including architectural elevations for either the townhomes or convenience store/market, will be altered during building or plan review.
3. The sidewalk connection to Bridgewater from the pavilion shall be constructed as shown on the site plan except where it is located on the Bridgewater property. Prior to or concurrent with a submittal for Plans Review, the developer shall provide documentation of approval or denial by the Bridgewater HOA of that section of the proposed connection located on the Bridgewater property and shown on the site plan. If approved by the HOA, the developer shall be bound to construct the connection on the Bridgewater property as intended in the binding documents. If that section of the sidewalk to be constructed on the Bridgewater property is denied by the Bridgewater HOA, the developer shall be released from the Bridgewater portion of the binding plan, but not the portion on their site.

Planning Commission Recommendation: Pending

II. Purpose of Applicant Request

A. Proposal

The applicant is requesting a Planned Development at 1140 Martin Luther King Jr Parkway for the purpose of building a multi-tenant commercial building including a convenience store with gas pumps fronting Martin Luther King Jr. Parkway and townhomes facing Conrad Drive. The proposed commercial-retail use will include a neighborhood market convenience store with filling stations and additional retail space for future commercial tenants. Five townhomes will front Conrad Drive. These two to three-story townhomes will have park-under garages to the rear and on-street parking along Conrad.

The 4.62-acre property would be subdivided into three new properties. Each would be zoned differently than the existing RS-8. Lot 3 would be zoned C-G, used for stormwater and conserved

canopy for the entire project. The 10,000 sq. ft. multi-tenant neighborhood market and 10 fuel pumps and 33 parking spaces is proposed for Lot 1, the middle lot. The landscaped area around the convenience store includes space which will be either a pavilion or a covered patio. The multi-tenant commercial structure would cater to vehicular and pedestrian customers. The parcel would be accessed by a driveway off MLK Jr. Pkwy and a driveway off Conrad Drive. An interior drive connects the townhome parcel with the convenience store.

Lot 2 would be .93 acre and zoned RM-1. Five townhomes with park-under garages to the rear and on-street parking are proposed. A fence and vegetated buffer screen the residential use from the commercial use. The parcel would be accessed by a single driveway off Conrad Drive and the driveways off MLK Jr. Pkwy via the interior drive connecting the parcels.

The project proposes a required sidewalk along MLK Jr. Pkwy and Conrad Drive where none currently exists. Another paved path is proposed, from the Bridgewater neighborhood through the conserved canopy area to the proposed pavilion, the applicant is still seeking authorization from the Bridgewater HOA to provide a portion of that connection on their open space property.

B. Existing Conditions

The project is on a 4.62-acre parcel at the corner of MLK Jr. Pkwy and Conrad Drive. An on-ramp to the Athens Loop 10 borders the property to the north. Bridgewater Way borders it to the east. Currently two single family residences, built in 1965, and one detached garage are located on the property. The structures are each accessed by different driveways off MLK Jr. Pkwy.

Across MLK Jr. Pkwy from the property are a restaurant and Auto Repair shop. These businesses are located at 1121 MLK Jr. Pkwy which is zoned C-G. To the rear of these businesses is the Oconee River Greenway. Across Bridgewater Way and to the east is Bridgewater Subdivision. Single-family and duplex homes in Bridgewater are located on properties zoned RS-8. Across Conrad Drive and to the south are single family homes on properties zoned RS-8. The other properties to the North of Loop 10 along Commerce Rd (extension of MLK Pkwy) are also zoned C-G and contain commercial establishments.

A pond is located on the property. It will be removed during development. An existing public sewer main runs east to west through the middle of the property. It will be replaced and redirected during development.

III. Policy Analysis

A. Compatibility with Comprehensive Plan

The 2023 Comprehensive Plan calls for the following policies that **are** supported in this project:

- *Increase the supply and variety of quality housing units, at multiple price points, in multiple locations, to suit the needs of a variety of households.*
- *Infill and redevelopment should be prioritized over greenfield expansion.*

Elements of the proposal are compatible with several policies of the Comprehensive Plan. The proposal adds another housing choice on an infill site in a location close to downtown, the university, and the Greenway Trail. If the Bridgewater HOA consents to the proposed path originating at the intersection of Conrad Dr and River Birch Way, there could be walkable inter-connectivity between the neighborhood and this proposed commercial option.

B. Compatibility with the Future Land Use Map

The 2023 Future Land Use Map designates the subject parcel as *Traditional Neighborhood*, which is described as follows:

Traditional Neighborhood

These are medium density neighborhoods with traditional qualities including well-connected street systems, sidewalks, street trees, and a variety of housing types. Homes are often built close to the street with front porches. Garages are set back farther than the homes and porches. Traditional Neighborhood areas support single-family residences, duplexes which resemble large homes, and townhouses. Strict design standards should be implemented to ensure appropriateness of design and to protect neighborhood character. Limited commercial and other non-residential uses designed at a neighborhood scale are encouraged, but only in areas close to principal and minor arterial routes that have good access to transit.

The project fits within the Traditional Neighborhood designation by adding townhomes, providing connection and having limited commercial on the arterial road. The applicant has requested a change to the Future Land Use Map, for a portion of the site, from *Traditional Neighborhood* to *General Business* for the commercial segment of the project. The requested *General Business* Future Land Use category is described as follows:

General Business

These are commercial areas that serve a variety of needs for the residents of the region. It is intended for small- and large-scale retailing and service uses that are auto-oriented, such as Atlanta Highway, Lexington Road and US 29 North. Pedestrian-oriented design is particularly appropriate when these streets contain neighborhood-shopping areas or are adjacent to multifamily housing or residential neighborhoods. Pedestrian circulation in these centers is a primary concern, therefore, connectivity within and to surrounding areas should be encouraged. Internal pedestrian walkways should be provided from the public right-of-way to the principal customer entrance of all principal buildings on the site. Walkways should connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building, store entry points, and plaza space. Walkways shall feature adjoining landscaped areas that contribute to the establishment or enhancement of community and public spaces. The street level facade of these areas should have a scale and architectural elements that relate to pedestrians. Buildings should be oriented to the street corridors which should be lined with street-trees. Small and medium scale retail stores should frame the streets with large-scale retailers located behind with focus given to pedestrian circulation rather than automobiles. Parking lots should not be located at the street front and shared parking should be encouraged.

The applicant is requesting a change to the Future Land Use Map for part of the subject area from the current *Traditional Neighborhood* where the C-G-zoned portion of the site is proposed in order to construct the commercial aspects of the project. Of the three new properties proposed, two are proposed as *General Business*. One will be used for the convenience store and retail and the other for stormwater management for the entire development. The property facing Conrad Drive will remain *Traditional Neighborhood* and be used for the townhomes.

Existing land use patterns at Athens Loop 10 intersections are often *General Business*, *Employment*, and *Main Street Business*. A commercial use on this property at this Athens Loop 10 intersection is in line with nearby Loop 10 intersections and *Future Land Use* designations. Locating townhouses close to Conrad Dr aligns the proposal with the *Traditional Neighborhood's* goal to locate housing close to the street. Locating the townhomes between the gas station and the existing neighborhood and connecting the two with walkways creates a more pedestrian friendly transition zone that benefits the surrounding area. In Staff's opinion the proposal is in line with surrounding properties and uses and is a sound use of the property.

C. Compatibility with the Zoning Map

The applicant has requested a rezone from RS-8 to C-G and RM-1 (PD). The following information has been provided to compare the difference in development intensity between the existing RS-8 (Single-Family Residential-8) zoning and the requested C-G and RM-1 (Commercial-General and Mixed-Density Residential-1) zone. Broadly, a comparison of scale, use, and design is offered here to help decision makers evaluate the changes that would be allowed if the request is approved. In terms of building scale, the following chart illustrates the differences in size and scale of buildings that could be constructed:

Standard	CURRENT RS-8 Zoning	REQUESTED C-G Zoning	REQUESTED RM-1
Minimum Lot Size	8,000 sq. ft.	2,500 sq. ft.	5,000 sq. ft.
Density	3.8 units/acre	24 beds/acre	16 beds/acre
Max Lot Coverage	45%	80%	55%
Max Building Height	30	65 ft.	30 ft.
Setbacks	6-15 ft.	0-10 ft.	6-15 ft.
Conserved Canopy	15%	10%	35%
Total Canopy	45%	40%	55%
Parking	2 spaces / unit	Variable	1-2 spaces/unit

The Athens-Clarke County Zoning Ordinance includes a list of defined uses and designates where they can or cannot be established. For this request, the most noticeable difference between the current RS-8 zoning and the proposed RM-1 is that multifamily dwellings are permitted outright in RM-1. In RS-8 multifamily is permitted but up to only two units can be attached by a common wall. Since the applicant is proposing 5 units all attached, RM-1 is a better suit for the parcel where the townhomes are proposed. Multi-family use in this location provides an opportunity for more housing and a transition from the commercial use to the adjacent residential neighborhood.

The 10,000 sq. ft. convenience store with gas pumps qualifies as *Quick Vehicle Servicing* in the ACC Code. Quick vehicle servicing is described as any retail store that exceeds 2,500 square feet and also sells gasoline. This use is prohibited in the property's current RS-8 zone but permitted in C-G.

D. Consistency with Other Adopted ACCGov Plans, Studies, or Programs

The applicant shows an opportunity for future connectivity to the Greenway from the property across 1140 MLK Jr Pkwy. There is no such future connection shown in this area to the Greenway Network Plan. That being said, the proposal is less than half a mile from the North Oconee River Greenway parking lot which could be reached quickly by car. Pedestrian access will be very limited if and until more sidewalks are completed on MLK Jr Pkwy between the subject property and North Oconee River Greenway parking lot.

IV. Technical Assessment

A. Environment

There is a pond on the property that does not meet the criteria in our Environmental Areas code. It is not fed by state waters, does not lead to state waters, and does not cross parcel lines. The project will remove the pond to make room for stormwater improvements.

The Arborist has reviewed the tree management plan and offered the following comment:

- *Arborist recommends that the tree management plan be non-binding. Project will be expected to meet all requirements of the community tree management ordinance at time of plan review.*

B. Grading and Drainage

The Transportation and Public Works Department has reviewed the proposal and did not offer any grading and drainage-related comments.

C. Water and Sewer Availability

The Public Utilities Department has reviewed the proposal, recommend approval and offered the following comments:

- *ACC water is available.*
- *ACC sanitary sewer is available.*
- *Note: Sewer may not enter less than 90-degrees from INV Out at doghouse manhole.*

D. Transportation

The Transportation and Public Works Department has reviewed the proposal, does not support the proposal and offered the following transportation-related comment:

- *The driveway is too close to Conrad Drive, a road intersecting with MLK Parkway. Furthermore, the rezoning from RS 8 to CG and RMI is not recommended as this location fronting MLK and is shown by the study as having failing levels of service at one intersection. Also, this TIA was conducted during the summer when schools and UGA were not in session. It would be anticipated that traffic levels would be higher when school is in session and therefore we would also anticipate a lower LOS. Any traffic other than residential traffic (RS-8) traffic, will further reduce LOS and therefore is not recommended by the department. There are also vertical alignment concerns with the MLK approach to Conrad Drive.*
- *The separation between the proposed driveway on MLK Jr PKWY and Conrad Drive is still about 20 feet short of what the code requires which is 150 feet from the end of the intersection pavement radius to the beginning of the driveway curb radius at the end of the turn lane.*

E. Fire Protection

The Fire Marshal has reviewed the proposal and offered the following comments:

- *The Fire Marshal's Office recommends approval. The project will be expected to meet all required fire codes adopted at the time of the plan review.*

F. Compliance with the Zoning Ordinance and Development Standards

A Planned Development designation is intended to encourage development of compatible land uses on a scale larger than that of individual small parcels. This designation is used to request waivers to the required development standards in an effort to provide design flexibility to account for special circumstances unique to the design or lot, as long as the proposal meets the spirit and intent of the code. Planned Development requests include a binding application report, site plan, and architectural elevations in an effort to guarantee to the community that what is proposed will be constructed if approved. All exemptions to the zoning and development standards must be identified in the application prior to approval of a binding proposal since the development will otherwise be expected to adhere to the ordinance standards.

Requested Waivers

1. *Waiver from Section 8-7-15(c), to remove the requirement of tree canopy cover required by zoning district.*

Applicant's Purpose: Applicant has requested a waiver from the conserved canopy requirements for each parcel. Instead the applicant has proposed that the conserved canopy area required of all three parcels be met instead on only one parcel. Total canopy area required for each parcel will be met for each parcel.

Staff Opinion: Applicant has requested a waiver from tree canopy cover required by zoning district. Staff proposes that applicant instead request a waiver from 8-7-15 (e), minimum conserved tree canopy cover requirement. Narrowing the request in this manner addresses applicant's concerns more directly.

Placing the required conserved canopy total from several parcels in a development on one parcel, as the applicant has done on this plan, has been approved on previous plans and meets the spirit of the community tree management ordinance. Staff supports the Waiver.

Code Compliance Issues:

1. *8-7-15(k)(1). One street tree shall be planted for each 30 feet of frontage for that portion of the development fronting the street.*
2. *9-25-8(E)(2)(a). Except for the CD zone, street trees shall be planted in accordance with section 8-7-15K.*
3. *9-25-8(C)(5)(a). Street trees shall be planted in accordance with section 8-7-15(k).*

End of Staff Report.

Reviewed

Zoning Criteria Considered by Staff

The following factors have been considered as set forth in *Guhl v. Holcomb Bridge Road Corp.*,
238 Ga. 322, 232 S.E.2d 830 (1977).

- ☒ The proposed zoning action conforms to the Future Land Use map, the general plans for the physical development of Athens-Clarke County, and any master plan or portion thereof adopted by the Mayor and Commission.
- ☒ The proposed use meets all objective criteria set forth for that use provided in the zoning ordinance and conforms to the purpose and intent of the Comprehensive Plan and all its elements.
- ☒ The proposal will not adversely affect the balance of land uses in Athens-Clarke County.
- ☒ The cost of the Unified Government and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures.
- ☒ The existing land use pattern surrounding the property in issue.
- ☒ The possible creation of an isolated district unrelated to adjacent and nearby districts.
- ☒ The aesthetic effect of existing and future use of the property as it relates to the surrounding area.
- ☒ Whether the proposed zoning action will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
- ☒ Whether there are substantial reasons why the property cannot be used in accordance with existing zoning; provided, however, evidence that the economic value of the property, as currently zoned, is less than its economic value if zoned as requested will not alone constitute a significant detriment.
- ☒ Whether there are other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the zoning proposal.
- ☒ Public services, which include physical facilities and staff capacity, exist sufficient to service the proposal.
- ☒ The population density pattern and possible increase or over-taxing of the load on public facilities including, but not limited to, schools, utilities, and streets.
- ☒ The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity.