

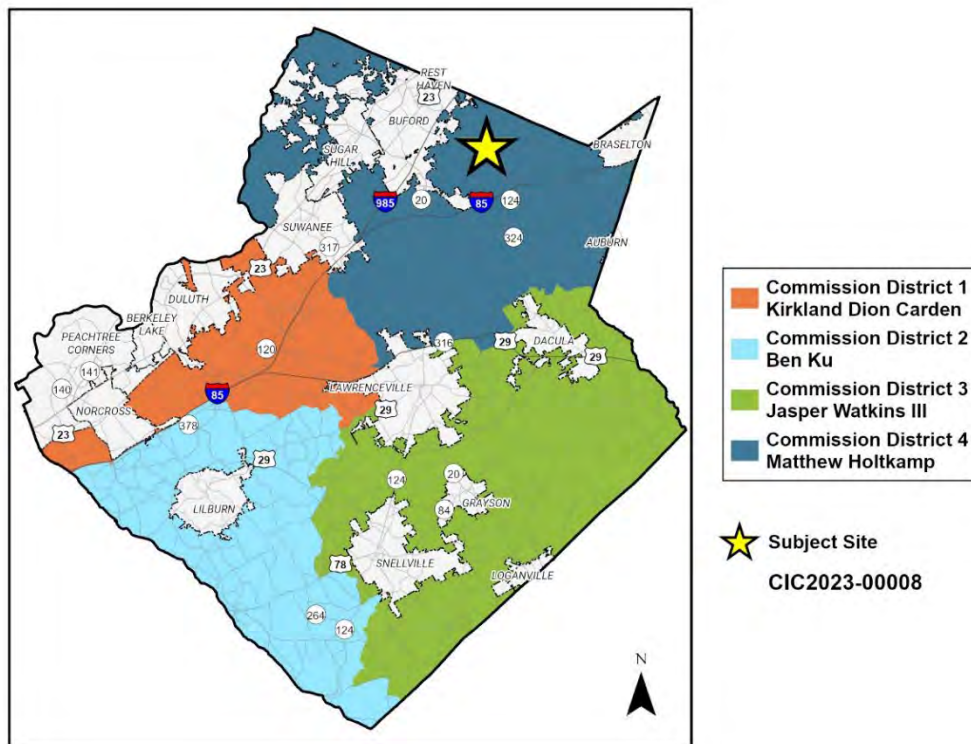


## PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

**Case Number:** CIC2023-00008  
**Current Zoning:** C-2 (General Business District)  
**Overlay District:** Georgia Highway 124/324/Hamilton Mill Road  
**Request:** Change in Conditions  
**Address:** 3320 Hamilton Mill Road  
**Map Number:** R7182 113  
**Site Area:** 0.90 acres  
**Square Feet:** 6,039  
**Proposed Development:** Retail and Restaurant  
**Commission District:** District 4 – Commissioner Holtkamp  
**Character Area:** Established Neighborhoods

**Staff Recommendation:** APPROVAL WITH CONDITIONS

**Planning Commission Recommendation:** APPROVAL WITH CONDITIONS



**Planning Commission Advertised Public Hearing Date:** 3/7/2023  
**Board of Commissioners Advertised Public Hearing Date:** 3/28/2023

**Applicant:** Phillips Edison & Company  
c/o J. Alexander Brock, Smith  
Gambrell & Russell, LLP  
1105 West Peachtree Street, NE  
Atlanta, GA 30309

**Owner:** Phillips Edison & Company  
11501 Northlake Drive  
Cincinnati, OH 45249

**Contact:** Alex Brock

**Contact Phone:** 404.815.3603

## **Zoning History**

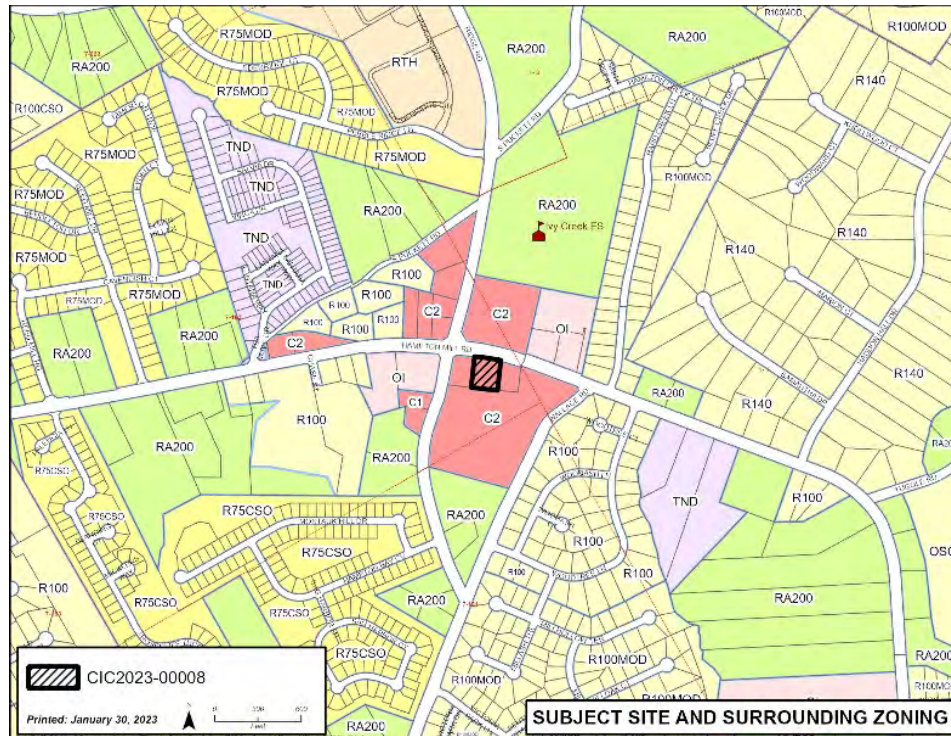
The subject property is zoned C-2 (General Business District). In 2000, the subject property was rezoned from RA-200 (Agriculture-Residence District) to C-2 with a reduction in buffers to develop a commercial shopping center, pursuant to RZ-00-163. In 2021, the subject property was approved for a variance to exceed the percentage of parking allowed in the front and side yard due to the overlay district off-street parking standards, pursuant to ZVR2021-00066. The subject property is located in the Georgia Highway 124/324/Hamilton Mill Road Overlay District.

## **Existing Site Condition**

The subject property is a 0.90-acre lot located on Hamilton Mill Road, east of its intersection with Ridge Road. The property is currently a vacant commercial lot that previously contained a pharmacy that was demolished in 2020. The parking areas and internal driveways remain on the property. The site has one vehicular access point on Hamilton Mill Road and interparcel access with the Hamilton Ridge Shopping Plaza and the property to the west. There are sidewalks, a 10-foot landscape strip, and overhead power lines along the Hamilton Mill Road frontage. The nearest Gwinnett County Transit stop is approximately 4.9 miles from the subject site.

## **Surrounding Use and Zoning**

The subject site is surrounded by commercial uses. Hamilton Ridge shopping center surrounds the property to the east, south, and west. The shopping center contains several retail, restaurant, and service uses including a grocery store, convenience store with fuel pumps, and bank. Another multi-tenant shopping center is located to the north, across Hamilton Mill Road. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning	Density
Proposed	Retail and Restaurant	C-2	N/A
North	Commercial	C-2	N/A
East	Commercial	C-2	N/A
South	Commercial	C-2	N/A
West	Commercial	C-2	N/A

## Project Summary

The applicant requests a change in conditions for a 0.90-acre property zoned C-2 for a multi-tenant commercial building, including:

- A change in conditions of case RZ-00-163, includes removing the following conditions in its entirety:
  - Condition 1B, *"Outparcel building(s) shall have pitched roof(s) (minimum 4:12 visible pitch)."* The applicant proposes a building with a flat roof with parapets.
- A 6,039 square-foot multi-tenant building with four suites with approximately 2,402 square feet of retail space and approximately 3,543 square feet of restaurant space.
- Site access via an interparcel connection to existing driveway from Hamilton Mill Road.
- A pedestrian crosswalk connecting the existing sidewalk on Hamilton Mill Road and the front of the building.
- A proposed monument sign located near the driveway.
- Outdoor patios for two suites and a single drive-through for one suite.
- Drive-through lane along the west side of the building with adequate stacking spaces.
- The by-pass lane for the drive-through lane does not meet the requirements of the UDO.
- Exterior building materials of glass, brick, EIFS, and canopies over suite entrances.
- 29 parking spaces, located along the front and side of the proposed building.

- A dumpster enclosure with screening on three sides and a front access gate, located to the south of the new building on the adjoining parcel.
- Maintaining the previously approved 10-foot-wide landscape strip along Hamilton Mill Road and 5-foot-wide landscape strip along the side and rear property lines.

## Zoning and Development Standards

The applicant requests approval of a change in conditions to allow a multi-tenant commercial building without a pitched roof in the C-2, General Business District. The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Proposed	Meets Standard?
Building Height	Maximum: 45'	25'	YES
Front Yard Setback	Minimum: 15'	66'	YES
Side Yard Setback	Minimum: 10'	23'	YES
Rear Yard Setback	Minimum: 30'	34'	YES
Off-Street Parking	Minimum: 12 spaces Maximum: 30 spaces	29 spaces	YES
Landscape Strip	Minimum 10'	10'	YES

In addition, the following standards apply to development in the Hamilton Mill Overlay District:

Standard	Meets Standard?
Freestanding buildings or shopping center developments containing 7,500 gross square feet of space or less shall provide no more than 20 percent of parking areas in the front of building(s) and be limited to no more than one double row of parking. No more than 20 percent of off-street parking areas may be located to the sides of building(s), with the balance of parking located to the rear the building(s).	NO*

\*The property was approved for a variance for this requirement pursuant to ZVR2021-00066

## Internal and External Agency Review

In addition to these Development Standards, the applicant must meet all other UDO requirements related to infrastructure improvements. Internal and External agency review comments are attached (Exhibit F). Standard site and infrastructure improvements will also be required related to transportation, stormwater, water, and sewer utilities. Recommended improvements not already required by the UDO have been added as staff recommended conditions.

## Staff Analysis

**Change in Conditions Request Analysis:** According to the UDO, if a proposed amendment is for the rezoning of property and involves a change in zoning classification, or change in conditions, the Department shall evaluate the request and make a recommendation with respect to the standards governing exercise of zoning power as defined in Section 270-20.5. After this evaluation, staff makes the following findings based on the standards from the UDO.

**A. Whether a proposed change in conditions will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The surrounding area is characterized by similar commercial uses in each direction of the subject property. The proposed architecture is consistent with other commercial buildings in the immediate area and allows for a more modern design. In addition, the proposed site plan shows interparcel connections with the surrounding Hamilton Ridge Shopping Plaza and complies with other requirements of the Overlay District. Therefore, a one-story flat roof commercial building is suitable in view of the use and development of nearby properties.

**B. Whether a proposed change in conditions will adversely affect the existing use or usability of adjacent or nearby property.**

The existing use and usability of adjacent or nearby properties would not be adversely impacted by the approval of a change in conditions to allow a one-story flat roof commercial building. The proposed architecture is in character with many of the other commercial buildings in the immediate area. The proposed addition to the shopping plaza would be beneficial to the commercial area as it would provide additional retail space and dining options for the area.

**C. Whether the property to be affected by a proposed change in conditions has a reasonable economic use as currently zoned.**

The property has a reasonable economic use as currently zoned.

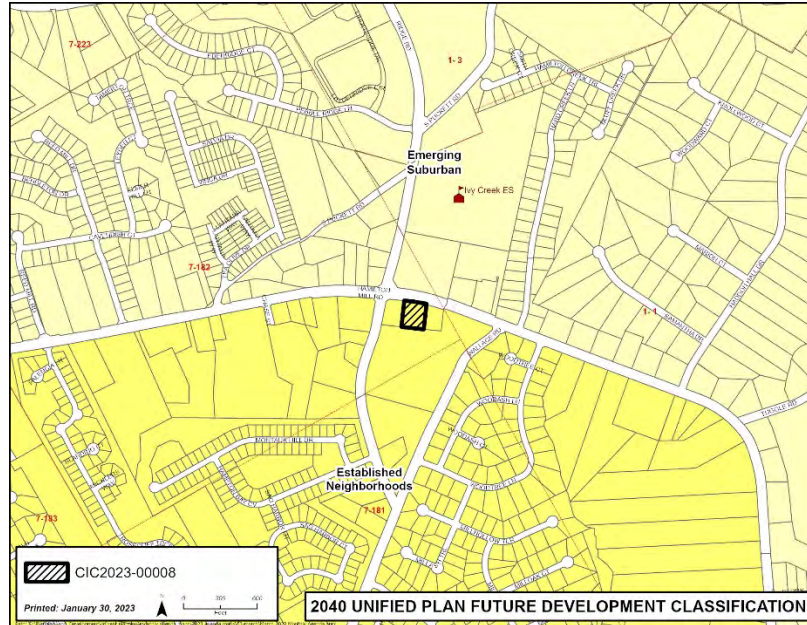
**D. Whether the proposed change in conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

Some impact on public facilities would be anticipated in the form of traffic, utility demand, and stormwater runoff. However, no impact is anticipated on school enrollment. Agency review comments related to any potential improvements concerning this special use permit request is attached (Exhibit F).

**E. Whether the proposed change in conditions is in conformity with the policy and intent of the Unified Plan and Future Development Map.**

The 2040 Unified Plan and Future Development Map indicates that the subject property is within the Established Neighborhoods Character Area. The Established Neighborhoods Character Area designates well established neighborhoods and single-family residential areas that are unlikely to undergo any significant changes or redevelopment in the next 20 years. This Character Area includes those areas where changes in land use are not anticipated or encouraged, and any new development - including residential infill properties - should be consistent in scale, architecture, and use with surrounding properties. A flat roof design is consistent in architectural design with the existing commercial property in the area. Therefore, the proposed change in conditions is in conformance with the policy and intent of the Unified Plan and Future Development Map.





**F. 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 change in conditions.**

The existing commercial property is surrounded by commercial land uses. The architecture of the most recently approved and constructed commercial buildings feature flat roofs with parapets as proposed by the applicant. The proposed use and architecture of the property is appropriate for its zoning designation, and approval would allow more restaurant and retail options and the reuse of a previously occupied commercial lot. Therefore, approval of the change in conditions request to allow a flat roof restaurant and retail building in an existing shopping plaza would be appropriate, given the surrounding land uses and similar architectural design of the nearby commercial buildings.

**Staff Recommendation:**

Based on staff's evaluation of the request and the standards governing exercise of zoning power, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS** of the change in conditions request.

**Planning Commission Recommendation**

Based on staff's evaluation of the request, information presented at the public hearing, and the Planning Commission's consideration of the standards governing the exercise of zoning power related to this application, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of the change in conditions request.

**Planning Commission Recommended Conditions (includes Staff Recommended Conditions, as Amended)**

The conditions below are those from RZ-00-163 with suggested changes in bold or strikethrough.

Approval of a Change in Conditions for a multi-tenant commercial building, subject to the following conditions:

1. To restrict the use of the property as follows:
  - a. Commercial/Retail, office, and accessory uses.
  - b. ~~Outparcel building(s) shall have a pitched roof(s) (minimum 4:12 visible pitch).~~
  - c. All building(s) shall be finished with architectural treatments of glass and/or brick, stacked stone, or stucco. Final building plans shall be submitted to the ~~Director~~ **Department** of Planning and Development for review and approval. **The proposed development shall be constructed in general conformance with the elevations as submitted with the application.**
2. To satisfy the following site development considerations:
  - a. ~~Provide a 50-foot-wide natural, undisturbed buffer located adjacent to residentially zoned property; except for approved access, utility crossings, and replantings with evergreen trees where sparsely vegetated in order to provide an effective visual screen.~~
  - b. Provide a 10-foot-wide landscape strip along the entire length of the development adjacent to all road frontages.
  - c. Provide paved pedestrian connections from the buildings to sidewalks along road frontages.
  - d. Provide a 5-foot wide sidewalks along the entire length of the site adjacent to Hamilton Mill Road., and ~~provide 4-foot wide sidewalks adjacent to Wallace Road and Ridge Road.~~
  - e. Provide a 5-foot wide landscape strip adjacent to all internal property lines.
  - f. Locate stormwater detention facilities outside of all required buffers and landscape strips.
  - g. Ground signage for any outparcel development shall be limited to monument type signs of brick construction matching the materials of the buildings and shall not exceed six (6) feet in height. ~~Shopping center signage shall be constructed of materials matching the center's exterior and shall not exceed requirements of the Gwinnett County Zoning Resolution.~~
  - h. Billboards shall be prohibited.
  - i. Dumpsters/compactors shall be screened by a brick wall. Hours of dumpster pick-up shall be limited to between 7:00 am and 9:00 pm.
  - j. Provide interparcel access throughout the development.
  - k. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent and nearby residential properties.

- l. Natural vegetation shall remain on the property prior to the issuance of a commercial development permit.
  - m. ~~No temporary signs shall be permitted. No banners, streamers or roping decorated with flags (other than one U.S. and/or State of Georgia flag), tinsel, or other similar materials shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site.~~ **No tents, temporary canopies, temporary banners, temporary streamers, or temporary roping decorated with flags, tinsel, or other similar materials shall be displayed, hung, or strung on the site, except within 60 days of the grand opening and during social events which shall occur no more than twice per calendar year and last no longer than seven days each.**
  - n. ~~The number and location of proposed driveways shall be subject to the review and approval of the Gwinnett County Department of Transportation and the Development Review Section. Outparcel development~~ **access** ~~shall be limited to driveways shared with the main~~ **adjacent** shopping center.
3. ~~To abide by the following requirements, dedications, and improvements:~~
- a. ~~Deposit \$30,000 with the Gwinnett County Department of Transportation for the signalization of the Hamilton Mill Road/Ridge Road intersection.~~
  - b. ~~Dedicate sufficient right-of-way and construct an additional twelve (12) foot lane along the entire property frontage on both Hamilton Mill and Ridge Roads. Design and construction shall be subject to review and approval of the Gwinnett County department of Transportation.~~



**Exhibits:**

- A. Site Visit Photos
- B. Site Plan and Building Elevation
- C. Letter of Intent and Applicant's Response to Standards
- D. Application and Disclosure of Campaign Contributions
- E. Previously Approved Resolution (RZ-00-163)
- F. Internal and External Agency Review Comment
- G. Maps

## Exhibit A: Site Visit Photos



**Location of Proposed Building (Southern View)**



**Location of Proposed Building (Northern View)**

**Exhibit B: Site Plan and Building Elevations**

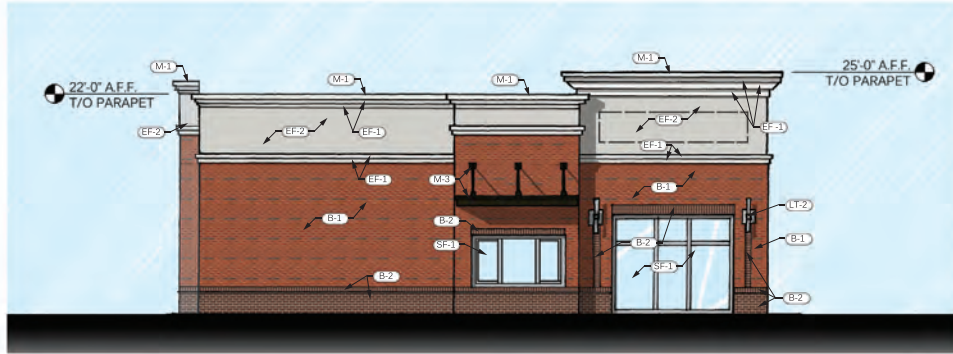
**[attached]**







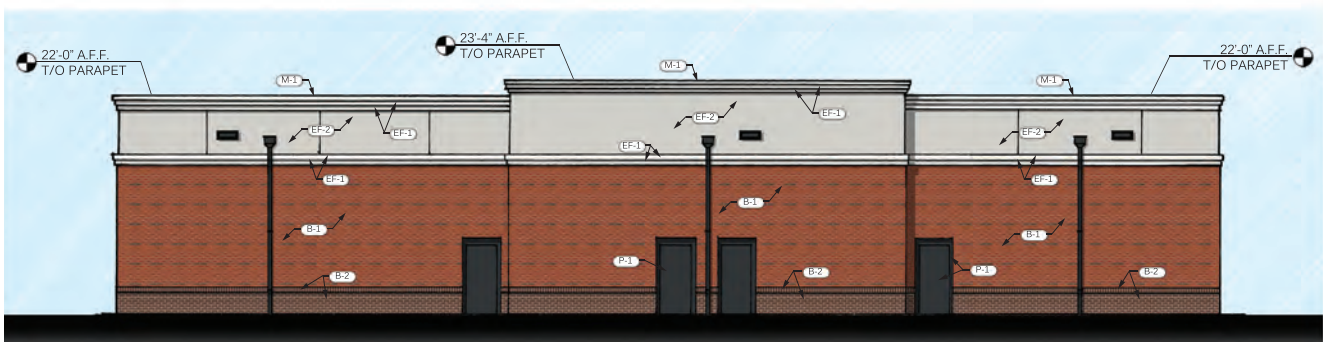
FRONT ELEVATION



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION

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EXTERIOR FINISH SCHEDULE			
MARK	CATEGORY	MANUFACTURER	DESCRIPTION / FINISH
B-1	QUEEN BRICK	GENERAL SHALE	COLOR: PRESERVATION RED W/ ARGOS SAHARA MORTAR, TOOLED JOINTS
B-2	QUEEN BRICK	GENERAL SHALE	COLOR: GEORGETOWN 8035 W/ ARGOS GEORGIA RED MORTAR, TOOLED JOINTS
EF-1	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7004 "SNOWBOUND" (256-C2)
EF-2	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7648 "BIG CHILL" (256-C7)
EF-3	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7036 "ACCESSIBLE BEIGE" (249-C1)
LT-1	LIGHTING	SPR LIGHTING	ARCHITECTURAL LIGHT FIXTURE, MODEL: MARKER, COLOR: "P148" ALUMINUM (METALLIC TEXTURED)
LT-2	LIGHTING	BROWNLIFE	ARCHITECTURAL LIGHT FIXTURE, MODEL: BEAM 7176-34-N1-H21-40K-8B1, COLOR: "NICKEL TONE"
M-1	METAL	PAC-CLAD	METAL COPING, COLOR: "STONE WHITE"
M-2	METAL	PAC-CLAD	METAL COPING AND STANDING SEAM TEE PANEL, COLOR: "SILVER"
M-3	METAL	PAC-CLAD	METAL AWNING, COLOR: "MIDNIGHT BRONZE"
P-1	PAINT	SHERWIN WILLIAMS	PAINT, COLOR: SW 6993 "BLACK OF NIGHT" (251-C5)
SF-1	STOREFRONT SYSTEM	OLDCASTLE	COLOR: "CLEAR ANODIZED ALUMINUM"
SF-2	STOREFRONT SYSTEM	OLDCASTLE	COLOR: "DARK BRONZE"

DEVELOPED BY:

CIC2023-00008



HAMILTON RIDGE OUTBUILDING  
13 of 47

BUFORD, GEORGIA

**MaxDesignGroup**  
Architecture • Planning • Interiors

Project Number: D21-111

04 AUGUST 2022

**Exhibit C: Letter of Intent and Applicant's Response to Standards**

**[attached]**



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**CHANGE IN CONDITIONS APPLICANT'S RESPONSE**  
**STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER**

PURSUANT TO REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

- (A) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

See Attached Statement of Intent

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- (B) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

See Attached Statement of Intent

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- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

See Attached Statement of Intent

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- (D) WHETHER THE PROPOSED CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

See Attached Statement of Intent

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- (E) WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

See Attached Statement of Intent

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- (F) 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 CHANGE IN CONDITIONS:

See Attached Statement of Intent

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**STATEMENT OF INTENT**

and

Other Material Required by  
The Gwinnett County Unified Development Code  
for the  
Change in Conditions Application

of

PHILLIPS EDISON COMPANY

for

±12.6572 Acres of Land  
located at  
3320 Hamilton Mill Road,  
Gwinnett County

Submitted for Applicant by:

Dennis J. Webb, Jr.  
Kathryn M. Zickert  
J. Alexander Brock  
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1105 W. Peachtree Street, NE  
Suite 1000  
Atlanta, Georgia 30309  
404-815-3500

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## **I. INTRODUCTION**

This Application seeks a Change in Conditions from a rezoning of a  $\pm 12.6572$ -acre<sup>1</sup> property located at 3320 Hamilton Mill Road, Parcel ID: 7182 113 and 7182 002 (the “Subject Property”). The Subject Property was rezoned in 2000 from RA-200 (Agriculture Residence District) to C-2 (General Business District) per case number REZ2000-00163 (“2000 Rezoning”) for the development of the now existing Hamilton Ridge Shopping Center. The 2000 Rezoning contained several conditions, one of which states: “Outparcel building(s) shall have pitched roof(s) (minimum 4:12 visible pitch).” In 2002, the outparcel was developed for a Rite Aid drug store which incorporated pitched elements for approximately 20% of its facade, but did not contain pitched roof along its entire roofline. In 2020, the Rite Aid building was removed and a portion of the outparcel was developed for a Regions Bank, while the remainder was left for future development. Phillips Edison & Company (the “Applicant” or “Owner”)<sup>2</sup> is proposing the development of a  $\pm 6,000$  square foot commercial building (the “Proposed Development”) on the remaining undeveloped portion of the outparcel. The Proposed Development will be a multi-tenant commercial building with a mix of retail and restaurant uses. The Applicant submitted plans for land development and building permits in 2022 and proceeded through most of the permit review process before Gwinnett County Staff commented on the prior zoning condition.<sup>3</sup> It should be noted, that the architectural plans submitted for permit review have always contained a flat roof

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<sup>1</sup> The subject outparcel is a 0.902-acre portion of the overall  $\pm 12.6572$ -acre Hamilton Ridge Shopping Center property. The zoning conditions govern the entire 12.6572-acre property. Also note, that rezoning case REZ2000-00163 covered a  $\pm 13.5321$  acre parcel, however a portion of this property was lost as right-of-way dedication after the rezoning. The instant application concerns the remaining  $\pm 12.6572$ -acres.

<sup>2</sup> The 0.902-acre outparcel (Parcel ID 7182 113 and addressed as 3320 Hamilton Mill Road) is owned by Hamilton Ridge Station Outparcel, LLC and the remainder of the Subject Property (Parcel ID 7182 002 and addressed as 3300 Hamilton Mill Road) is owned by Hamilton Ridge Station, LLC. Both Hamilton Ridge Station Outparcel, LLC and Hamilton Ridge Station, LLC are subsidiaries of Phillips Edison & Company, who is listed as the owner on the application.

<sup>3</sup> The Applicant also obtained a variance (ZVR2021-00066) regarding parking for the Proposed Development.

design. The pitched roof condition causes certain problems with the practical design and functioning of the multi-tenant building. To alleviate these hardships, the Applicant now seeks a Change in Conditions to REZ2000-00163 to remove the requirement for the pitched roof.

The requirement for pitched roofs causes many difficulties for the proposed building including the placement of mechanical equipment and signage. In particular, the mechanical equipment will need to be placed on the roof directly over the individual tenant space that it serves. The pitched roof, however, pushes the mechanical equipment toward the center of the roof and away from the edge of the building, making it difficult to locate equipment over each tenant space. This issue is particularly acute for restaurant tenants that will need vents and other piping directly above the kitchen space. Moreover, restaurant tenants often occupy the endcap spaces, where a pitch roof would surround the space on three sides. As a result, the pitched roof prevents the vent piping and mechanical equipment being located directly above the tenant space where it is required.

The pitched roof creates additional issues with tenant signage. The pitch makes it difficult to properly attach and locate signage over the tenant space. The signage requires a flat surface to attach, which limits its location to flat tower elements incorporated in the pitched roof. These tower elements are not above each tenant space, and therefore certain spaces cannot have signage identifying the business. This is not desirable for the tenant and make the space difficult to lease. A flat roof, however, allows signage to be placed above each tenant space. For example, the main building of the Hamilton Ridge Shopping Center and the commercial shops building at 3280 Hamilton Mill Road (within the Hamilton Ridge Shopping Center parcel) both have flat roofs with

multiple tenants and signage at each tenant space.<sup>4</sup> It is also important to note that both of these flat-roofed buildings have existed on the property since 2002. The Applicant is not asking for anything beyond what is allowed in the architectural design of the remaining Hamilton Ridge Shopping Center.

The Applicant is not aware of the intent, or the benefit, behind the condition the outparcel to have pitched roofs. However, in conversations with Gwinnett County Planning & Development, it was noted that at the time of the 2000 Rezoning approval, the Gwinnett County Code contained a provision requiring pitched roofs in the C-2 zoning, which has since been removed.<sup>5</sup> The current Gwinnett County Unified Development Ordinance (“UDO”) allows flat roofs for non-residential and commercial buildings in the C-2 zoning district.<sup>6</sup> In essence, the Applicant’s request for a flat roof would bring the Proposed Development in line with current code requirements. Accordingly, Gwinnett County Planning Staff suggested that the Applicant file a Change in Conditions application to remove the pitched roof conditions to allow the flat roof.

This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, an impact analysis as required by the Gwinnett County Unified Development Ordinance § 270-20.6, and an analysis of the standards governing the exercise of zoning power in the Gwinnett County Unified Development Ordinance §270-20.5.

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<sup>4</sup> Both the shopping center building and the commercial shops building are on the main Hamilton Ridge parcel and are not impacted by the pitched roof zoning condition. The pitched roof requirement is limited to the outparcel development.

<sup>5</sup> The Applicant has been unable to determine the exact date of when the code changed to remove the pitched roof condition. However, as early as 2014 the Gwinnett County UDO, Appendix 1 § 10.0.0 allowed Category 1 buildings in the C-2 zoning district. Category 1 buildings allow flat roofs.

<sup>6</sup> Refer to Gwinnett County UDO, Appendix 1 §§ 4.1.2 and 10.0.0.

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## **II. IMPACT ANALYSIS**

### **A. WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY**

Yes. The proposed flat roof architecture is commensurate with what exists on the main parcel of the Hamilton Ridge Shopping Center, as well as other developments in the area. In particular the Hamilton Mill Plaza, located directly across Hamilton Mill Road from the Proposed Development at 3421 Ridge Road, is a multi-tenant commercial building with restaurant and retail uses. The Hamilton Mill Plaza is similar in use and nature, but with much larger floor area, to the Proposed Development. The Hamilton Mill Plaza was constructed in 2004 and is composed entirely of flat-roof architecture. In light of the adjacent and nearby development, the Applicant's proposal for flat-roof architecture is suitable.

### **B. WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY**

The proposed Change in Conditions to remove the pitched roof requirement will have no bearing on the use or usability of adjacent or nearby property. The current pitched roof condition affects only construction on the Hamilton Ridge Shopping Center outparcels. The proposed Change in Conditions removes the requirement for pitched roofs, but will not prohibit pitched roof construction in the future. In fact, the UDO allows either flat roof or pitched roof construction in the C-2 zoning district. Consequently, the proposed Change in Conditions will allow future redevelopment to incorporate a roof design that is in conformance with the C-2 district requirements.



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**C. WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED  
CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS  
CURRENTLY ZONED.**

The Subject Property is zoned C-2 which allows a variety of commercial uses and allows the Proposed Development. The requested Change in Conditions does not affect the use of the Subject Property, but it allows a more practical architectural design. The Applicant's request to allow a flat roof design will alleviate certain problems that will affect its ability to lease the tenant spaces (including location of signage and mechanical equipment) and thus eliminate some of the constraints on economic use that currently affect the property.

**D. WHETHER THE PROPOSED CHANGE IN CONDITIONS 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 proposed Change in Condition is limited to the architectural design and will have no bearing on the use of existing streets, transportation facilities, utilities or schools.

**E. WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN  
CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE  
PLAN.**

The Gwinnett County 2040 Future Development Map depicts the Subject Property as being within the Established Neighborhoods Land Use. Both current C-2 zoning and the Established Neighborhoods Land Use support the Proposed Development and do not prohibit the requested flat roof design. The Gwinnett County 2040 Unified Plan, page F-20, notes that any new development should be consistent in scale, architecture and use with the surrounding properties. As noted in the paragraphs above, the proposed flat roof design is consistent with the existing commercial developments in the area, including the architecture of the other buildings in the Hamilton Ridge Shopping Center. Thus, the requested Change in Conditions

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will bring the property further in line with the stated intent of the Gwinnett County 2040 Unified Plan.

**F. 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 CHANGE IN CONDITIONS.**

As noted in the paragraphs above, the Gwinnett County UDO has changed since the original 2000 Rezoning to allow commercial buildings with flat roofs in the C-2 district. Consequently, the proposed Change in Condition request would bring the property into alignment with current County requirements. In addition, there have been several developments in the area, subsequent to the construction of the Hamilton Ridge Shopping Center, that have all flat roofs, including the adjacent Hamilton Mill Plaza. Accordingly, the requested Change in Conditions will allow a development that is harmonious with the current UDO requirements and the existing architecture in the area.

**III. NOTICE OF CONSTITUTIONAL CHALLENGE TO UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

A refusal to grant the requested Change in Conditions application would be unconstitutional for, among other reasons, it would constitute an unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would discriminate unfairly between the owner of the Subject Property and other property owners similarly situated, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United

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1/5/2023

States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would amount to a taking of property, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to grant the requested Change in Conditions application would be invalid inasmuch as the Unified Development Ordinance of Gwinnett County is unlawful, null and void because its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

The Unified Development Ordinance of Gwinnett County lacks adequate standards for the Board of Commissioners to exercise its power to review and vote on this Application. The standards are not sufficient to contain the discretion of the Board and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section III, Paragraph I and Article I, Paragraphs I and II of the Constitution of State of Georgia.

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1/5/2023

Any limitation on the time for presentation of the issues before the Board of Commissioners is a violation of the guarantees of free speech under Article I, Section I, Paragraph V of the Constitution of the State of Georgia and the First Amendment of the Constitution of the United States. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia and the First Amendment of the Constitution of the United States, as well as the Due Process Clauses of the Constitution of Georgia and the Constitution of the United States.

In addition to the above, the Applicant raises the defenses of standing and failure to exhaust administrative remedies.

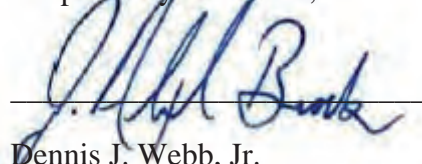
#### IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests approval of the Change in Conditions for the reasons set forth above.

This 5<sup>th</sup> day of January, 2023.

Smith, Gambrell & Russell, LLP  
1105 W. Peachtree Street, NE  
Suite 1000  
Atlanta, Georgia 30309  
404-815-3500

Respectfully submitted,



Dennis J. Webb, Jr.  
Kathryn M. Zickert  
J. Alexander Brock  
*Attorneys For Applicant*

**Exhibit D: Application and Disclosure of Campaign Contributions**

**[attached]**

RECEIVED

1/5/2023

# CHANGE IN CONDITIONS APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF WINNETT COUNTY, GEORGIA

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>Phillips Edison &amp; Company c/o J. Alexander Brock, Smith, Gambrell &amp; Russell, LLP</u>	NAME: <u>Phillips Edison &amp; Company</u>
ADDRESS: <u>1105 West Peachtree Street, NE</u>	ADDRESS: <u>11501 Northlake Drive</u>
CITY: <u>Atlanta</u>	CITY: <u>Cincinnati</u>
STATE: <u>GA</u> ZIP: <u>30309</u>	STATE: <u>OH</u> ZIP: <u>45249</u>
PHONE: <u>404-815-3603</u>	PHONE: <u>513-338-2735</u>
EMAIL: <u>jabrock@sgrlaw.com</u>	EMAIL: <u>qgadow@phillipsedison.com</u>
CONTACT PERSON: <u>Alex Brock-Smith, Gambrell &amp; Russell, LLP</u> PHONE: <u>404-815-3603</u>	
CONTACT'S E-MAIL: <u>jabrock@sgrlaw.com</u>	

APPLICANT IS THE:	
<input checked="" type="checkbox"/> PROPERTY OWNER	<input type="checkbox"/> OWNER'S AGENT <input type="checkbox"/> CONTRACT PURCHASER
ZONING DISTRICTS(S): <u>C-2</u> PRIOR ZONING CASE: <u>RZ-009-163</u>	
PARCEL NUMBER(S): <u>7182 113</u> ACREAGE: <u>±12.6572 ac</u>	
ADDRESS OF PROPERTY: <u>3320 Hamilton Mill Road, Buford, GA 30519</u>	
PROPOSED CHANGE IN CONDITIONS: <u>Remove condition 1B requiring pitched roofs</u>	
<b>RESIDENTIAL DEVELOPMENT:</b> NO. OF LOTS/DWELLING UNITS: <u>N/A</u> DWELLING UNIT SIZE (Sq. Ft.): _____ GROSS DENSITY: _____ NET DENSITY: _____	<b>NON-RESIDENTIAL DEVELOPMENT:</b> NO. OF BUILDINGS/LOTS: <u>1</u> TOTAL GROSS SQUARE FEET: <u>±6,039 sf</u> DENSITY: <u>N/A</u>

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED



**RECEIVED**

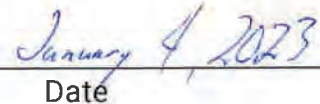
1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 10/2021

**CHANGE IN CONDITIONS APPLICANT'S CERTIFICATION**

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

  
Signature of Applicant

  
Date

J. Alexander Brock (Smith, Gambrell & Russell, LLP)

Type or Print Name and Title

 1-4-23  
Signature of Notary Public Date



Notary Seal

**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

**CHANGE IN CONDITIONS PROPERTY OWNER'S CERTIFICATION**

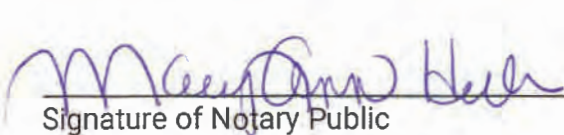
THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

  
\_\_\_\_\_  
Signature of Property Owner

12/20/2022  
\_\_\_\_\_  
Date

Joe Schlosser, V.P.  
\_\_\_\_\_  
Type or Print Name and Title

(Phillips Edison & Company)

  
\_\_\_\_\_  
Signature of Notary Public

12/20/2022  
\_\_\_\_\_  
Date



Notary Seal

MARYANN HUBER  
Notary Public  
State of Ohio  
My Comm. Expires  
February 10, 2026

RECEIVED

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

[Signature] 12/20/2022 Joe Schlosser, VP  
Signature of Applicant Date Type of Print Name and Title  
(Phillips Edison & Company)

\_\_\_\_\_  
Signature of Applicant's Attorney or Representative Date Type or Print Name and Title

[Signature] 12/20/2022 Maryann Huber  
Signature of Notary Public Date Notary Seal



MARYANN HUBER  
Notary Public  
State of Ohio  
My Comm. Expires  
February 10, 2026

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐ YES ☒ NO Joe Schlosser  
Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.

**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

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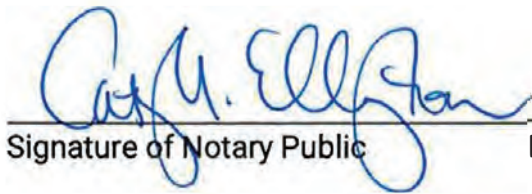
Signature of Applicant Date Type or Print Name and Title



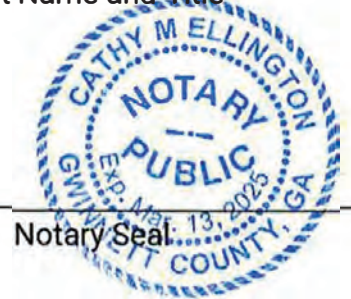
12.28.2022

J. Alexander Brock

Signature of Applicant's Attorney or Representative Date (Smith, Gambrell & Russell, LLP)  
Type or Print Name and Title



12.28.2022



Signature of Notary Public

Date

Notary Seal

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐ YES ☒ NO

J. Alexander Brock

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.



**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

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The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Signature of Applicant

Date

Type of Print Name and Title



12.28.2022

Dennis J. Webb, Jr.

Signature of Applicant's  
Attorney or Representative

Date

(Smith, Gambrell & Russell, LLP)

Type or Print Name and Title



12.28.2022

Signature of Notary Public

Date

Notary Seal



**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

Dennis J. Webb, Jr.

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.

**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Signature of Applicant                      Date                      Type of Print Name and Title  
(Phillips Edison & Company)

*Kathryn M Zickert*

12.28.2022

Kathryn M. Zickert

Signature of Applicant's                      Date                      (Smith, Gambrell & Russell, LLP)  
Attorney or Representative                      Type or Print Name and Title

*Cathy M Ellington* 12.28.2022

Signature of Notary Public

Date

Notary Seal



**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

Kathryn M. Zickert

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.





**RECEIVED**

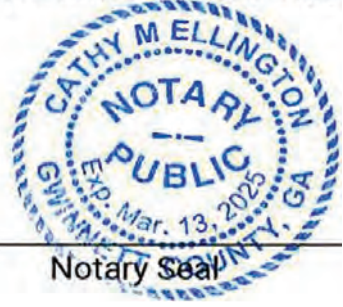
1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

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The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Signature of Applicant	Date	Type of Print Name and Title (Phillips Edison & Company)
	12.28.2022	Kirk R. Fjelstul
Signature of Applicant's Attorney or Representative	Date	(Smith, Gambrell & Russell, LLP) Type or Print Name and Title
	12.28.2022	
Signature of Notary Public	Date	Notary Seal



**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

Kirk R. Fjelstul

\_\_\_\_\_  
Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.

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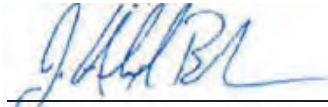
1/5/2023

**VERIFICATION OF CURRENT PAID PROPERTY TAXES**  
**FOR CHANGE IN CONDITIONS**

THE UNDERSIGNED CERTIFIES THAT ALL GWINNETT COUNTY PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION FOR REZONING BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

**\* NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

**PARCEL I.D. NUMBER:**            7       -      182      -      113       
(Map Reference Number)      District      Land Lot      Parcel



12/29/2022

Signature of Applicant

Date

J. Alexander Brock, Attorney (Smith, Gambrell & Russell, LLP)

Type or Print Name and Title

**\*\*\*PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.\*\*\***

**TAX COMMISSIONERS USE ONLY**

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Jacquleen Garcia

NAME

Tax Associate I

TITLE

01/03/2023

DATE

**Exhibit E: Previously Approved Resolution (RZC-00-163)**  
**[attached]**

CASE NUMBER RZ-00 -163

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

<u>Present</u>	<u>VOTE</u>
Wayne Hill, Chairman	<u>AYE</u>
Tommy Hughes, District 1	<u>ABSENT</u>
Patti Muise, District 2	<u>AYE</u>
Judy Waters, District 3	<u>AYE</u>
Kevin Kenerly, District 4	<u>AYE</u>

On motion of COMM. MUISE, which carried 4-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from

RA-200 to C-2  
by RIDGE ROAD ASSOCIATES, INC. for the proposed use of  
COMERCIAL RETAIL USES (REDUCTION IN BUFFERS) on a tract of  
land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on DECEMBER 12, 2000 and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 12<sup>TH</sup> day of DECEMBER, 2000, that the aforesaid application to amend the Official Zoning Map from RA-200 to C-2 is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:
  - A. Commercial/retail, office, and accessory uses.
  - B. Outparcel building(s) shall have pitched roof(s) (minimum 4:12 visible pitch).
  - C. All building(s) shall be finished with architectural treatments of glass and/or brick, stacked stone, or stucco. Final building plans shall be submitted to the Director of Planning and Development for review and approval.
2. To satisfy the following site development considerations:
  - A. Provide a 50-foot wide natural, undisturbed buffer located adjacent to residentially zoned property; except for approved access, utility crossings, and replantings with evergreen trees where sparsely vegetated in order to provide an effective visual screen.

- B. Provide a 10-foot wide landscape strip along the entire length of the development adjacent to all road frontages.
- C. Provide paved pedestrian connections from the buildings to sidewalks along road frontages.
- D. Provide 5-foot wide sidewalks along the entire length of the site adjacent to Hamilton Mill Road, and provide 4-foot wide sidewalks adjacent to Wallace Road and Ridge Road.
- E. Provide a 5-foot wide landscape strip adjacent to all internal property lines.
- F. Locate stormwater detention facilities outside of all required buffers and landscape strips.
- G. Ground signage for any outparcel development shall be limited to monument type signs of brick construction matching the materials of the buildings and shall not exceed six (6) feet in height. Shopping center signage shall be constructed of materials matching the center's exterior and shall not exceed requirements of the Gwinnett County Zoning Resolution.
- H. Billboards shall be prohibited.
- I. Dumpsters/compactors shall be screened by a brick wall. Hours of dumpster pick-up shall be limited to between 7:00am and 9:00pm.
- J. Provide interparcel access throughout the development.
- K. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent and nearby residential properties.
- L. Natural vegetation shall remain on the property prior to the issuance of a commercial development permit.

- M. No temporary signs shall be permitted. No banners, streamers or roping decorated with flags (other than one U.S. and/or State of Georgia flag), tinsel, or other similar materials shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site.
  - N. The number and location of proposed driveways shall be subject to the review and approval of the Gwinnett County Department of Transportation and the Development Review Section. Outparcel development shall be limited to driveways shared with the main shopping center.
3. To abide by the following requirements, dedications, and improvements:
- A. Deposit \$30,000 with the Gwinnett County Department of Transportation for the signalization of the Hamilton Mill Road/Ridge Road intersection.
  - B. Dedicate sufficient right-of-way and construct an additional twelve (12) foot lane along the entire property frontage on both Hamilton Mill and Ridge Roads. Design and construction shall be subject to review and approval of the Gwinnett County Department of Transportation.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By:

F. Wayne Hill  
F. Wayne Hill, Chairman

Date Signed:

Dec. 18, 2000

ATTEST:

Brenda Maddox  
County Clerk

**Exhibit F: Internal and External Agency Review Comments**

**[attached]**





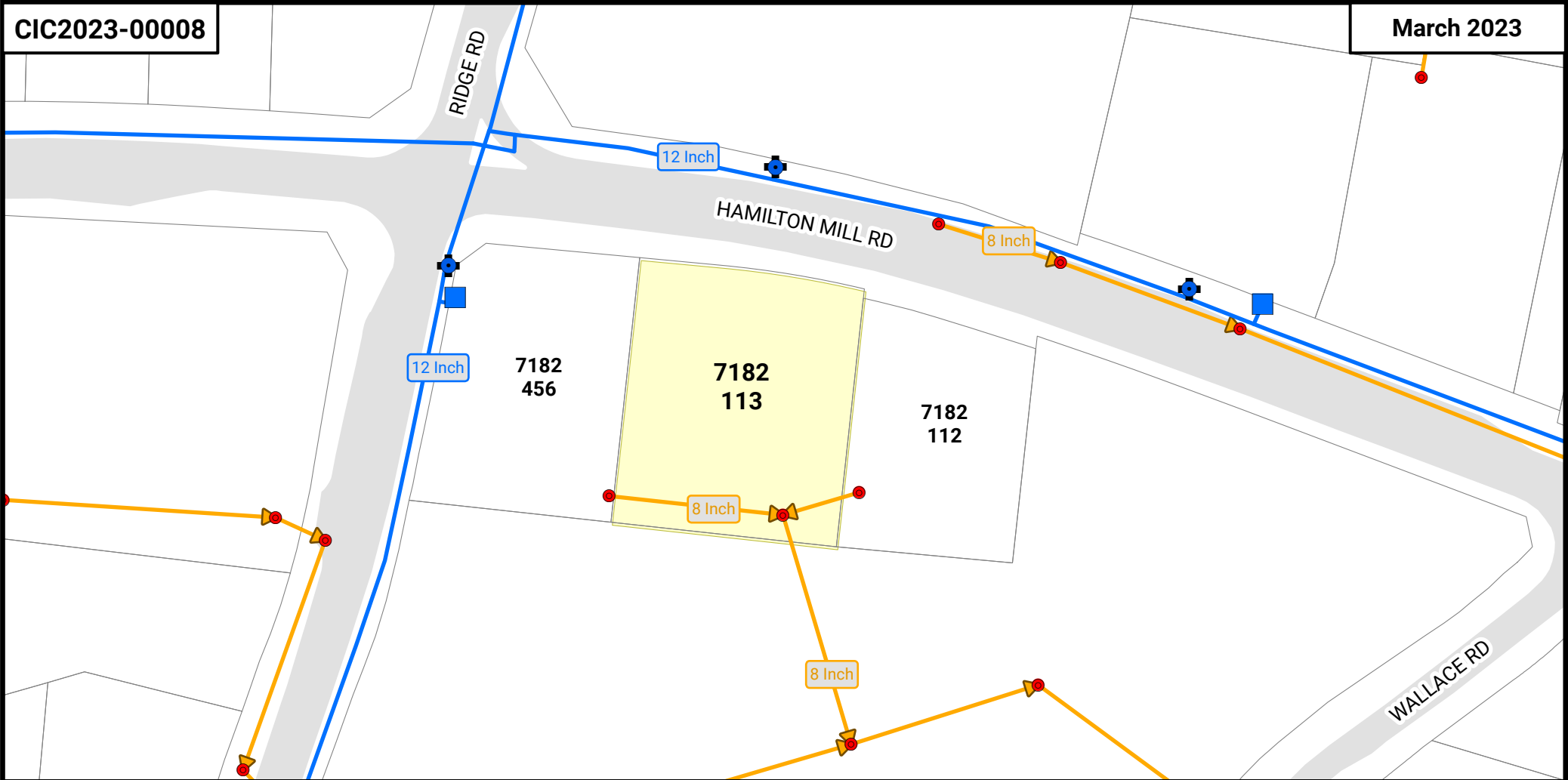
Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE

<b>TRC Meeting Date:</b>		2.15.2023	
Department/Agency Name:		Transportation	
Reviewer Name:		Brent Hodges	
Reviewer Title:		Construction Manager 1	
Reviewer Email Address:		<a href="mailto:Brent.Hodges@gwinnettcountry.com">Brent.Hodges@gwinnettcountry.com</a>	
Case Number:		CIC2023-00008	
Case Address:		3320 Hamilton Mill Road	
<b>Comments:</b>		<input checked="" type="checkbox"/> <b>X</b>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
1	Hamilton Mill Road is a minor arterial. ADT = 21,500.		
2	4.9 miles to the nearest transit facility (#2334754) Buford Park and Ride.		
3			
4			
5			
6			
7			
<b>Recommended Zoning Conditions:</b>		<input type="checkbox"/>	<input checked="" type="checkbox"/> <b>X</b> <b>NO</b>
1			
2			
3			
4			
5			
6			
7			



Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE

TRC Meeting Date:			
Department/Agency Name:		DWR	
Reviewer Name:		Mike Pappas	
Reviewer Title:		GIS Planning Manager	
Reviewer Email Address:		<a href="mailto:Michael.pappas@gwinnettcounty.com">Michael.pappas@gwinnettcounty.com</a>	
Case Number:		CIC2023-00008	
Case Address:		3320 Hamilton Mill Road	
Comments:		<input checked="" type="checkbox"/> X	<input type="checkbox"/> YES <input type="checkbox"/> NO
1	Water: The proposed development may connect to an existing 12-inch water main on the northern right-of-way of Hamilton Mill Road.		
2	Sewer: Sewer Capacity Certification C2022-186-07 was approved in July, 2022 for a 140-seat restaurant and 2,402 sq ft of retail space. The development may connect to an existing 8-inch gravity sewer main located on the south side of the subject parcel.		
3			
4			
5			
6			
7			
Recommended Zoning Conditions:		<input type="checkbox"/>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> X <input type="checkbox"/> NO
1			
2			
3			
4			
5			
6			
7			



LEGEND

	Flow Management		Hydrant		Sewer Force Main
	Pump Station		City		Effluent Outfall
	Regional		Water Main		Sewer Collector
	Manhole		Reuse Main		Sewer Interceptor

3320 Hamilton Mill Road  
C-2

Water & Sewer  
Utility Map

LOCATION

**Water Comments:** The proposed development may connect to an existing 12-inch water main on the northern right-of-way of Hamilton Mill Road.

**Sewer Comments:** Sewer Capacity Certification C2022-186-07 was approved in July 2022 for a 140-seat restaurant and 2,402 sq ft of retail space. The development may connect to an existing 8-inch gravity sewer main located on the south side of the subject parcel.

**Water Availability:** Water demands imposed by the proposed development may require upsizing or extensions of existing water mains in order to meet Gwinnett County Standards and fire flow demands. Any cost associated with such required improvements will be the responsibility of the development. Current Gwinnett County Standards require a minimum of 12" pipe size for commercial developments and a minimum of 8" pipe size for residential developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial and residential developments, respectively. It is the responsibility of the developer's engineer to confirm pressure and volumes are available for the development.

**Sewer Availability:** A Sewer Capacity Certification must be obtained from Gwinnett County to confirm the existing system can serve the development. Sewer demands imposed by the proposed development may require upsizing and/or extensions of existing sewer mains, and/or upsizing of an existing pump station, and/or installation of a new pump station. Any cost associated with such required improvements will be the responsibility of the development. The developer shall provide easements for future sewer connection to all locations designated by Gwinnett County during plan review.

**Water and Sewer Design and Construction Requirements:** Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies, Gwinnett County's ordinances, and the Water Main and Sanitary Sewer Design and Construction Standards and Specifications, dated April 5th, 2016. Subsequent to design, construction, inspection, and final acceptance of the required utilities, service would then become available under the applicable utility permit rate schedules.

**Private Road Developments:** Any development with private roads must comply with the Standard Policy Requirement for the Installation of Water and Sanitary Sewer Mains within Private Developments. This policy stipulates minimum easement requirements and location of public mains and appurtenances, among other requirements.

## **Exhibit G: Maps**

**[attached]**



HAMILTON MILL RD

RIDGE RD

WALLACE RD



CIC2023-00008

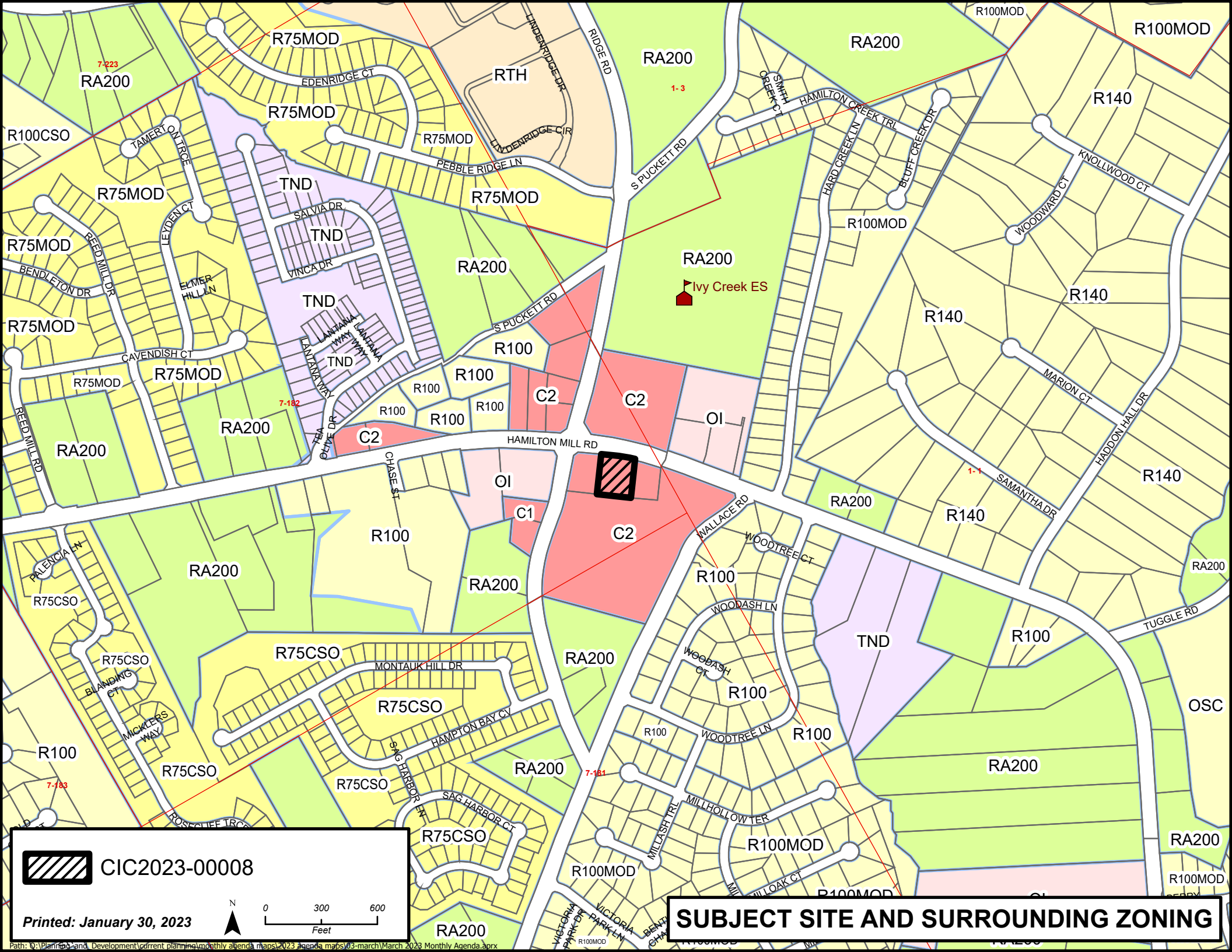
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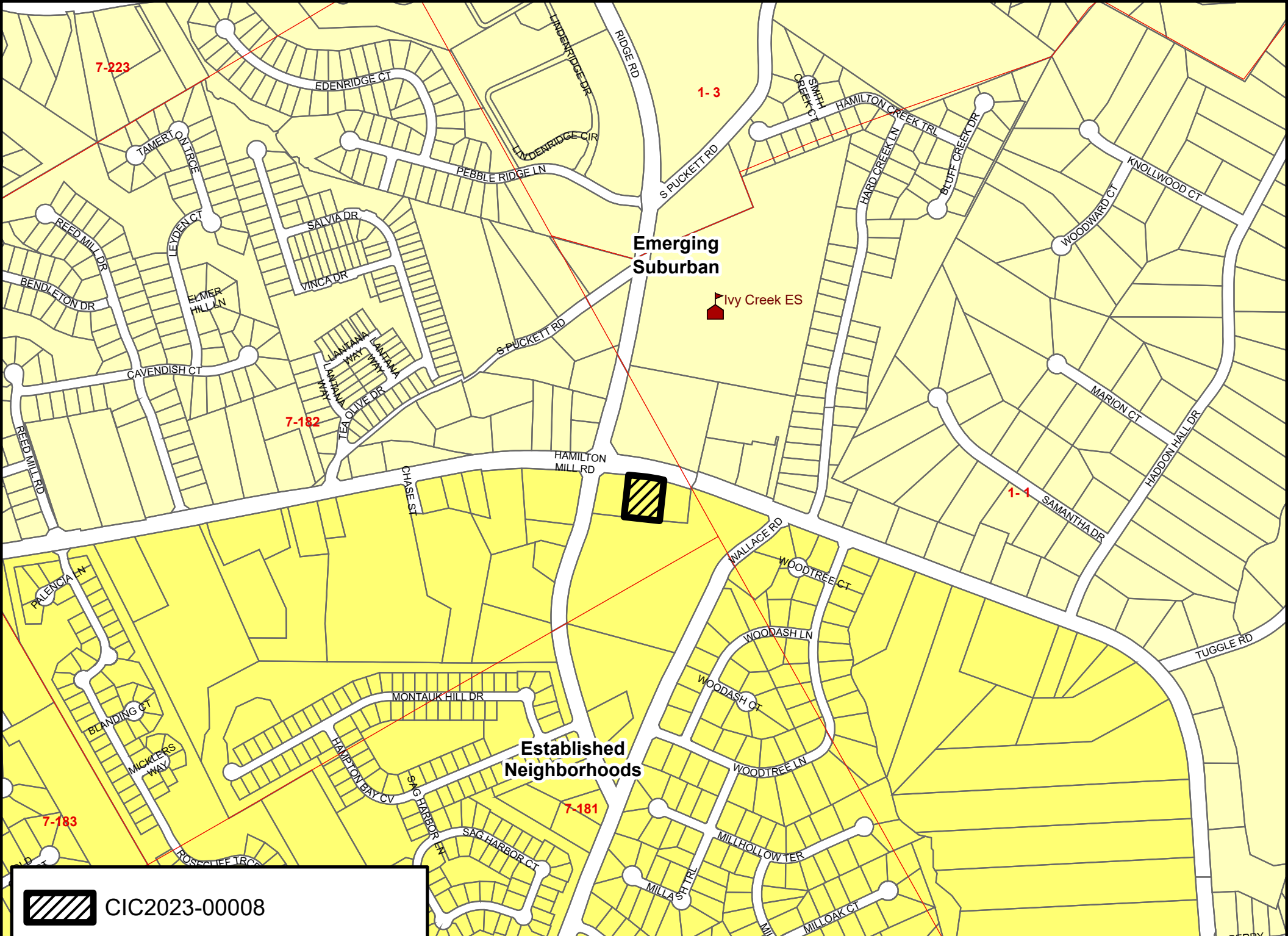
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**SUBJECT SITE AND SURROUNDING ZONING**



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# 2040 UNIFIED PLAN FUTURE DEVELOPMENT CLASSIFICATION

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# CHANGE IN CONDITIONS APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF WINNETT COUNTY, GEORGIA

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>Phillips Edison &amp; Company c/o J. Alexander Brock, Smith, Gambrell &amp; Russell, LLP</u>	NAME: <u>Phillips Edison &amp; Company</u>
ADDRESS: <u>1105 West Peachtree Street, NE</u>	ADDRESS: <u>11501 Northlake Drive</u>
CITY: <u>Atlanta</u>	CITY: <u>Cincinnati</u>
STATE: <u>GA</u> ZIP: <u>30309</u>	STATE: <u>OH</u> ZIP: <u>45249</u>
PHONE: <u>404-815-3603</u>	PHONE: <u>513-338-2735</u>
EMAIL: <u>jabrock@sgrlaw.com</u>	EMAIL: <u>qgadow@phillipsedison.com</u>
CONTACT PERSON: <u>Alex Brock-Smith, Gambrell &amp; Russell, LLP</u> PHONE: <u>404-815-3603</u>	
CONTACT'S E-MAIL: <u>jabrock@sgrlaw.com</u>	

APPLICANT IS THE:	
<input checked="" type="checkbox"/> PROPERTY OWNER	<input type="checkbox"/> OWNER'S AGENT <input type="checkbox"/> CONTRACT PURCHASER
ZONING DISTRICTS(S): <u>C-2</u> PRIOR ZONING CASE: <u>RZ-009-163</u>	
PARCEL NUMBER(S): <u>7182 113</u> ACREAGE: <u>±12.6572 ac</u>	
ADDRESS OF PROPERTY: <u>3320 Hamilton Mill Road, Buford, GA 30519</u>	
PROPOSED CHANGE IN CONDITIONS: <u>Remove condition 1B requiring pitched roofs</u>	
<b>RESIDENTIAL DEVELOPMENT:</b> NO. OF LOTS/DWELLING UNITS: <u>N/A</u> DWELLING UNIT SIZE (Sq. Ft.): _____ GROSS DENSITY: _____ NET DENSITY: _____	<b>NON-RESIDENTIAL DEVELOPMENT:</b> NO. OF BUILDINGS/LOTS: <u>1</u> TOTAL GROSS SQUARE FEET: <u>±6,039 sf</u> DENSITY: <u>N/A</u>

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED



*All that tract or parcel of land lying or being in Land Lot 182, 7th District, Gwinnett County, Georgia, and being more particularly described as follows:*

*Commencing at 1/2 inch rebar found at the intersection of the Easterly right-of-way of Ridge Road (variable right-of-way) with the Southerly right-of-way of Hamilton Mill Road (variable right-of-way), said point having State Plane Coordinates of North 1,489,664.94, East 2,365,673.07, Georgia West Zone; thence along said right-of-way of Hamilton Mill Road South 84 degrees 39 minutes 37 seconds East, a distance of 124.60 feet to a 5/8 inch rebar found, said point being the True Point of Beginning; thence continuing along said right-of-way South 84 degrees 39 minutes 37 seconds East, a distance of 65.16 feet to a 5/8 inch rebar found; thence along a curve to the right, said curve having an arc length of 118.21 feet with a radius of 829.88 feet, being subtended by a chord bearing of South 80 degrees 38 minutes 30 seconds East, a distance of 118.11 feet to a 1/2 inch rebar found; thence leaving said right-of-way South 06 degrees 12 minutes 48 seconds West, a distance of 209.55 feet to a 1/2 inch rebar found; thence North 83 degrees 46 minutes 54 seconds West, a distance of 183.10 feet to a 5/8 inch rebar found; thence North 06 degrees 13 minutes 06 seconds East, a distance of 215.03 feet to a 5/8 inch rebar found, said point being the True Point of Beginning.*

*Said tract of land contains 0.902 Acres.*

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## LEGAL DESCRIPTION

### Shopping Center Parcel Hamilton Ridge

All that tract or parcel of land lying and being in the Headrights District and Land Lots 181 & 182, 7<sup>th</sup> District, Gwinnett County, Georgia, and being more particularly described as follows:

To find the Point of Beginning, commence at a ½" rebar located at the southeast corner of the mitered intersection of the southerly right of way of Hamilton Mill Road (having a variable right of way) with the easterly right of way of Ridge Road (having a apparent 80' right of way); Thence along the easterly right of way of Ridge Road along a curve to the right having a radius of 4304.37 feet and an arc length of 155.51 feet, being subtended by a chord of South 11 degrees 11 minutes 02 seconds West for a distance of 155.50 feet to a ½" rebar; Thence continuing along said right of way for the following calls and distances South 10 degrees 45 minutes 10 seconds West for a distance of 24.75 feet to a ½" rebar; Thence South 13 degrees 49 minutes 23 seconds West for a distance of 13.33 feet to a ½" rebar, and the Point of Beginning.

Thence from said Point of Beginning, and leaving the right of way of Ridge Road South 83 degrees 46 minutes 30 minutes East for a distance of 489.93 feet to a ½" rebar; Thence North 06 degrees 12 minutes 22 seconds East for a distance of 189.94 feet to a ½" rebar located on the southerly right of way of Hamilton Mill Road; Thence along the right of way of Hamilton Mill Road South 69 degrees 13 minutes 31 seconds East for a distance of 421.12 feet to a ½" rebar at the mitered intersection with Wallace Road (having a 80' right of way); Thence along said miter South 11 degrees 31 minutes 41 seconds East for a distance of 23.66 feet to a ½" rebar; Thence along the right of way of Wallace Road the following calls and distances along a curve to the right having a radius of 900.92 feet and an arc length of 130.66 feet, being subtended by a chord of South 50 degrees 43 minutes 42 seconds West for a distance of 130.55 feet to a ½" rebar; Thence South 54 degrees 53 minutes 00 seconds West for a distance of 73.74 feet to a ½" rebar; Thence along a curve to the left having a radius of 358.88 feet and an arc length of 208.25 feet being subtended by a chord of South 40 degrees 02 minutes 53 seconds West for a distance of 205.34 feet to a ½" rebar; Thence South 23 degrees 25 minutes 27 seconds West for a distance of 87.59 feet to a ½" rebar; Thence South 24 degrees 47 minutes 44 seconds West for a distance of 131.40 feet to a ½" rebar; Thence South 27 degrees 11 minutes 57 seconds West for a distance of 221.40 to a ½" rebar; Thence leaving said right of way North 74 degrees 48 minutes 51 seconds West for a distance of 570.28 feet to a ½" rebar on the easterly right of way of Ridge Road; Thence along the right of way of Ridge Road the following calls and distances along a curve to the right having a radius of 703.67 feet and an arc length of 205.46 feet, being subtended by a chord of North 04 degrees 35 minutes 01 seconds East for a distance of 204.73 feet to a ½" rebar; Thence continuing along said arc for an arc length of 68.30 feet, being subtended by a chord of North 15 degrees 43 minutes 44 seconds East for a distance of 68.27 feet to a ½" rebar; Thence North 18 degrees 30 minutes 34 seconds East for a distance of 129.74 feet to a ½" rebar; Thence North 17 degrees 55 minutes 40 seconds East for a distance of 138.55 feet to a ½" rebar; Thence North 13 degrees 49 minutes 23 seconds East for a distance of 42.89 feet to a ½" rebar and the Point of Beginning.

Said tract contains 11.1126 acres more or less.

**OUT LOT 1 HAMILTON RIDGE**

All that tract or parcel of land lying and being in Land Lot 182, 7<sup>th</sup> District, Gwinnett County, Georgia, and being more particularly described as follows:

To find the Point of Beginning, commence at a ½" rebar located at the southwest end of the miter located at the intersection of the southerly right of way of Hamilton Mill Road (having a variable right of way) with the easterly right of way of Ridge Road (having an apparent 80' right of way); thence along said miter North 53 degrees 51 minutes 24 seconds East for a distance of 30.19 feet to a ½" rebar on the southerly right of way of Hamilton Mill Road; thence along said right of way South 84 degrees 39 minutes 21 seconds East for a distance of 189.90 feet to a ½" rebar; thence continuing along said right of way along a curve to the right having a radius of 829.88 feet and an arc length of 118.30 feet, being subtended by a chord of South 80 degrees 38 minutes 14 seconds East for a distance of 118.20 feet to a ½" rebar and the Point of Beginning.

Thence from said point of beginning, and continuing along said right of way along a curve to the right having a radius of 829.88 feet and an arc length of 107.77 feet, being subtended by a chord of South 72 degrees 50 minutes 00 seconds East for a distance of 107.70 feet to an ½" rebar; thence South 69 degrees 13 minutes 31 seconds East for a distance of 37.99 feet to a ½" rebar; thence leaving said right of way South 06 degrees 12 minutes 22 seconds West for a distance of 179.61 feet to a ½" rebar; thence North 83 degrees 46 minutes 30 seconds West for a distance of 142.57 feet to a ½" rebar; thence North 06 degrees 13 minutes 30 seconds East for a distance of 209.59 feet to a ½" rebar on the southerly right of way of Hamilton Mill Road, and the Point of Beginning.

Said tract contains 0.6426 acres more or less.

TOGETHER WITH easement rights contained in Declaration of Easements, Covenants and Restrictions by Hamilton Ridge, LLC, dated January 21, 2002, filed January 23, 2002, recorded in Deed Book 26083, Page 98, Gwinnett County, Georgia records; as modified by First Modification dated May 19, 2003, filed May 21, 2003, recorded in Deed Book 32696, Page 62, aforesaid records.

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THE FOLLOWING ENUMERATED CONDITIONS PER REZONING CASE NUMBER RZ-009-163.

1. TO RESTRICT THE USE OF THE PROPERTY AS FOLLOWS:

A. COMMERCIAL / RETAIL, OFFICE, AND ACCESSORY USES.

~~B. OUTPARCEL BUILDING(S) SHALL HAVE PITCHED ROOF(S) (MINIMUM 4:12 VISIBLE PITCH).~~

C. ALL BUILDING(S) SHALL BE FINISHED WITH ARCHITECTURAL TREATMENTS OF GLASS AND/OR BRICK, STACKED STONE OR STUCCO. FINAL BUILDINGS PLANS SHALL BE SUBMITTED TO THE DIRECTOR OF PLANNING AND DEVELOPMENT FOR REVIEW AND APPROVAL.

2. TO SATISFY THE FOLLOWING SITE DEVELOPMENT CONSIDERATIONS:

A. PROVIDE A 50 FOOT WIDE NATURAL, UNDISTURBED BUFFER LOCATED ADJACENT TO RESIDENTIALLY ZONED PROPERTY: EXCEPT FOR APPROVED ACCESS, UTILITY CROSSINGS, AND REPLANTINGS WITH EVERGREEN TREES WHERE SPARSELY VEGETATED IN ORDER TO PROVIDE AN EFFECTIVE VISUAL SCREEN.

B. PROVIDE A 10 FOOT WIDE LANDSCAPE STRIP ALONG THE ENTIRE LENGTH OF THE DEVELOPMENT ADJACENT TO ALL ROAD FRONTAGES.

C. PROVIDE PAVED PEDESTRIAN CONNECTIONS FROM THE BUILDINGS TO SIDEWALKS ALONG ROAD FRONTAGES.

D. PROVIDE 5 FOOT WIDE SIDEWALKS ALONG THE ENTIRE LENGTH OF THE SITE ADJACENT TO HAMILTON MILL ROAD, AND PROVIDE 4 FOOT WIDE SIDEWALKS ADJACENT TO WALLACE ROAD AND RIDGE ROAD.

E. PROVIDE A 5 FOOT WIDE LANDSCAPE STRIP ADJACENT TO ALL INTERNAL PROPERTY LINES.

F. LOCATE STORMWATER DETENTION FACILITIES OUTSIDE OF ALL REQUIRED BUFFERS AND LANDSCAPE STRIPS.

G. GROUND SIGNAGE FOR ANY OUTPARCEL DEVELOPMENT SHALL BE LIMITED TO MONUMENT TYPE SIGN OF BRICK CONSTRUCTION MATCHING THE MATERIALS OF THE BUILDING AND SHALL NOT EXCEED 6 FEET IN HEIGHT. SHOPPING CENTER SIGNAGE SHALL BE CONSTRUCTED OF MATERIALS MATCHING THE CENTER'S EXTERIOR AND SHALL NOT EXCEED REQUIREMENTS OF THE GWINNETT COUNTY ZONING RESOLUTION.



H. BILLBOARDS SHALL BE PROHIBITED.

I. DUMPSTERS / COMPACTORS SHALL BE SCREENED BY BRICK WALL. HOURS OF DUMPSTER PICK-UP SHALL BE LIMITED TO BETWEEN 7:00 AM AND 9:00 PM.

J. PROVIDE INTERPARCEL ACCESS THROUGHOUT THE DEVELOPMENT.

K. LIGHTING SHALL BE CONTAINED IN CUT-OFF TYPE LUMINARIES AND SHALL BE DIRECTED IN TOWARD THE PROPERTY SO AS NOT TO REFLECT INTO ADJACENT AND NEARBY RESIDENTIAL PROPERTIES.

L. NATURAL VEGETATION SHALL REMAIN ON THE PROPERTY PRIOR TO THE ISSUANCE OF A COMMERCIAL DEVELOPMENT PERMIT.

M. NO TEMPORARY SIGNS SHALL BE PERMITTED. NO BANNERS, STREAMERS OR ROPING DECORATED WITH FLAGS (OTHER THAN ONE U.S. AND /OR STATE OF GEORGIA FLAG), TINSEL, OR OTHER SIMILAR MATERIALS SHALL BE DISPLAYED, HUNG OR STRUNG ON THE SITE. NO DECORATIVE BALLOONS OR HOT-AIR BALLOONS SHALL BE DISPLAYED ON SITE.

N. THE NUMBER AND LOCATION OF PROPOSED DRIVEWAYS SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION AND THE DEVELOPMENT REVIEW SECTION. OUTPARCEL DEVELOPMENT SHALL BE LIMITED TO DRIVEWAYS SHARED WITH THE MAIN SHOPPING CENTER.

3. TO ABIDE BY THE FOLLOWING REQUIREMENTS, DEDICATIONS, AND IMPROVEMENTS:

A. DEPOSIT \$30,000 WITH THE GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION FOR THE SIGNALIZATION OF HAMILTON MILL ROAD/RIDGE ROAD INTERSECTION.

B. DEDICATE SUFFICIENT RIGHT OF WAY AND CONSTRUCT AN ADDITIONAL TWELVE (12) FOOT LAND ALONG THE ENTIRE PROPERTY FRONTAGE ON BOTH HAMILTON MILL AND RIDGE ROADS. DESIGN AND CONSTRUCTION SHALL BE SUBJECT TO REVIEW AND APPROVAL OF THE GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION.

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**STATEMENT OF INTENT**

and

Other Material Required by  
The Gwinnett County Unified Development Code  
for the  
Change in Conditions Application

of

PHILLIPS EDISON COMPANY

for

±12.6572 Acres of Land  
located at  
3320 Hamilton Mill Road,  
Gwinnett County

Submitted for Applicant by:

Dennis J. Webb, Jr.  
Kathryn M. Zickert  
J. Alexander Brock  
Smith, Gambrell & Russell, LLP  
1105 W. Peachtree Street, NE  
Suite 1000  
Atlanta, Georgia 30309  
404-815-3500

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## **I. INTRODUCTION**

This Application seeks a Change in Conditions from a rezoning of a  $\pm 12.6572$ -acre<sup>1</sup> property located at 3320 Hamilton Mill Road, Parcel ID: 7182 113 and 7182 002 (the “Subject Property”). The Subject Property was rezoned in 2000 from RA-200 (Agriculture Residence District) to C-2 (General Business District) per case number REZ2000-00163 (“2000 Rezoning”) for the development of the now existing Hamilton Ridge Shopping Center. The 2000 Rezoning contained several conditions, one of which states: “Outparcel building(s) shall have pitched roof(s) (minimum 4:12 visible pitch).” In 2002, the outparcel was developed for a Rite Aid drug store which incorporated pitched elements for approximately 20% of its facade, but did not contain pitched roof along its entire roofline. In 2020, the Rite Aid building was removed and a portion of the outparcel was developed for a Regions Bank, while the remainder was left for future development. Phillips Edison & Company (the “Applicant” or “Owner”)<sup>2</sup> is proposing the development of a  $\pm 6,000$  square foot commercial building (the “Proposed Development”) on the remaining undeveloped portion of the outparcel. The Proposed Development will be a multi-tenant commercial building with a mix of retail and restaurant uses. The Applicant submitted plans for land development and building permits in 2022 and proceeded through most of the permit review process before Gwinnett County Staff commented on the prior zoning condition.<sup>3</sup> It should be noted, that the architectural plans submitted for permit review have always contained a flat roof

<sup>1</sup> The subject outparcel is a 0.902-acre portion of the overall  $\pm 12.6572$ -acre Hamilton Ridge Shopping Center property. The zoning conditions govern the entire 12.6572-acre property. Also note, that rezoning case REZ2000-00163 covered a  $\pm 13.5321$  acre parcel, however a portion of this property was lost as right-of-way dedication after the rezoning. The instant application concerns the remaining  $\pm 12.6572$ -acres.

<sup>2</sup> The 0.902-acre outparcel (Parcel ID 7182 113 and addressed as 3320 Hamilton Mill Road) is owned by Hamilton Ridge Station Outparcel, LLC and the remainder of the Subject Property (Parcel ID 7182 002 and addressed as 3300 Hamilton Mill Road) is owned by Hamilton Ridge Station, LLC. Both Hamilton Ridge Station Outparcel, LLC and Hamilton Ridge Station, LLC are subsidiaries of Phillips Edison & Company, who is listed as the owner on the application.

<sup>3</sup> The Applicant also obtained a variance (ZVR2021-00066) regarding parking for the Proposed Development.



design. The pitched roof condition causes certain problems with the practical design and functioning of the multi-tenant building. To alleviate these hardships, the Applicant now seeks a Change in Conditions to REZ2000-00163 to remove the requirement for the pitched roof.

The requirement for pitched roofs causes many difficulties for the proposed building including the placement of mechanical equipment and signage. In particular, the mechanical equipment will need to be placed on the roof directly over the individual tenant space that it serves. The pitched roof, however, pushes the mechanical equipment toward the center of the roof and away from the edge of the building, making it difficult to locate equipment over each tenant space. This issue is particularly acute for restaurant tenants that will need vents and other piping directly above the kitchen space. Moreover, restaurant tenants often occupy the endcap spaces, where a pitch roof would surround the space on three sides. As a result, the pitched roof prevents the vent piping and mechanical equipment being located directly above the tenant space where it is required.

The pitched roof creates additional issues with tenant signage. The pitch makes it difficult to properly attach and locate signage over the tenant space. The signage requires a flat surface to attach, which limits its location to flat tower elements incorporated in the pitched roof. These tower elements are not above each tenant space, and therefore certain spaces cannot have signage identifying the business. This is not desirable for the tenant and make the space difficult to lease. A flat roof, however, allows signage to be placed above each tenant space. For example, the main building of the Hamilton Ridge Shopping Center and the commercial shops building at 3280 Hamilton Mill Road (within the Hamilton Ridge Shopping Center parcel) both have flat roofs with

multiple tenants and signage at each tenant space.<sup>4</sup> It is also important to note that both of these flat-roofed buildings have existed on the property since 2002. The Applicant is not asking for anything beyond what is allowed in the architectural design of the remaining Hamilton Ridge Shopping Center.

The Applicant is not aware of the intent, or the benefit, behind the condition the outparcel to have pitched roofs. However, in conversations with Gwinnett County Planning & Development, it was noted that at the time of the 2000 Rezoning approval, the Gwinnett County Code contained a provision requiring pitched roofs in the C-2 zoning, which has since been removed.<sup>5</sup> The current Gwinnett County Unified Development Ordinance (“UDO”) allows flat roofs for non-residential and commercial buildings in the C-2 zoning district.<sup>6</sup> In essence, the Applicant’s request for a flat roof would bring the Proposed Development in line with current code requirements. Accordingly, Gwinnett County Planning Staff suggested that the Applicant file a Change in Conditions application to remove the pitched roof conditions to allow the flat roof.

This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, an impact analysis as required by the Gwinnett County Unified Development Ordinance § 270-20.6, and an analysis of the standards governing the exercise of zoning power in the Gwinnett County Unified Development Ordinance §270-20.5.

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<sup>4</sup> Both the shopping center building and the commercial shops building are on the main Hamilton Ridge parcel and are not impacted by the pitched roof zoning condition. The pitched roof requirement is limited to the outparcel development.

<sup>5</sup> The Applicant has been unable to determine the exact date of when the code changed to remove the pitched roof condition. However, as early as 2014 the Gwinnett County UDO, Appendix 1 § 10.0.0 allowed Category 1 buildings in the C-2 zoning district. Category 1 buildings allow flat roofs.

<sup>6</sup> Refer to Gwinnett County UDO, Appendix 1 §§ 4.1.2 and 10.0.0.

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## II. IMPACT ANALYSIS

### A. WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

Yes. The proposed flat roof architecture is commensurate with what exists on the main parcel of the Hamilton Ridge Shopping Center, as well as other developments in the area. In particular the Hamilton Mill Plaza, located directly across Hamilton Mill Road from the Proposed Development at 3421 Ridge Road, is a multi-tenant commercial building with restaurant and retail uses. The Hamilton Mill Plaza is similar in use and nature, but with much larger floor area, to the Proposed Development. The Hamilton Mill Plaza was constructed in 2004 and is composed entirely of flat-roof architecture. In light of the adjacent and nearby development, the Applicant's proposal for flat-roof architecture is suitable.

### B. WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

The proposed Change in Conditions to remove the pitched roof requirement will have no bearing on the use or usability of adjacent or nearby property. The current pitched roof condition affects only construction on the Hamilton Ridge Shopping Center outparcels. The proposed Change in Conditions removes the requirement for pitched roofs, but will not prohibit pitched roof construction in the future. In fact, the UDO allows either flat roof or pitched roof construction in the C-2 zoning district. Consequently, the proposed Change in Conditions will allow future redevelopment to incorporate a roof design that is in conformance with the C-2 district requirements.

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**C. WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED.**

The Subject Property is zoned C-2 which allows a variety of commercial uses and allows the Proposed Development. The requested Change in Conditions does not affect the use of the Subject Property, but it allows a more practical architectural design. The Applicant's request to allow a flat roof design will alleviate certain problems that will affect its ability to lease the tenant spaces (including location of signage and mechanical equipment) and thus eliminate some of the constraints on economic use that currently affect the property.

**D. WHETHER THE PROPOSED CHANGE IN CONDITIONS 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 proposed Change in Condition is limited to the architectural design and will have no bearing on the use of existing streets, transportation facilities, utilities or schools.

**E. WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN.**

The Gwinnett County 2040 Future Development Map depicts the Subject Property as being within the Established Neighborhoods Land Use. Both current C-2 zoning and the Established Neighborhoods Land Use support the Proposed Development and do not prohibit the requested flat roof design. The Gwinnett County 2040 Unified Plan, page F-20, notes that any new development should be consistent in scale, architecture and use with the surrounding properties. As noted in the paragraphs above, the proposed flat roof design is consistent with the existing commercial developments in the area, including the architecture of the other buildings in the Hamilton Ridge Shopping Center. Thus, the requested Change in Conditions

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will bring the property further in line with the stated intent of the Gwinnett County 2040 Unified Plan.

**F. 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 CHANGE IN CONDITIONS.**

As noted in the paragraphs above, the Gwinnett County UDO has changed since the original 2000 Rezoning to allow commercial buildings with flat roofs in the C-2 district. Consequently, the proposed Change in Condition request would bring the property into alignment with current County requirements. In addition, there have been several developments in the area, subsequent to the construction of the Hamilton Ridge Shopping Center, that have all flat roofs, including the adjacent Hamilton Mill Plaza. Accordingly, the requested Change in Conditions will allow a development that is harmonious with the current UDO requirements and the existing architecture in the area.

**III. NOTICE OF CONSTITUTIONAL CHALLENGE TO UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

A refusal to grant the requested Change in Conditions application would be unconstitutional for, among other reasons, it would constitute an unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would discriminate unfairly between the owner of the Subject Property and other property owners similarly situated, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United

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States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would amount to a taking of property, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Change in Conditions application would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to grant the requested Change in Conditions application would be invalid inasmuch as the Unified Development Ordinance of Gwinnett County is unlawful, null and void because its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

The Unified Development Ordinance of Gwinnett County lacks adequate standards for the Board of Commissioners to exercise its power to review and vote on this Application. The standards are not sufficient to contain the discretion of the Board and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section III, Paragraph I and Article I, Paragraphs I and II of the Constitution of State of Georgia.

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Any limitation on the time for presentation of the issues before the Board of Commissioners is a violation of the guarantees of free speech under Article I, Section I, Paragraph V of the Constitution of the State of Georgia and the First Amendment of the Constitution of the United States. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia and the First Amendment of the Constitution of the United States, as well as the Due Process Clauses of the Constitution of Georgia and the Constitution of the United States.

In addition to the above, the Applicant raises the defenses of standing and failure to exhaust administrative remedies.

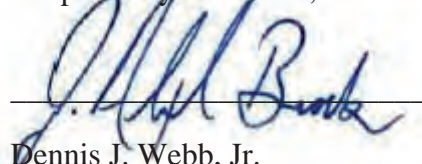
#### IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests approval of the Change in Conditions for the reasons set forth above.

This 5<sup>th</sup> day of January, 2023.

Smith, Gambrell & Russell, LLP  
1105 W. Peachtree Street, NE  
Suite 1000  
Atlanta, Georgia 30309  
404-815-3500

Respectfully submitted,



Dennis J. Webb, Jr.  
Kathryn M. Zickert  
J. Alexander Brock  
*Attorneys For Applicant*





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12/20/2022

HAMILTON MILL ROAD  
(VARIABLE 4/70)

RIDGE ROAD  
(VARIABLE 4/70)

### PROJECT NOTES

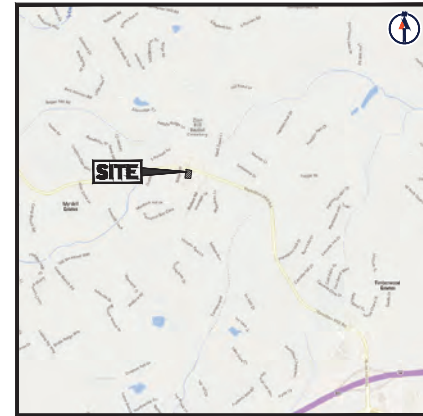
- ALL ON-SITE SIGNAGE TO BE MOUNTED ON 6" BOLLARDS EMBEDDED 3' MIN.
- TACTILE/GRIT STRIPING TO BE USED FOR PARKING LOT AND CROSSWALK PAVEMENT MARKINGS.
- ENSURE TACT COATING/SEAL COATING AT TRANSITION OF EXISTING TO NEW ASPHALT.
- THAT TRAFFIC CONTROL SIGNALS THAT ARE REMOVED OR DAMAGED MUST BE REINSTALLED OR REPLACED. ALL SIGNS MUST BE REINSTATE TO THE STANDARDS IN THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
- CONTRACTOR TO CONTACT BRITTON LOCKHART AT 678.639.8800 OR TOM WATLOCK AT 678.639.8844 PRIOR TO ANY LANE CLOSURES OR OPEN DITCHES AND/OR ROADWAY CLOSURES AS COLLISION HAZARD WITH LOCKHART GWINNETT COUNTY COM FROM AND/OR.
- DURING CONSTRUCTION AND FOR PERMANENT ACCESS, ROADWAYS CONSTRUCTED OF AN ALL WEATHER SURFACE CAPABLE OF SUPPORTING FLOOD PROOFING GROSS WEIGHT SHALL BE PROVIDED PER INTERNATIONAL FIRE CODE, CHAPTER 5, SECTION 503.2.3, APPENDIX D, TABLE 1, 2018 EDITION, GROUND & FLOOR SURFACES, IN ADDITION ACCESSIBLE ROADS AND VEHICLES, TRUCKS, AND CARS RAMP, SHALL BE STABLE, FIRM, AND DRAINAGE AND THE FIRMEST AND HORIZONTAL SEPARATION REQUIREMENTS OF IRC TABLES 504.3, 504.4, & 504.5 AND THE FIRMEST AND HORIZONTAL SEPARATION REQUIREMENTS OF IRC TABLES 601 AND 602.
- A SEPARATE BUILDING PERMIT IS REQUIRED FOR SITE LIGHTING.
- DEVELOPMENT SHALL COMPLY WITH ALL REGULATIONS OF UDO 220-30 (HIGHWAY 124/324/HAMILTON MILL ROAD OVERLAY DISTRICT).
- REFERENCE RECORDING CASE NO. RECORDING 1900.
- NOTIFY GWINNETT COUNTY INSPECTOR 24 HOURS BEFORE THE BEGINNING OF EVERY PHASE OF CONSTRUCTION 678.518.6000.
- NO CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNTIL ALL SITE IMPROVEMENTS HAVE BEEN COMPLETED.
- NO OUTSIDE STORAGE PROPOSED THIS INCLUDES SUPPLIES, EQUIPMENT, VEHICLES, PRODUCTS, ETC.
- SIGNS, LOCATION, NUMBER, AND SIZE ARE NOT APPROVED UNDER THIS BUILDING PERMIT. A SEPARATE PERMIT IS REQUIRED FOR EACH SIGN.
- ALL CONSTRUCTION TO COMPLY WITH GWINNETT COUNTY STANDARDS.
- NO OVERSIZED SIGNS ARE PERMITTED.
- NATURAL VEGETATION SHALL REMAIN ON THE PROPERTY UNTIL ISSUANCE OF A DEVELOPMENT PERMIT. NO INTERIM LAND DISTURBANCE PERMITS SHALL BE ISSUED.
- PER IRC TABLE 602, WE ARE NOT REQUIRED TO HAVE RATED EXTERIOR WALLS THE BUILDING IS TYPE I/R CONSTRUCTIONS AND WE WOULD ONLY BE ALLOWED AS A OR B TO THE EAST, WE ARE FREE AND CLEAR OVER 30' ON THE WEST, WE ARE BETWEEN 10'-30' FROM THE PROPERTY LINE.

### PROPOSED IMPERVIOUS AREA

DESCRIPTION	AREA
NEW IMPERVIOUS	± 0 SF
MODIFIED IMPERVIOUS	± 26,968 SF
ADA IMPERVIOUS	± 4,845 SF

### DISTURBED AREA SUMMARY

DESCRIPTION	AREA (ACRES)
TOTAL PARCEL AREA	± 0.90 AC
ON-SITE DISTURBED AREA	± 0.76 AC
OFF-SITE DISTURBED AREA	± 0.08 AC
TOTAL DISTURBED AREA	± 0.82 AC



LOCATION MAP  
SCALE: 1" = 2000  
SOURCE: BING MAPS

### GENERAL NOTES

- OWNERS: PHILLIPS EDISON & COMPANY
- EQUITABLE DEVELOPER/APPLICANT: PHILLIPS DESIGN & COMPANY  
1103 NORTH PLANE DRIVE  
CONCORD, OH 43089  
CONTACT: JIM BRUCKNER  
PHONE: 614.619.7800  
EMAIL: JBRUCKNER@PHILLIPSEDISON.COM
- ALL SIDEWALKS, STRIPING AND SIGNAGE TO BE ADA AND CODE COMPLIANT.
- ZONING DATA: PARCEL NUMBER: 7182 113  
GROSS LOT AREA: 1.00 AC  
EXISTING ZONING: C-2 (GENERAL BUSINESS DISTRICT)  
OVERLAY DISTRICT: ACTIVITY CENTER CORRIDOR OVERLAY DISTRICT  
EXISTING USE: PHARMACY OR DRUG STORE (PERMITTED)  
PROPOSED USE: GENERAL RETAIL AND RESTAURANT W/ DRIVE-THRU (PERMITTED)
- THIS PLAN IS BASED ON THE FOLLOWING: TOPOGRAPHIC SURVEY BY ADRIAN GOSWAMI LTD  
1880 BARNES HILL ROAD  
MARIETTA, GA 30067  
THE IMPROVEMENTS FOR THIS PROJECT INCLUDE THE CONSTRUCTION OF A 6,039 SF RETAIL RESTAURANT BUILDING WITH A DRIVE-THRU, PARKING FACILITIES, UNDERGROUND UTILITIES, AND LANDSCAPING.
- PARKING LOTS SHALL BE MAINTAINED IN GOOD CONDITION FREE OF POTHOLES, WEEDS, DUST, TRASH, AND DEBRIS.
- PER FEMA MAP # 13135C0027, THE ENTIRETY OF THE SITE LIES OUTSIDE THE 100-YEAR FLOODPLAIN.
- SCOOT NOTE: THE GENERAL CONTRACTOR IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH ANY INFRASTRUCTURE FLOOR, LEAD IN FIRST OFFICE, CONSIDER (PULP, PAK, ETC.) DUE TO CONSTRUCTION ACTIVITIES AND MUST OBTAIN ALL NECESSARY APPROVED CONTRACTORS TO PERFORM ANY WORK ON ROAD INFRASTRUCTURE. NOTIFY GDOT AT 678-639-8800 OF ANY ACTIVITY.

### BULK REQUIREMENTS:

EXISTING ZONING: C-2 (GENERAL BUSINESS DISTRICT)  
EXISTING USE: PHARMACY OR DRUG STORE (PERMITTED)  
PROPOSED USE: RETAIL AND RESTAURANT W/ DRIVE-THRU (PERMITTED)

BULK REQUIREMENTS:	ALLOWED REQUIRED	PROVIDED
A. MIN. LOT AREA	N/A	36,303 SF (0.90 AC)
B. MIN. BUILDING SETBACK		
FRONT SETBACK (NORTH)	MIN: 50'	66.2'
SIDE SETBACK (WEST)	MIN: 10'	23.1'
REAR SETBACK (SOUTH)	MIN: 30'	34.6'
C. MIN. LANDSCAPE STRIP (EAST)	MIN: 10'	10'
REAR LANDSCAPE STRIP (SOUTH)	MIN: 10'	10'
D. PARKING REQUIREMENTS		
MIN. 1 SPACE / 150 SF MAX. 1 SPACE / 200 SF RETAIL: ± 2,402 SF RESTAURANT USE: MIN: 1 SPACE / 150 SF MAX: 1 SPACE / 75 SF RESTAURANT: ± 3,442 SF	MIN: 29 SPACES MAX: 40 SPACES	29 SPACES
E. MIN. PARKING SPACE DIMENSIONS		
MIN. DRIVE AISLE	9' X 19'	9' X 19'
MIN. BUILDING HEIGHT	22' TO 34'	34'
F. MIN. LANDSCAPE ISLAND AREA	200 SF	200 SF



### REVISIONS

REV	DATE	COMMENT	BY
1	08/06/2022	REV. PER COUNTY COMMENTS	BLN
2	10/04/2022	REV. PER COUNTY COMMENTS	BLN
3	11/14/2022	REV. PER COUNTY COMMENTS	BLN
4	12/05/2022	REV. PER BUILDING DEPT & COMMISSION COMMENTS	BLN



### ISSUED FOR MUNICIPAL & AGENCY REVIEW & APPROVAL

PROJECT NO.: 04191076  
DRAWN BY: BML  
CHECKED BY: AUC  
DATE: 08/22/2022  
CAD ID: SITE-0

### SITE DEVELOPMENT PLANS FOR



PROPOSED DEVELOPMENT  
3320 HAMILTON MILL RD.  
BURLINGTON, GA 30519  
PARCEL NUMBER: 113  
DISTRICT 7, LAND LOT 182  
GWINNETT COUNTY



### SITE LAYOUT PLAN

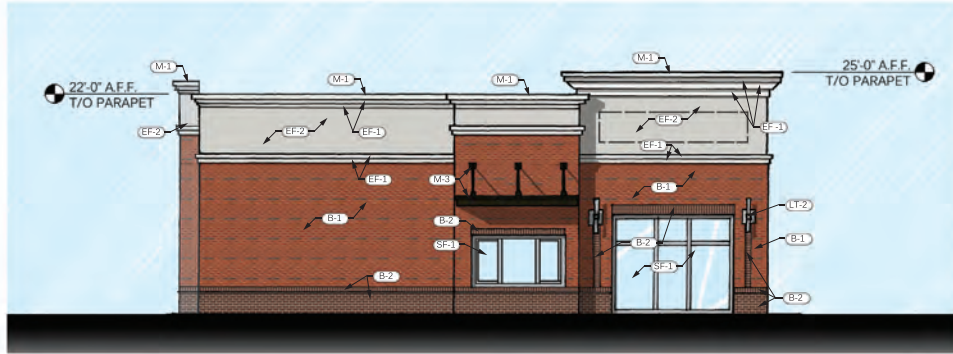
SHEET NUMBER: C-301

REVISION 4 - 12/05/2022





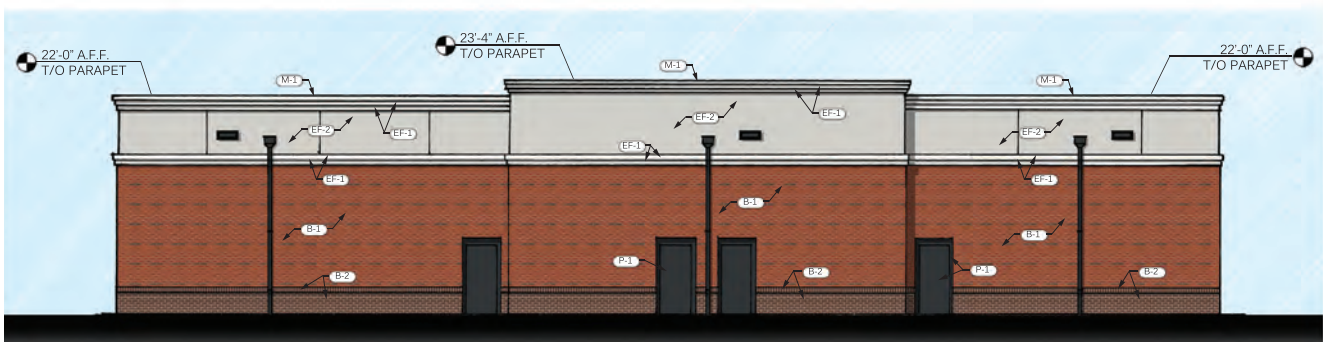
FRONT ELEVATION



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

**RECEIVED**

1/5/2023

EXTERIOR FINISH SCHEDULE			
MARK	CATEGORY	MANUFACTURER	DESCRIPTION / FINISH
B-1	QUEEN BRICK	GENERAL SHALE	COLOR: PRESERVATION RED W/ ARGOS SAHARA MORTAR, TOOLED JOINTS
B-2	QUEEN BRICK	GENERAL SHALE	COLOR: GEORGETOWN 8035 W/ ARGOS GEORGIA RED MORTAR, TOOLED JOINTS
EF-1	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7004 "SNOWBOUND" (256-C2)
EF-2	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7648 "BIG CHILL" (256-C7)
EF-3	EPS	DRYWIT	FINISH SANDBLAST, COLOR TO MATCH: SW 7038 "ACCESSIBLE BEIGE" (249-C1)
LT-1	LIGHTING	SPR LIGHTING	ARCHITECTURAL LIGHT FIXTURE, MODEL: MARKER, COLOR: "ALUMINUM (METALLIC TEXTURED)"
LT-2	LIGHTING	BROWNLIFE	ARCHITECTURAL LIGHT FIXTURE, MODEL: BEAM 7176-34-N1-40K-8B1, COLOR: "NICKEL TONE"
M-1	METAL	PAC-CLAD	METAL COPING, COLOR: "STONE WHITE"
M-2	METAL	PAC-CLAD	METAL COPING AND STANDING SEAM TEE PANEL, COLOR: "SILVER"
M-3	METAL	PAC-CLAD	METAL AWNING, COLOR: "MIDNIGHT BRONZE"
P-1	PAINT	SHERWIN WILLIAMS	PAINT, COLOR: SW 6993 "BLACK OF NIGHT" (251-C5)
SF-1	STOREFRONT SYSTEM	OLDCASTLE	COLOR: "CLEAR ANODIZED ALUMINUM"
SF-2	STOREFRONT SYSTEM	OLDCASTLE	COLOR: "DARK BRONZE"

DEVELOPED BY:



HAMILTON RIDGE OUTBUILDING

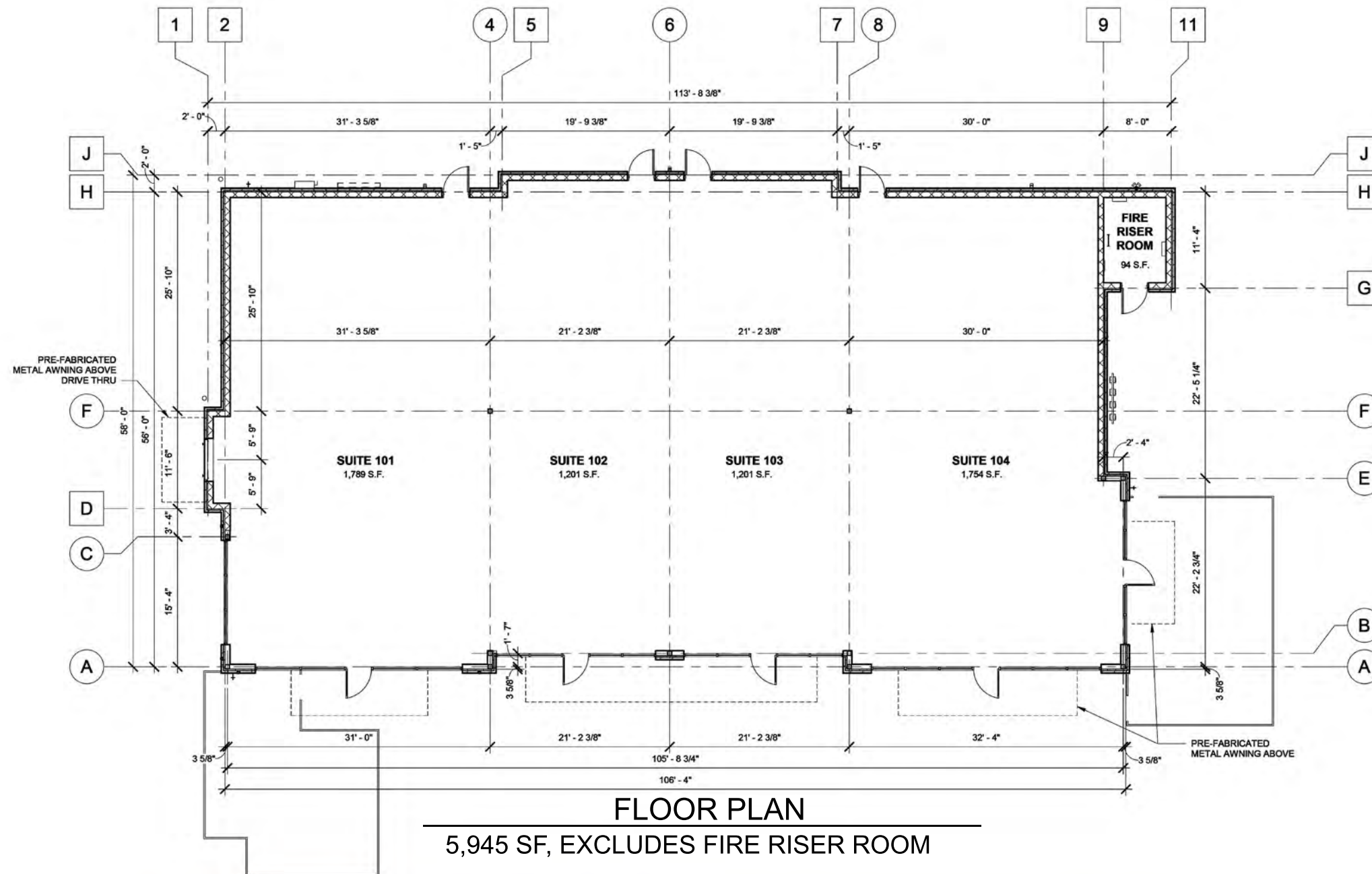
BUFORD, GEORGIA

**MaxDesignGroup**

Architecture · Planning · Interiors

Project Number: D21-111

04 AUGUST 2022



**FRONT ELEVATION**

DEVELOPED BY:



**HAMILTON RIDGE OUTBUILDING**

BUFORD, GEORGIA

MaxDesign Group Project  
D21-111

04 AUGUST 2022





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1/5/2023

**CHANGE IN CONDITIONS APPLICANT'S RESPONSE**  
**STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER**

PURSUANT TO REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

- (A) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

See Attached Statement of Intent

---

- (B) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

See Attached Statement of Intent

---

- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

See Attached Statement of Intent

---

- (D) WHETHER THE PROPOSED CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

See Attached Statement of Intent

---

- (E) WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

See Attached Statement of Intent

---

- (F) 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 CHANGE IN CONDITIONS:

See Attached Statement of Intent

---

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1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 10/2021

**CHANGE IN CONDITIONS APPLICANT'S CERTIFICATION**

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

  
Signature of Applicant

  
Date

J. Alexander Brock (Smith, Gambrell & Russell, LLP)

Type or Print Name and Title

 1-4-23  
Signature of Notary Public Date



Notary Seal


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1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

**CHANGE IN CONDITIONS PROPERTY OWNER'S CERTIFICATION**

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

  
\_\_\_\_\_  
Signature of Property Owner

12/20/2022  
\_\_\_\_\_  
Date

Joe Schlosser, V.P.  
\_\_\_\_\_  
Type or Print Name and Title

(Phillips Edison & Company)

  
\_\_\_\_\_  
Signature of Notary Public

12/20/2021  
\_\_\_\_\_  
Date



MARYANN HUBER  
Notary Public  
State of Ohio  
My Comm. Expires  
February 10, 2026

\_\_\_\_\_  
Notary Seal



**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

[Signature] 12/20/2022 Joe Schlosser, VP  
Signature of Applicant Date Type of Print Name and Title  
(Phillips Edison & Company)

\_\_\_\_\_  
Signature of Applicant's Attorney or Representative Date Type or Print Name and Title

[Signature] 12/20/2022 Maryann Huber  
Signature of Notary Public Date Notary Seal



MARYANN HUBER  
Notary Public  
State of Ohio  
My Comm. Expires  
February 10, 2026

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐ YES ☒ NO Joe Schlosser  
Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.

**RECEIVED**

1/5/2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 5/2021

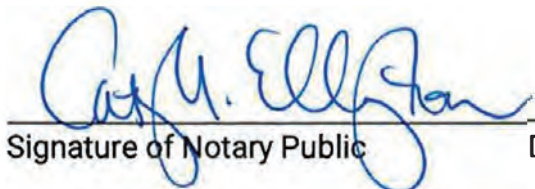
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Signature of Applicant Date Type or Print Name and Title

 12.28.2022 J. Alexander Brock

Signature of Applicant's Attorney or Representative Date (Smith, Gambrell & Russell, LLP)  
Type or Print Name and Title

 12.28.2022  
Signature of Notary Public Date Notary Seal



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Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

J. Alexander Brock

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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Signature of Applicant

Date

Type of Print Name and Title



12.28.2022

Dennis J. Webb, Jr.

Signature of Applicant's  
Attorney or Representative

Date

(Smith, Gambrell & Russell, LLP)

Type or Print Name and Title



12.28.2022

Signature of Notary Public

Date

Notary Seal



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Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

Dennis J. Webb, Jr.

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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Signature of Applicant                      Date                      Type of Print Name and Title  
(Phillips Edison & Company)

*Kathryn M Zickert*

12.28.2022

Kathryn M. Zickert

Signature of Applicant's                      Date                      (Smith, Gambrell & Russell, LLP)  
Attorney or Representative                      Type or Print Name and Title

*Cathy M. Ellington* 12.28.2022

Signature of Notary Public

Date

Notary Seal



**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

☐

YES

☒

NO

Kathryn M. Zickert

Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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Signature of Applicant

Date

Type of Print Name and Title  
(Phillips Edison & Company)



12.28.2022


Kirk R. Fjelstul

Signature of Applicant's  
Attorney or Representative

Date

(Smith, Gambrell & Russell, LLP)

Type or Print Name and Title



12.28.2022

Signature of Notary Public

Date



Notary Seal

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☐

YES

☒

NO

Kirk R. Fjelstul

Your Name

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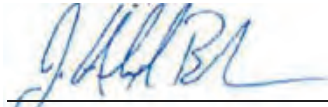
1/5/2023

**VERIFICATION OF CURRENT PAID PROPERTY TAXES**  
**FOR CHANGE IN CONDITIONS**

THE UNDERSIGNED CERTIFIES THAT ALL GWINNETT COUNTY PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION FOR REZONING BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

**\* NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

**PARCEL I.D. NUMBER:**                            7       -      182      -      113       
(Map Reference Number)                      District                      Land Lot                      Parcel



12/29/2022

Signature of Applicant

Date

J. Alexander Brock, Attorney (Smith, Gambrell & Russell, LLP)

Type or Print Name and Title

**\*\*\*PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.\*\*\***

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**TAX COMMISSIONERS USE ONLY**

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Jacquleen Garcia

NAME

Tax Associate I

TITLE

01/03/2023

DATE