

CITY of WOODSTOCK

Application for Public Hearing

Important Notes:

1. Please check all information supplied on the following pages to ensure that all spaces are filled out accurately before signing this form. This page should be the first page of your completed application package.
2. All documents required as part of the application package shall be submitted at the same time as the application. Incomplete application packages WILL NOT BE ACCEPTED.
3. Please contact the Zoning Administrator in the Community Development Department at 770.592.6039 if you have any questions regarding the application package, this application or the public hearing process.

Contact Person: Parks F. Huff Phone: (770) 422-7016

Applicant's Information:

Name: The Residential Group, LLC
 Address: 7100 Peachtree Dunwoody Road, Suite 200 Phone: (678) 255-1544
 City, State, Zip: Atlanta, GA 30328 Fax: (678) 244-1544

Property Owner's Information:

same as above

Name: Andrew Herbert Fowler, et al. (See attached vesting deeds)
 Address: 524 Cherokee Street, NE Phone: (770) 428-5610
 City, State, Zip: Marietta, GA 30060 Fax: _____

Requested Public Hearing (check all that apply):

Annexation

Comprehensive Plan Amendment

Rezoning

Other:

Variance

Any other approvals required to develop Applicant's project

STAFF USE ONLY:	PUBLIC HEARING SCHEDULE:
Case: <u>Z # 053.12</u>	Public Input Meeting: <u>February 1, 2012</u>
Received by: <u>PATTI HART</u>	DPC : <u>February 8, 2012</u>
Fee Paid: <u>\$ 750.00</u>	Planning Comm. : <u>March 6, 2012</u>
Date: <u>1.13.12</u>	City Council: <u>March 26, 2012</u>
	Other: _____

Property Information:

Location: North side of Highway 92, east of railroad tracks

Parcel Identification Number(s) (PIN): 15N18-009 Total Acreage: 17.557

Existing Zoning of Property: DT-GC and DT-LR Future Development Map Designation: TOD

Adjacent Zonings: North DT-LR South DT-GC East DT-MR-A West DT-CMU

Applicant's Request (Itemize the Proposal):

Rezoning to DT-MR-B to permit development of a mutli-story residential development as shown on the plans being submitted with this Application.

Proposed Use(s) of Property:

Mutli-story residential development

Infrastructure Information:

Is water available to this site? Yes No Jurisdiction: Woodstock

How is sewage from this site to be managed?

Connection to City of Woodstock sewer treatment system

Will this proposal result in an increase in school enrollment? Yes No

If yes, what is the projected increase? 82 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home		0.725	
Multi Family (Attached) Home	286	0.287	82

Traffic Generation: SEE ATTACHED TRAFFIC IMPACT STUDY

If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

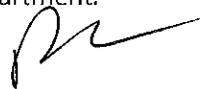
What is the estimated number of trips generated? _____ trips

Code	Land Use(s)	# of units*	Daily Trip Ends	Number of Trips
210	Single Family Home/Townhome		9.57	
220	Apartment		6.63	

* A unit for residential purposes is equal to one residential unit. For commercial/industrial uses it is defined in the ITE table, but most often is equal to 1,000 square feet of floor area for the use specified.

Authorization:

Upon receipt of the completed application package, the Community Development Department shall notify the applicant of scheduled dates, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.



This form is to be executed under oath. I, _____, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This 12 day of January, 2012.

Print Name Parks F. Huff, Attorney for Applicant

APPLICANT RESPONSE STATEMENT ANNEXATIONS AND REZONINGS

As directed by the City of Woodstock, the Applicant, The Residential Group, LLC (“TRG”), responds to the following queries that the City of Woodstock has determined are relevant in balancing the interests in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

1) Explain the intent of the requested zoning.

TRG has obtained a contract to acquire 17.557 acres of a 48.62 acre (plus or minus) tract of property owned by the Fowler family on Highway 92 in the City of Woodstock (tax map and parcel number 15N18-009). Presently, the larger tract has been assigned two different zoning classifications. The front portion is currently zoned to the Downtown, General Commercial (DT-GC) classification. The balance of the Property is zoned to the Downtown, Low Density Residential (DT-LR) classification.

TRG proposes that the portion of the Property that is the subject matter of this application be zoned to the Downtown, Multi-Family (DT-MRB) classification to allow TRG to develop units in accordance with the attached Concept

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

Yes. The subject Property adjoins the railroad tracks and an existing multi-family development, as well as fronting on Highway 92.

3) How the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.

It will not. In fact, development of this Property as proposed will be entirely consistent with the existing use or usability of adjacent and nearby properties.

4) Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned.

TRG contends that the portions of the subject Property that are zoned DT-LR are unreasonably zoned given, among other things, the location of the Property and the surrounding and nearby uses.

- 5) **Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.**

No, the location for this project is ideal in that it fronts onto Highway 92. In fact, as it relates to transportation issues, this Project would be a benefit to the City of Woodstock in that it accommodates the street grid system that the City Staff has identified to provide alternate means of getting to and from Highway 92 from the downtown area. As it relates to the school system, the Applicant will meet with the Cherokee County School District's representative to discuss making an appropriate contribution to offset certain needs associated with accommodating the students who will reside in these apartments.

- 6) **Whether the proposed zoning is in conformity with the policy and interest of the land use plan.**

To the extent that the Land Use Plan calls for residential development of much of the subject property, this proposal is consistent. TRG does request, however, that it be permitted to develop 286 multi-family units, however, rather than the residential units that would typically be developed under the classification that has been assigned to this Property. On that issue, TRG notes that a need for housing of the type proposed by this Project has been identified in the City of Woodstock to serve young couples and mobile professionals. This need will be served with the Proposed Project at a location that is ideally suited for this purpose.

- 7) **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 proposed zoning.**

The property is impacted by the adjacent railroad track and commercial property making the proposed multi-family development an ideal transition.

- 8) **CONSTITUTIONAL OBJECTION.**

The current zoning classification of the subject property and all intervening classifications between it and the requested classification, and any and all other conditions and/or restrictions which would preclude TRG from developing the Subject Property as depicted on the Site Plan are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation. The present zoning classification of the subject property and all intervening classifications between it and the requested classification as they presently exist, and any and all other conditions and/or restrictions which would preclude the Applicant from developing the Subject Property as depicted on the Site Plan are further unconstitutional in that they violate TRG's and the Property

Owners' right to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications and/or restrictions are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon TRG and the Property Owners. Finally, the City of Woodstock Zoning Ordinance is further unconstitutional as it relates to the subject property in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

This the 13th day of January, 2012.

Applicant: The Residential Group, LLC

By: Sams, Larkin & Huff, LLP

A handwritten signature in black ink, appearing to read 'P. Huff', written over a horizontal line.

PARKS F. HUFF, ESQ.

Applicant Response Statement Variances

I. Variance for 18 units per acre in DT-MR-B –

- 1) The applicant is purchasing a portion of the subject property and the remaining Hwy 92 road frontage will remain commercial. The Downtown (DT) district anticipates higher density and a mixture of both commercial and residential zoning. The portions of multifamily downtown approach 20 units per acre with additional commercial square footage.
- 2) The subject property is part of a larger tract and the density requested is needed to have a sufficient scaled project to build the infrastructure necessary for the development.
- 3) Downtown Woodstock east and west has components that not only have a higher density but have a commercial component in addition to the residential density.
- 4) The proposed development needs a certain scale to have an economically viable project given the cost of development. Once built, the scale is necessary to provide the appropriate management and amenities that a multifamily project demands.
- 5) The applicant's proposal is consistent with similar projects in the area that have been approved and built.
- 6) The applicant is comparing the proposed density with similar approved projects in the city and not nonconforming projects.
- 7) The proposed density is a density that is required to make the project economically viable and the applicant is not seeking an excessive density.
- 8) The city's land use plan has always anticipated dense residential and mixed use development at the intersection of Highway 92 and the railroad tracks and connecting this to a proposed road grid network that will eventually connect to downtown.

II. 7.726. Parking, Garage, Driveway and Access Requirements – 1. No parking shall be permitted between a building and the street without an intervening building.

- 1) Per our site plan, the applicant proposes to integrate the parking with the proposed private/public streets that incorporates the proposed grid network.
- 2) Due to the natural boundaries of the site (existing homes, RR & creek) and to accommodate the proposed road network, the applicant must integrate the parking with the proposed private streets.
- 3) Without this variance, more land would have to be developed because the travel lane and the parking would be separate and less natural areas would be preserved.
- 4) Based on the shape of the parcel and the existing limitations created by the railroad tracks and the desire to accommodate the road network

- 5) This site is unique based on its seclusion and issues with connectivity with a proposed road grid system.
- 6) The applicant isn't seeking the variance based upon other nonconforming projects.
- 7) It allows the project to meet the parking required without negatively affecting the economic viability of the property.
- 8) It will create a residential neighborhood encouraging people proceed slowly and to interact with their neighbors and community.

III. 7.726. Parking, Garage, Driveway and Access Requirements - 6. Any parking not screened from the street by a building shall have a minimum seven-foot-wide landscaped area between such parking and the street.....

- 1) Per our site plan, remove the requirement for the seven-foot-wide landscaped area.
- 2) Due to the natural boundaries of the site (existing homes, RR & creek), the majority of the site will have limited access and public use.
- 3) In order to maintain the usable open space required and provide a positive environment for our residents, would deprive the residents of outdoor areas that they can use and enjoy.
- 4) Based on the size of the parcel and the existing boundaries.
- 5) This site is unique based on its seclusion and issues with connectivity.
- 6) The applicant isn't using other nonconforming projects to support this variance request.
- 7) It allows the project, that due to the site constraints, provide the maximum useable open space for residents and public.
- 8) It will create a residential neighborhood encouraging people use the outdoors and interact with their neighbors and community.

IV. 7.726. Parking, Garage, Driveway and Access Requirements - 14. All required off-street parking for townhouses and multifamily dwellings, excluding accessory dwelling units, shall be met in a private on-site garage or parking structure.

- 1) Per our site plan, remove the requirement for the private parking structure.
- 2) Due to the distance of the site from the downtown core and the seclusion of the parcel, the project cannot support the cost of structured parking.
- 3) Market rate multifamily units cannot support the cost of structured parking and at the same time accommodate the proposed road grid system.

- 4) Based on the location of the parcel.
- 5) This site is unique based on its location and seclusion and the need to implement a portion of the proposed grid network.
- 6) The applicant does not rely upon nonconforming projects to support this request.
- 7) The proposed project would not be economically viable without this variance.
- 8) It will create a residential community that will provide a market rate level of finish.

V. 7.729. Street Facade Requirements - 2. All buildings with more than four (4) sidewalk area units along a single street shall have individual entrances to such units directly accessible from the required sidewalk area.

- 1) Per our site plan, remove the requirement for direct unit access from Bldgs A, B, C & D. Bldg's E & F are more commercial in look and will meet this requirement.
- 2) Because of the exclusive nature of the site, it could create a security issue to have entrance points directly to the street.
- 3) With multiple entries, secluded nature of the project and the unsecured site, our residents will demand that we limit the opportunities for access to the units.
- 4) This site is unique based on its location and seclusion.
- 5) This site is unique based on its location and seclusion.
- 6) The applicant doesn't rely upon nonconforming projects for this variance request.
- 7) It provides a easily definable boundary in for security purposes.
- 8) It will provide the residents with a better sense of security and comfort.

VI. 7.729. Street Facade Requirements - 10. Window frames shall be recessed a minimum of two inches from the exterior façade.

- 1) Remove the requirement for the 2" recess and provide a 1" recess from the face of the exterior materials.
- 2) The 2 inch recess instead of 1 inch recess raises a potential issue waterproofing / mold issue when multiplied over potential for occurrence.

- 3) The literal intent of the code desires to create shadow lines and not a flat face of the building. With our use of brick and hardi panel with trim around the windows, we will create the desired look and provide a better constructed waterproofing barrier.
- 4) Water intrusion and mold are serious issues to be dealt with.
- 5) This site is unique based on its location and seclusion.
- 6) The applicant isn't relying upon nonconforming projects to support this request.
- 7) The available products with the 1 inch recess will provide the needed relief.
- 8) The alternative recess with the adjacent trim will meet the goal of this ordinance.

VII. 7.729. Street Facade Requirements - 19. Minimum ceiling height of 10 ft at the sidewalk level.

- 1) Per our site plan, reduce the requirement for the 10' minimum ceiling height to 9' for from Bldgs A, B, C & D. Bldg's E & F are more commercial in look and will meet this requirement.
- 2) Due to the natural boundaries of the site (existing homes, RR & creek), the majority of the site will have limited access and public use.
- 3) The literal intent of the code is allow for shop space which due to the location of the site not an appropriate use.
- 4) This site is unique based on its location and seclusion.
- 5) This site is unique based on its location and seclusion.
- 6) The applicant isn't relying upon nonconforming projects to support this request.
- 7) It allows the project, that due to the site constraints, provide a class 'A' multifamily development that is needed in this area.
- 8) It will create a residential community that will provide a market rate level of finish.

VIII. 7.730. General Requirements - 11a. Building mechanical and accessory features shall be located to the side or rear of the principal structure or on the rooftops and shall not be visible from any public open space or sidewalk area.

- 1) Remove the requirement for mechanical and accessory features to be located on the side or rear. All features will be screened but require the location flexibility.

- 2) Due to the natural boundaries of the site (existing homes, RR & creek), the majority of the site will have limited access and public use. Also, with the entirety of the open space being public, the requirement cannot be met.
- 3) The literal intent of the code would not allow anything to be placed outside.
- 4) The way the code is written.
- 5) Clarifies the issue of the code.
- 6) The applicant isn't relying upon nonconforming projects to support this request.
- 7) It allows the project the flexibility to smartly design the site and avoid heavily concentrated locations of equipment.
- 8) It will create a residential community that will provide enjoyable exterior space.