

Date: 8/28/2020

Regarding: Rezoning Letter of Intent

Location: 1329 and 1331 Sylvan Circle, Brookhaven GA 30319

Dear Community Development Department,

Please accept this letter of intent from the applicant on behalf of Carmen Leong Iris, property owner of 1329 Sylvan circle, and Barbara A and Bobbie B Meadows, property owner of 1331 Sylvan circle, requesting a rezoning from RS-75 to RS-50 to construct two conforming street facing single-family homes. The proposed rezoning would allow the owner to construct two single-family street facing residential homes on two conforming platted lots of record. The two new single-family homes on two 50-foot-wide lots would be in character with the surrounding property size and shape along Sylvan Circle and the Brookhaven Fields area in the City of Brookhaven. Currently, there are already two properties. 1329 Sylvan Circle is a parcel with street frontage. 1331 Sylvan Circle is a parcel that is land locked behind 1329 Sylvan Circle and does not have street frontage. There is no current access agreement or easement of record that we can find that allows the use of 1329 Sylvan Circle for access to 1331 Sylvan Circle. The intent of the rezoning from RS-75 to RS-50 is to clean up the parcel and allow for two street fronting parcels.

The existing property is currently zoned as RS-75. Most all of the properties on the street and in the entire neighborhood of Brookhaven Fields are all 50-foot-wide lots. All of the new single-family homes and majority of the existing homes are considered non-conforming currently as constructed with the RS-75 zoning. Construction of two new single-family homes on two 50-foot-wide street facing homes will not be materially detrimental to the public welfare and will identify with the existing character and integrity of the neighborhood.

The proposed homes to be constructed on the property will include a front entry street level garages and a covered porch with patio on the back of the structure. This layout is similar to the majority of the new neighboring homes already built in Brookhaven Fields. The current zoning of RS-75 would prohibit two homes on two separate lots from being constructed on the properties that face the street and that fit in character with both size and structure of the news home in Brookhaven Fields. Currently, the two properties consist of one existing residential structure on the front parcel and a second residential structure land locked on the rear parcel.

Rezoning this property from RS-75 to RS-50 to have two, street frontage fifty-foot-wide lots of record would allow for the construction of two new single-family street facing homes that would not alter the surrounding area and would keep in the character of the neighbors and properties. Two new street facing single-family homes to be constructed in a manner which matches and represents the size and style of the surrounding new homes in Brookhaven Fields.

Upon research, there was a combination of lots and deeded properties that existed on this side of Sylvan Circle which used to be called Fernwood Drive. Based on recorded plats from 1915, all the parcels were 50-foot-wide and at some point in time the owners combined lots and made irregular parcels to accommodate the homes built randomly on the properties. This would account for the two current 100-foot-wide lots that were originally 50-foot-wide parcels but then divided to accommodate the two current homes on the property, not fronting the street, but back to back to each other.

The portions of the Code of Ordinances and Zoning Ordinances for the City of Brookhaven (The “Zoning Ordinance”) which classifies or conditions the property into any more or less intensive zoning classification and/ or zoning conditions other than as requested by the applicant and property owner are unconstitutional, in that they would destroy the applicants and property owners rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Zoning Ordinance which presently restricts the Property’s use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, and constitutes a taking of the applicants and the property owners property rights in violation of the just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraphs I and II of the constitution of the State of Georgia of 1983, and in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States by denying economic and viable use of the property while not substantially advancing legitimate state interests.

The property is presently suitable for RS-50 as proposed in the requested rezoning, as amended by the Applicant, and is not economically suitable for uses restricted under its present zoning and development classifications, conditions, regulations, and restrictions due to its location, shape, size, and surrounding properties, and other factors. A denial of the requested rezoning would constitute an arbitrary and capricious act by the City of Brookhaven, Mayor and Council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment. A refusal by the City of Brookhaven, Mayor and Council to approve this requested rezoning, with only such additional conditions as agreed to by the applicant and/or owner, so as to permit the only feasible economic use of the property, would be unconstitutional between the applicant, owner, and similarly situated property owners, in violation of Article I, Section I, Paragraph II of the constitution of the state of Georgia of 1983 by discrimination.

Conclusion

The Applicant and owner respectfully request the City of Brookhaven, Mayor and Council, Planning Commission, and Planning Staff approval and support the Applicant’s rezoning request to allow for the zoning of RS-75 property to be changed to RS-50 zoning category. In doing so, this would allow for two conforming street frontage properties that would be keeping in the character of the neighborhood and Brookhaven Fields area and would match all the surrounding lot size and home sizes in the neighborhood.

Sincerely,

Ken Warlick