

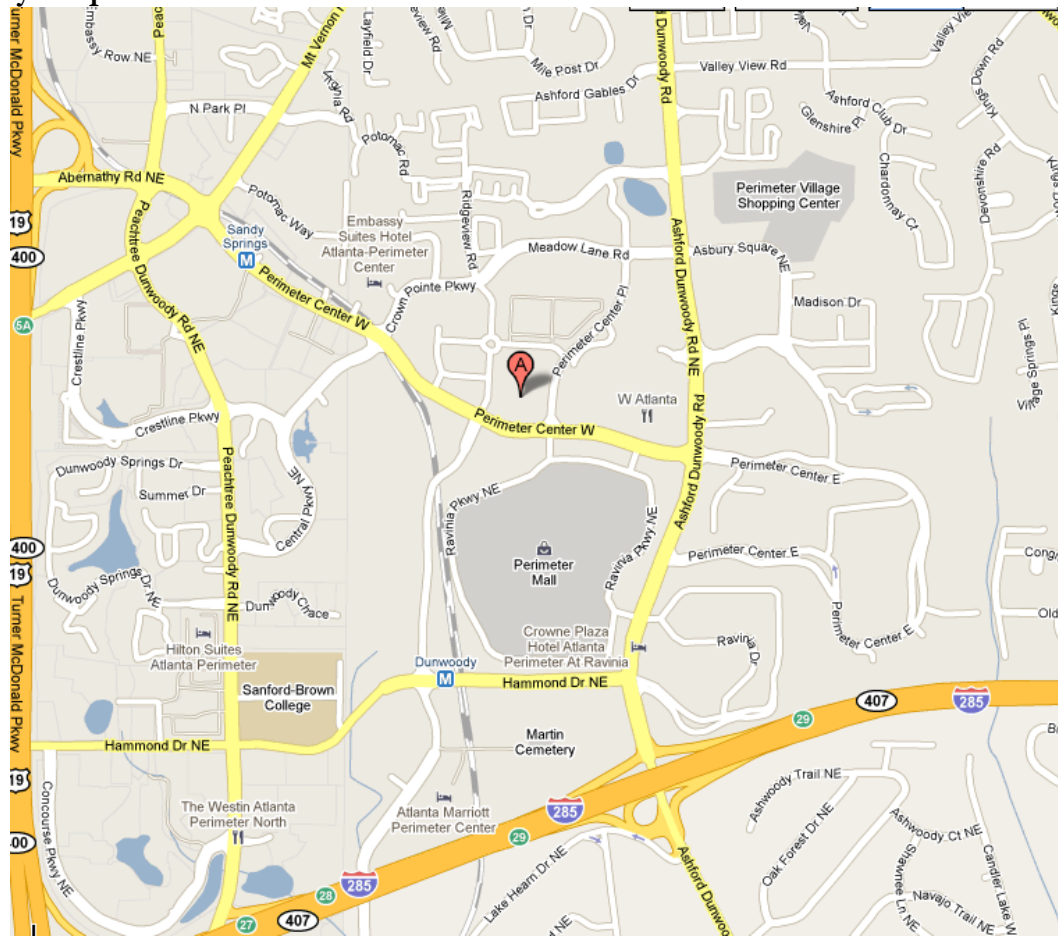
Variance Application Number: RZ 10-041

Property Location 121 Perimeter Center Parkway

Owner/Petitioner Dillard & Galloway, LLC
Laurel David
3500 Lenox Road, NE, Suite 760
Atlanta, Georgia 30326

Request Rezoning property from Office-Institution to Office-Commercial-Residential

Vicinity Map



The site is located on the northern side of Perimeter Center West, on the northwest corner of Perimeter Center West and Perimeter Center Place. The property is currently zoned O-I (Office-Institution district). The applicant’s request is to rezone the property from O-I to OCR (Office Commercial Residential district) to allow for instituting restaurant and/or retail uses on the ground floor of the three-story commercial building, already existing on the site.

Pursuant to the City of Dunwoody Zoning Ordinance, applicant Laurel David seeks permission on behalf of the Southeast STB Portfolio, LLC to rezone the property currently zoned O-I (Office-Institution District) to OCR (Office-Commercial-Residential District). The property consists of approximately 4.692 acres of land, located at 121 Perimeter Center, Dunwoody, Georgia 30346. The building has 49,590 square feet of heated floor area, 3,646 of which is utilized as a point of service bank, and the remaining floor area as office space. The proposed retail/restaurant use will consist of 4,600 square feet on the ground floor. This application runs concurrently with a request for Special Land Use Permit so the building will comply with the story limitations of the proposed zoning classification.

Rezoning Analysis

The site in question is an existing, fully developed office complex. The applicant plans no expansion to the structure, or and new construction on the site at which the structure exists, and plans only to use the ground floor interior space as restaurant or retail. This rezoning is sought because retail and restaurant uses are not currently permitted in O-I districts per the Dunwoody Zoning Ordinance.

In accordance with the pattern of land development in the immediate area surrounding the subject parcel, a retail or restaurant use on the ground floor of the building would be compatible with adjoining land uses, and beneficial to the life of the existing structure. Large parcels to the west, north, and east of the site are currently zoned OCR. This lends credibility to another adjacent parcel being similarly zoned, basing the decision partly on the strength of the region's stability. A parking study submitted by the applicant shows a deficient number of off-street parking spaces as compared to the floor area of the structure. However, in practice peak demand for the differential uses should overlap in a manner that will preclude a deficient number of parking spaces for the duration of operating hours.

The only inconsistency with the request is the potential for a residential component in OCR. Accessory uses permitted by right in OCR include the following dwellings: single family, two-family, three-family and multi-family dwelling units. This component of allowable land uses is not appropriate for this parcel, as the City already is experiencing an over-crowding problem at its primary schools, and full-time parking on the lot for dwelling units would conflict with the required on-site parking for the daytime uses of office, retail and/or restaurant and would exacerbate an under-parked condition. For those reasons, staff suggests any approval for this property to be rezoned to OCR condition the approval to disallow any permanent or long-term residential component on any floor.

Community Council

At their regular March meeting, the Community Council heard the applicant's request to rezone the subject property from O-I to OCR. After some discussion with the applicant related to the nature of the business and the proposed use of the subject property specifically, a motion was made to **recommend approval** of the request, as submitted.

Planning Commission

At their regular April meeting, the Planning Commission heard the applicant's request to rezone the subject property from O-I to OCR. Discussion ensued with the applicant related to the proposed

rezoning category and, a motion was made to **recommend approval** of the request, conditioned with the following staff recommendations:

- Approval is conditioned to a site plan
- Residential is not a permitted use

Conditions of the Zoning Ordinance

Sec. 5A-12. Standards and Factors Governing Review of Proposed Amendments to Official Zoning Map.

The following 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:

(a) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan. *Dunwoody is operating under the auspices of the DeKalb County Comprehensive Plan in effect as of December 1, 2008. In that document, the area in question is indicated to be approved for a mix of uses, consistent with the applicant's request.*

(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 proposal will allow for the same uses as the properties to the west, north and east, which is suitable for this area of the city.*

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned. *The property does have a reasonable economic use as it exists today. However, the zoning districts directly adjacent to the subject parcel are more permissive in their allowable land uses, so by comparison the potential for economic advancement is greater on adjacent properties than on this property.*

(d) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property. *The proposal will establish an exact parity among the allowable land uses of the adjacent properties on the north side of Perimeter Center West.*

(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 emerging condition of the PCIDs area is for greater flexibility of allowable land uses which complement each other and keep more people in the area for longer without need for automobile-oriented travel. The request is consistent with this goal.*

(f) Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources. *There are no such resources known in the area.*

(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. *Without a condition prohibiting residential on the parcel, the existing over-crowding condition in the local school district will continue to proliferate as a result of this request. Otherwise, the existing street and utility infrastructure is expected to be adequate to service the proposed retail or restaurant use on the site.*

Recommendation

Staff recommends the application, as has been detailed and submitted to city staff, be approved, subject to the following conditions:

1. Approval of the rezoning shall be conditioned to the site plan received by the Community Development department January 19, 2010. Further site development or revisions to the existing site layout shall only occur consistent with the City of Dunwoody Zoning Ordinance §5A-25, or by a change of zoning conditions.
2. No residential uses shall be permitted on the site.

Attachments

- Application, submitted January 19, 2010.
- Site plan
- Parking study.
- Site photos

AN ORDINANCE TO AMEND THE CITY OF DUNWOODY ZONING CLASSIFICATION AND MAP FOR ZONING CONDITIONS OF LAND LOT 349 (4.692 ACRES) IN CONSIDERATION OF ZONING CASE RZ-10-041 (121 Perimeter Center Parkway)

WHEREAS: Notice to the public regarding said rezoning and modification to conditions of zoning has been duly published in The Dunwoody Crier, the Official News Organ of the City of Dunwoody; and

WHEREAS: A public hearing was held by the Mayor and City Council of the City of Dunwoody on May 24, 2010;

NOW THEREFORE, The Mayor and City Council of the City of Dunwoody while in Regular Session on May 24, 2010 hereby **ORDAINES AND APPROVES** the rezoning of this said property from Office Institutional (OI) zoning to Office Commercial Residential district (OCR) zoning with the following conditions:

1. Approval of the rezoning shall be conditioned on the site plan received by the Community Development Department on January 19, 2010. Further site development or revisions to the existing site layout shall only occur consistent with the City of Dunwoody Zoning Ordinance § 5A-25, or by a change of zoning conditions.
2. No residential uses shall be permitted on the site.

SO ORDAINED AND EFFECTIVE, this the 24th day of May, 2010.

Approved by:

Approved as to Form and Content

Ken Wright, Mayor

Brian Anderson, City Attorney

Attest:

Sharon Lowery, City Clerk

SEAL