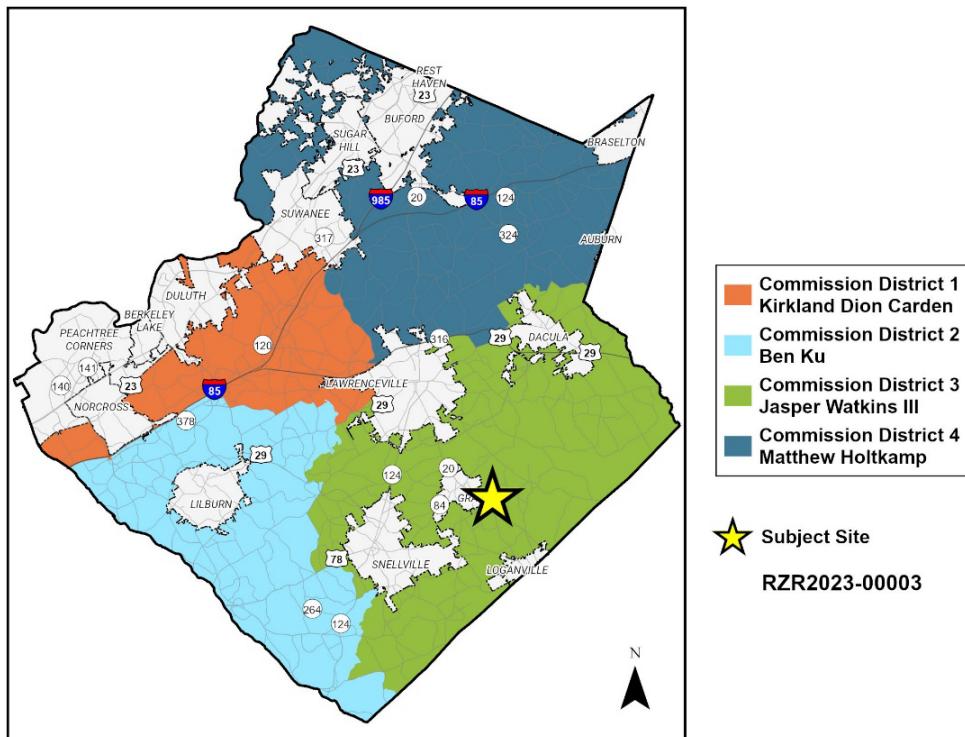




PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

Case Number:	RZR2023-00003
Current Zoning:	R-100 (Single-Family Residence District)
Request:	Rezoning to TND (Traditional Neighborhood Development District)
Additional Requests:	Variances and Waiver
Address:	2725 Moon Road and 2700 Block of Moon Road
Map Numbers:	R5166 001 and 028
Site Area:	27.98 acres
Units:	141
Proposed Development:	Traditional Neighborhood Development
Commission District:	District 3 – Commissioner Watkins
Character Area:	Suburban Estate Living
Staff Recommendation:	DENIAL
Planning Commission Recommendation:	DENIAL



Planning Commission Advertised Public Hearing Date: 12/5/2023 (Public Hearing Tabled to 2/6/2024)

Board of Commissioners Advertised Public Hearing Date: 12/12/2023 (Public Hearing Tabled to 2/27/2024)

Applicant: Mason Capital, LLC
c/o Mahaffey Pickens Tucker, LLP
1550 North Brown Road, Suite 125
Lawrenceville, GA 30043

Owners: Webb Jones
361 Grandview Road
Signal Mountain, TN 37377

Contact: Shane Lanham

Contact Phone: 770.232.0000

Zoning History

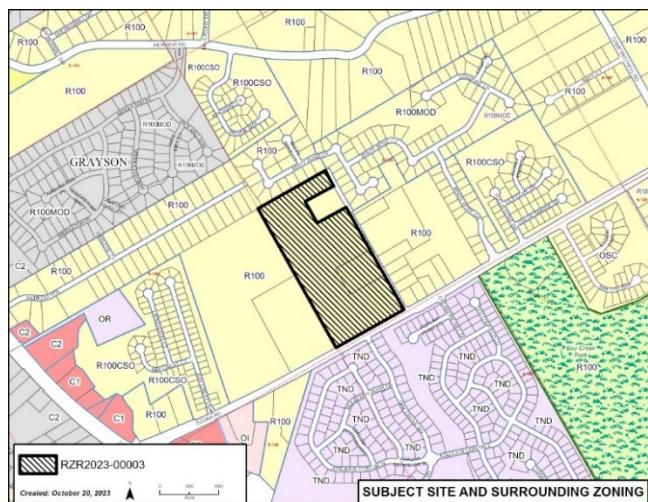
The subject property is zoned R-100 (Single-Family Residence District). The property was included in an areawide rezoning from RA-200 (Agriculture-Residence District) to R-100 in 1973.

Existing Site Condition

The subject site is a 27.98-acre assemblage of two parcels located along Ozora Road, immediately west of its intersection with Moon Road. The property is agricultural in character and is comprised of mostly fields, with an approximately 2.5-acre wooded area along the northern property line. The site contains a one-story single-family dwelling constructed in 1974, and a barn. A driveway from Moon Road through the site provides access to the adjacent property located at 2575 Moon Road. The terrain rises approximately 20 feet from Ozora Road to the center of the property, and then falls 6-10 feet to the rear property line. The northern half of the property rises approximately 14 feet from east to west. There are no sidewalks along either the Moon Road or Ozora Road frontages; however, there are sidewalks slightly to the east and the west on the same side of Ozora Road and a 12-foot-wide paved path along the south side of Ozora Road directly across from the subject site. The nearest Gwinnett County Transit stop is approximately 5.6 miles from the subject property.

Surrounding Use and Zoning

The subject property is one of a few remaining land tracts in a predominately single-family residential area. The property is bordered by the Rosebrooke subdivision to the north, and the Independence traditional neighborhood development to the south. Large, undeveloped wooded parcels with a single-family residence are located adjacent to the west. Single-family residences on large lots and several smaller residential properties are located to the east, across Moon Road. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning	Density
Proposed	Traditional Neighborhood Development	TND	5.04 units per acre
North	Single-Family Residential	R-100	2.14 units per acre
East	Single-Family Residential	R-100	1.81 units per acre 1.84 units per acre
South	Traditional Neighborhood Development	TND	2.37 units per acre
West	Single-Family Residential Undeveloped	R-100	0.1 units per acre N/A

Project Summary

The applicant requests rezoning of a 27.98-acre property from R-100 to TND for a Traditional Neighborhood Development, including:

- A total of 141 lots, composed of 87 townhouse units, 35 small single-family detached lots, and 19 mid-size single-family detached lots, yielding a density of 5.04 units per acre.
- Single-family detached residences with a minimum floor area of 1,800 square feet and front-loaded two-car garages, located on the western half of the development.
- Front-loaded and rear-loaded townhouses with a minimum floor area of 1,600 square feet, located along the eastern half of the development.
- 6.13 acres, or 21.9% common area in the front, center, and rear of the development.
- A 0.51-acre open space area in the center of the development with a play field and open air pavilion, surrounded by on-street parallel parking.
- An amenity area in the front of the development containing a swimming pool, pool house, and 20 parking spaces.
- One full-access entrance on Ozora Road and one emergency access entrance on Moon Road which will remain an unimproved gravel road.
- A 35-foot-wide natural, undisturbed buffer adjacent to R-100 zoned properties, except against a portion of Parcel R5166 009.
- A 14-foot-tall retaining wall between townhouse lot 106 and Parcel R5166 009, located in the northeast portion of the site.
- An access easement for an existing driveway from Moon Road onto Parcel R5166 009, which contains a single-family detached residence and accessory structures.
- 27-foot-wide internal streets and 4-foot-wide sidewalks on both sides of the street.
- A 5-foot-wide sidewalk and 10-foot-wide landscape strip along Ozora Road.
- A stormwater management facility at the front of the property along the Ozora Road frontage.
- Homes constructed of exterior building materials such as brick, stone, and cementitious siding, shake or board and batten that will comply with Architectural Design Standards, Category 2 of the UDO.
- A monument entrance sign and fences composed of brick veneer, stone veneer, and cedar rails.

Zoning and Development Standards

The applicant is requesting a rezoning to TND (Traditional Neighborhood Development District). The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Proposed	Meets Standard?
Building Height	Maximum 35'	35'	YES
Front Yard Setback	Minimum 5-15'	15'	YES
Side Yard Setback	Minimum 5-15'	5-15'	YES
Rear Yard Setback	Minimum 20'	20'	YES
Off-Street Parking	Minimum: 212	282	YES
Recreation Area Parking	Minimum: 15 Maximum: 29	20	YES
Zoning Buffer	35' adjacent to R-100	<35'	NO*
Landscape Strip	10'	10'	YES
Density	Maximum 8 units per acre	5.04 units per acre	YES
Common Area	20% or 5.57 acres	21.9% or 6.13 acres	YES
Building Length - Townhouses	Maximum 200'	192'	YES
Minimum Floor Area	3-Bedroom (Detached): 1,200 SF 4-Bedroom (Detached): 1,450 SF 3-Bedroom (Attached): 1,150 SF	40' Lots: 1,800 SF 50' Lots: 2,000 SF 3-Bedroom (Attached): 1,600 SF	YES
Housing Types / Lot Sizes	Three of the following types: Large lots (>9,500 SF) Mid-size lots (7,500-9,499 SF) Small lots (5,000-7,499 SF) Townhouses (2,000-5,999 SF)	N/A ≥ 7,500 square feet ≥ 5,000 square feet > 2,000 square feet	YES

*The applicant has requested a waiver to eliminate a portion of the buffer abutting R-100 zoned property.

Variance Requests

In addition to the rezoning request, the applicant is seeking variances from the following provisions of Title II of the UDO:

1. Section 210-80.10. B. Driveways and Alleys

If a block contains a majority of lots less than 60 feet in width, individual lot access for that block shall be from an alley, not a street.

The applicant requests some proposed single-family detached and townhouse lots, as depicted on the site plan, be front-loaded and accessed by an internal street where the majority of lots are less than 60 feet in width.

2. Section 210-80.7. C. Common Area

Villas and townhouses must be adjacent to, or directly across the street from, a common area such as a public park, green or square.

The applicant requests a variance to allow townhouses not to be located adjacent or across from a common area such as a public park, green, or square.

Waiver Request

In addition to the rezoning request, the applicant is requesting a waiver from the following provision of Title III of the UDO:

1. Section 610-20.5. Minimum Buffer Requirements

- A. Required buffers shall be provided in conformity with Table 610.0 "Table of Minimum Buffer Requirements".

A 35-foot-wide undisturbed zoning buffer for TND adjacent to R-100 zoned property.

The applicant requests a waiver to eliminate the 35-foot-wide undisturbed zoning buffer adjacent to a portion of the R-100 zoned property at 2575 Moon Road where an existing driveway encroaches into the required buffer. The required 5-foot-wide structure setback against the zoning buffer would also be eliminated as a result of this request.

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 stormwater, transportation, water, and sewer utilities. Recommended improvements not already required by the UDO have been added as staff recommended conditions.

Staff Analysis

Rezoning Request Analysis: According to the UDO, if a proposed amendment is for the rezoning of property and involves a change in zoning classification, 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 rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The surrounding area includes a mix of single-family residential detached subdivisions and rural land tracts. Independence, a traditional neighborhood development located to the south has townhouses adjacent to its Loganville Highway frontage but not along its Ozora Road frontage. The area to the west along Ozora Road quickly transitions to very low density residential. The proposed rezoning includes a significant townhouse component and small lot sizes that are not suitable in view of the use and development of adjacent and nearby property.

- B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.**

The proposed development would have 141 dwelling units and only one entrance, located directly across Ozora Road from one of the Independence subdivision entrances. The concentration of housing to a single access point would create traffic conflicts with drivers exiting from Independence onto Ozora Road. In addition, the development would have adverse aesthetic impacts on existing single-family residential homes on large lots located across Moon Road, which would face the rear facades of the proposed townhouses. The proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.

C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.

The property has a reasonable economic use as currently zoned.

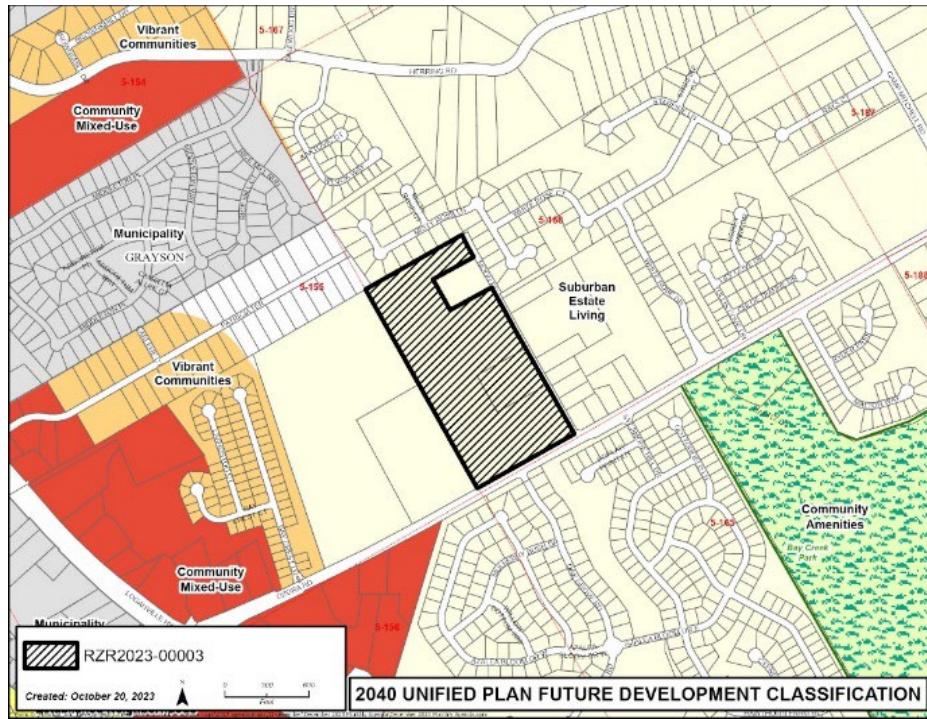
D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

An increase in impacts on public facilities would be anticipated in the form of traffic, utility demand, and stormwater runoff; however, these impacts would be mitigated with appropriate conditions, site development requirements, and planning. An increased impact is anticipated on school enrollment. Agency review comments related to any potential improvements concerning this rezoning request are attached (Exhibit F).

E. Whether the proposed rezoning is in conformity with the policy and intent of the Unified Plan and Future Development Map; and

The Future Development Map of the Unified Plan indicates the property is within the Suburban Estate Living Character Area, which includes areas where there is a desire to preserve the historical and agricultural character so that new development is low in intensity and consists primarily of large residential lots and housing, which may be associated with less demand on sewer service and road capacity, and are more suitable for large lot residential development.

The proposed traditional neighborhood development introduces townhomes and single-family detached homes on small lots, both of which are not encouraged by the Suburban Estate Living Character Area. The housing styles recommended for the character area are best achieved by the existing R-100 zoning district as opposed to the proposed TND zoning district. The proposed rezoning is not in conformity 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 rezoning.

Although the proposed development provides different housing types, a central common area, and amenities, it does not fully implement the intent of the traditional neighborhood development zoning district due to the variance requests from key aspects of the style of the zoning district. In addition, the proposed development would be located in an entirely single-family area and in a character area that supports low-density residential development.

Variance Requests Analysis: The standards for granting variances are outlined in Section 270-100.7 of the UDO. Staff makes the following findings related to the variance requests:

The applicant requests that some of the proposed single-family and townhouse lots be front-loaded and accessed by an internal street rather than an alley, where the majority of lots are less than 60 feet in width. The site plan shows alley-loaded single-family and townhouse lots in the center of the development and front-loaded lots along the perimeter of the development. Front facades consisting of porches and living space, as opposed to front-loaded garages, are a key design feature of traditional neighborhood developments.

The applicant also requests a variance to allow townhouses not to be located adjacent or across from a common area such as a public park, green, or square. Traditional neighborhood developments typically offer a variety of usable common areas throughout the community. In addition, townhouses typically have limited space for outdoor activities, so shared usable common area is essential to a higher quality of life. Although the central green area provides valuable common area, most of the townhouses are adjacent or across from other buildings, and much of the remaining common area is not usable. These requested variances would be detrimental to the residents and impair the intent of the TND zoning district.

Waiver Request Analysis: When considering waivers from Title III of the UDO, staff is required to review whether an undue hardship may result from strict compliance with the regulations and that approval would not adversely affect the general public welfare or nullify the intent of the Development Regulations. In addition, there must be a determination that there are unusual topographical or other exceptional conditions. Staff makes the following findings related to the waiver request:

The applicant is requesting to eliminate the 35-foot-wide undisturbed zoning buffer adjacent to a portion of the R-100 zoned property at 2575 Moon Road where an existing driveway encroaches into the required buffer. A 14-foot-high retaining wall would be located between the proposed townhouse building and the existing driveway. The driveway and/or the property line could easily be moved to provide room for the required zoning buffer. Although approval of the requested waiver would not adversely affect the general public welfare or nullify the intent of the Development Regulations, there are better alternatives for zoning compliance to be achieved.

Staff Recommendation

Based on the staff's evaluation of the request and the standards governing the exercise of zoning power, the Department of Planning and Development recommends **DENIAL** of the rezoning request.

In addition, staff recommends **DENIAL** of the following variances:

1. To allow front-loaded lots where the majority of lots are less than 60 feet in width.
2. To allow townhouses not to be located adjacent or across from a common area such as a public park, green, or square.

In addition, staff recommends **DENIAL** of the following waiver:

1. To eliminate the 35-foot-wide undisturbed zoning buffer adjacent to a portion of R-100 zoned property located at 2575 Moon Road.

Staff Recommended Conditions

NOTE: The following conditions are provided as a guide should the Board of Commissioners choose to approve this petition.

Approval as TND (Traditional Neighborhood Development District) subject to the following conditions:

1. The development shall be constructed in general conformance with Exhibit B: Site Plan dated received October 10, 2023, and Exhibit C: Building Elevations dated received July 28, 2023, September 28, 2023, October 10, 2023, and October 11, 2023, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
2. Development shall be limited to single-family attached and detached dwellings and accessory structures, not to exceed 141 units.
3. All front-loaded townhouses (Lots 99-141) shown on the Site Plan dated received October 10, 2023, shall be replaced with single-family detached lots.

4. Buildings shall be designed in accordance with the Gwinnett County Architectural Standards Design Category 3, Detached Residential Buildings and Attached Residential Buildings.
5. All dwellings shall have a minimum of a two-car garage.
6. The development shall include amenities including, but not limited to, a central green, open-air pavilion, a pool, and a pool house. The final amenity plan shall be reviewed and approved by the Department of Planning and Development.
7. A mandatory homeowners association shall be established and shall be responsible for maintenance of all common areas/facilities and street frontage landscaping.
8. The developer shall provide stub streets and record cross-access easements to connect to the abutting parcel to the east.
9. Natural vegetation shall remain on the property until the issuance of a development permit.
10. All grassed areas shall be sodded.
11. All stormwater management facilities shall be developed as amenities with landscaping, trails, and seating areas that connect to the sidewalk network within the subdivision, subject to the review and approval of the Department of Planning and Development.
12. The developer shall provide a second full access into the development from Moon Road.
13. The developer shall improve to County standards the portion of Moon Road from the subdivision's access point to Ozora Road.
14. The emergency only access along Moon Road shall be gated with a Knox box so that only emergency vehicles may access. If regular vehicular access is provided along Moon Road, additional improvements may be required, subject to the review and approval of the Gwinnett County Department of Transportation.

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 **DENIAL** of the rezoning request.

In addition, the Planning Commission recommends **DENIAL** of the following variances:

1. To allow front-loaded lots where the majority of lots are less than 60 feet in width.
2. To allow townhouses not to be located adjacent or across from a common area such as a public park, green, or square.

In addition, the Planning Commission recommends **DENIAL** of the following waiver:

2. To eliminate the 35-foot-wide undisturbed zoning buffer adjacent to a portion of R-100 zoned property located at 2575 Moon Road.

Exhibits:

- A. Site Visit Photos
- B. Site Plan
- C. Building Elevations
- D. Letter of Intent and Applicant's Response to Standards
- E. Application and Disclosure of Campaign Contributions
- F. Internal and External Agency Review Comments
- G. Maps
- H. Documents Presented at February 6, 2024 Planning Commission Public Hearing

Exhibit A: Site Visit Photos



View of subject property from Ozora Road



View of subject property from Moon Road



View of existing residence on the subject property



View of encroaching driveway into subject property
and location of the proposed retaining wall



View of Ozora Road westbound, subject property on right



View of Ozora Road eastbound, subject property on left



View of Moon Road northbound, subject property on left



View of Moon Road southbound, subject property on right

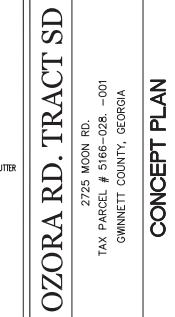
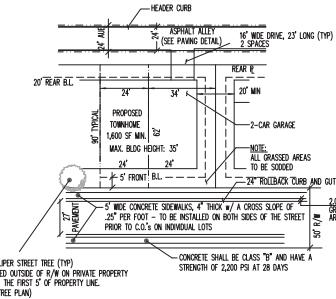
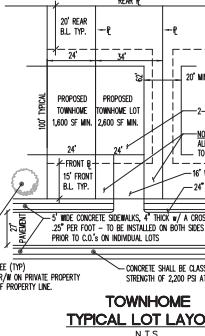
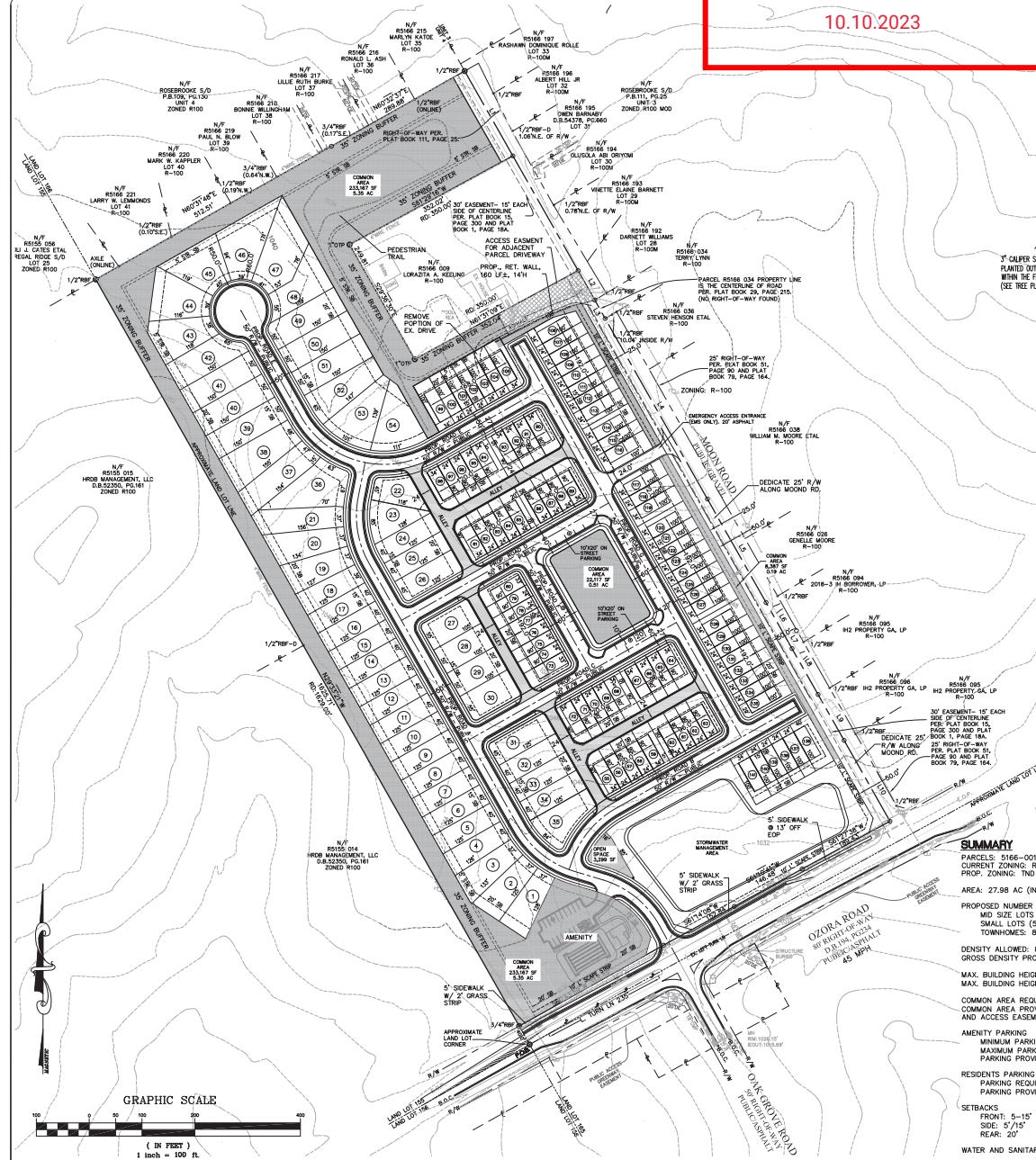
Exhibit B: Site Plan

[attached]

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10.10.2023



DATE	9-8-23	10-9-23
REVISION	ADDRESS STAFF COMMENTS	ADDRESS STAFF COMMENTS
No.	1 / 2	
DESIGNED BY:	BJA	1"=100'
SCALE		
DRAWN BY:	BJA	01
CHECKED BY:	BJA	PROJ. NO.
DATE:	6-14-23	22021

Ozora Park

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Exhibit C: Building Elevations

[attached]

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Left Side Elevation



Right Side Elevation



6-Unit Building

Home will be constructed in accordance with
Architectural Design Standards Category 2

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10.10.2023



Home will be constructed in accordance with Architectural Design Standards Category 2

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Home will be constructed in accordance with Architectural Design Standards Category 2

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10.10.2023



Home will be constructed in accordance with
Architectural Design Standards Category 2

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10.10.2023



Home will be constructed in accordance with
Architectural Design Standards Category 2

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10.10.2023



Home will be constructed in accordance with
Architectural Design Standards Category 2

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Clayton
design

Home will be constructed in accordance with
Architectural Design Standards Category 2

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Home will be constructed in accordance with
Architectural Design Standards Category 2

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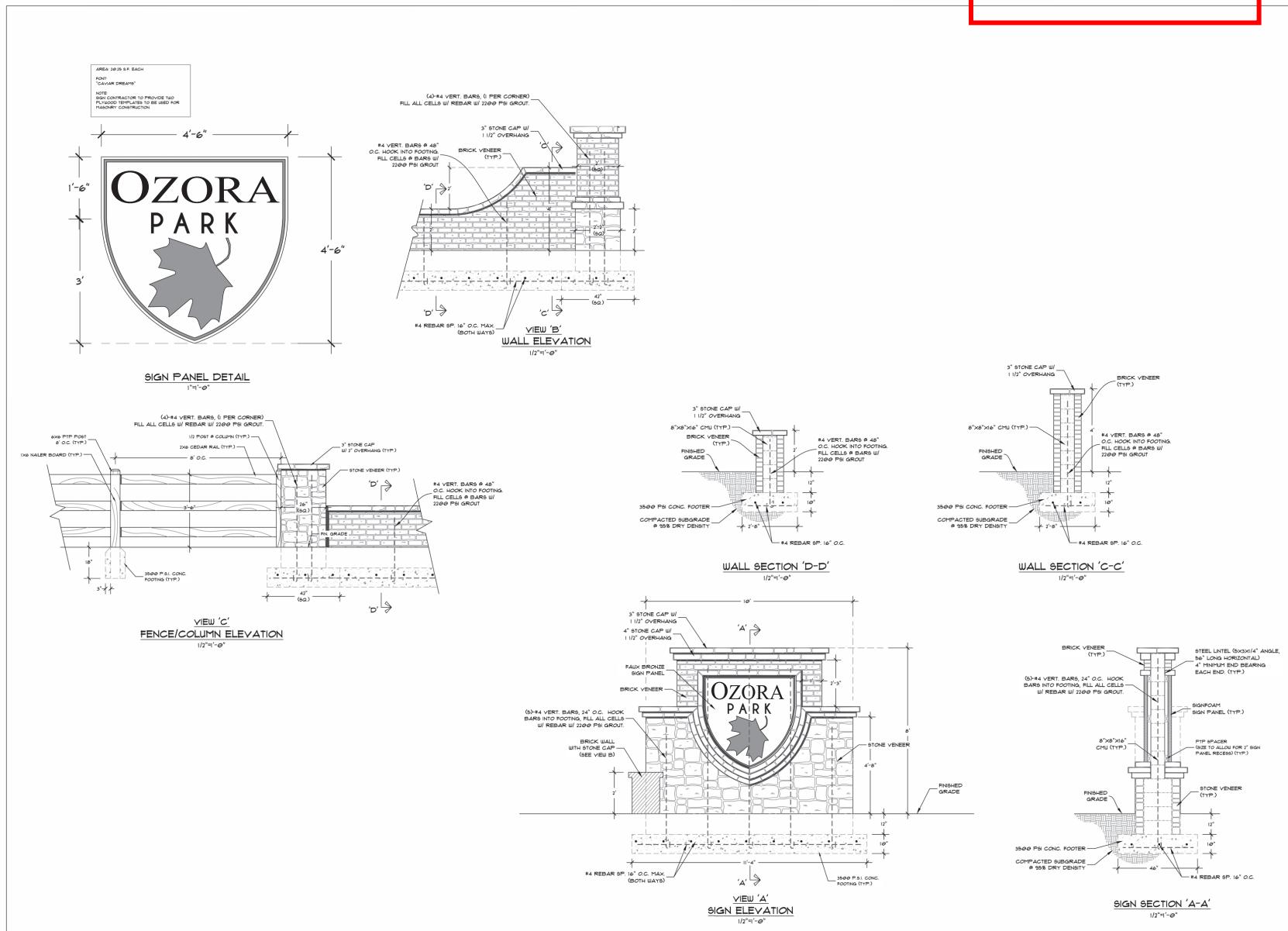


Exhibit D: Letter of Intent and Applicant's Response to Standards

[attached]

Matthew P. Benson
Catherine W. Davidson
Gerald Davidson, Jr.*
Rebecca B. Gober
Brian T. Easley
Christopher D. Holbrook

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Samuel C. Kennon
Shane M. Lanham
Jeffrey R. Mahaffey
Steven A. Pickens
Andrew D. Stancil
R. Lee Tucker, Jr.

*Of Counsel

LETTER OF INTENT FOR REZONING APPLICATION

Mahaffey Pickens Tucker, LLP submits this Letter of Intent and attached rezoning application (the “Application”) on behalf of the Applicant requesting the rezoning of an approximately 27.979-acre tract of land (the “Property”) situated along the northwestern side of Ozora Road northeast of its intersection with Loganville Highway (State Route 20). The Property is located within the Suburban Estate Living Character Area of the Gwinnett County 2040 Unified Plan (the “2040 Plan”) and is currently zoned R-100.

The Applicant submits the Application to request the rezoning of the Property to the TND zoning classification of the Gwinnett County Unified Development Ordinance (the “UDO”) in order to develop the Property as an attractive mixed-residential community including a mix of single-family detached homes and attached residential townhomes. The proposed development would be accessed by a driveway on Ozora Road aligned with Oak Grove Road, which was recently extended in connection with the development of the large Independence Community located to the southeast. A second entrance is proposed along Moon Road. The portion of the Independence community directly across Ozora Road was rezoned to TND in 2015 (pursuant to

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case number RZR2015-00003) to accommodate a mix of single-family detached homes, attached townhomes, and villas. Homes in the proposed development would include attractive architectural features and building materials such as brick, stone, and/or fiber cement siding, shake, and/or board and batten as depicted in the building elevations submitted with the Application. An active amenity area, including a pool and cabana is proposed towards the front of the development along Ozora Road in addition to additional large areas of common space located in the center and towards the rear of the Property. Smaller green spaces are also provided for the use and enjoyment of residents. Proposed 35-foot wide buffers are proposed along the perimeter of the Property where adjacent to land zoned R-100 in accordance with the requirements of the UDO with one exception. In order to maintain an existing driveway which is utilized by the current owner of parcel R5166 009. The Applicant requests a buffer reduction waiver to reduce the required buffer to zero feet in the area labeled “Access Easement for Adjacent Parcel Driveway” on the Site Plan. Approval of the requested waiver would allow the existing driveway to remain.

The proposed development is compatible with surrounding land uses and is in line with the policies of the Gwinnett County 2040 Unified Plan (the “2040 Plan”). The surrounding area is characterized by a mix of land uses including single-family residential, commercial, and office uses. Commercial and office zoning classifications are focused along the Loganville Highway corridor, including at its intersection with Ozora Road/Cooper Road which has developed over the years as an established commercial node with restaurants, convenience stores, and a large Publix-anchored shopping center. These non-residential uses transition down in intensity moving away from the Loganville Highway corridor to a mix of residential zoning classifications including TND, R-100 CSO, and OSC. The proposed mixed-residential development would continue this

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established development pattern and provide high-quality, attractive homes with convenient access to major transportation corridors.

The proposed development is also compatible with the policies of the 2040 Plan. Generally, the 2040 Plan promotes residential development and encourages residential development with a variety of housing types. Specifically, Theme 4 of the 2040 Plan is “Provide More Housing Choices.” The 2040 Plan provides that “[t]his theme recognizes this growing complexity and links housing issues to such topics as successful economic development and the overall quality of life of those who choose (and are able) to live in Gwinnett. Economic development and housing issues are intricately linked.” The 2040 Plan also specifically addresses the lack of housing diversity that exists in Gwinnett County. According to the 2040 Plan, 73% of all housing units in Gwinnett County are single-family detached homes. In contrast to the current supply, demand has skewed towards smaller housing units such as the proposed townhome and small lot single-family residences that the proposed development would provide further demonstrating the need for mixed residential communities such as the proposed development. These and other trends driving housing demand were studied in detail in the 2022 Gwinnett County Comprehensive Housing Study (the “Housing Study”). The Housing Study forecasts continued strong demand for single-family housing in Gwinnett County—especially smaller lot single-family detached and attached townhomes such as the proposed development.

In order to develop the Property as set forth on the Application, the Applicant also requests a variance from UDO §210-80.10(B)(4) to allow homes to be accessed from streets instead of alleys. Section 210-80.10(B)(4) provides that if “a block contains a majority of lots less than 60 feet in width, individual lot access for that block shall be from an alley, not a street.” Many of the proposed lots are accessed by alleyways instead of streets—especially surrounding the central

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common area. However, in order to provide appropriate screening, separation, and transitions from adjacent properties and land uses, the Applicant requests a variance from the UDO to allow front-entry homes which are accessed by internal streets as depicted on the site plan submitted with the Application. Approval of the requested variance would allow the Applicant to minimize impervious surface area by avoiding the need to construct additional alleys. Additionally, the subject property is oddly-shaped with a carve-out located in the northerly corner. This odd shape further frustrates the ability to provide alleyway access. Out of an abundance of caution, the Applicant also requests a variance from UDO §210-80.7(C) to allow some of the townhomes to not be adjacent to or directly across the street from a common area such as a public park, green, or square. Each townhome building is located either directly across the street from the proposed central park common area, or is adjacent to a pocket park or linear park with sidewalk access. Accordingly, the proposed development complies with the UDO in this regard, but the Applicant hereby requests this variance out of an abundance of caution. Additionally

The Applicant and its representatives welcome the opportunity to meet with staff of the Gwinnett County Department of Planning & Development to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Rezoning Application filed herewith. The Applicant respectfully requests your approval of these Applications.

Respectfully submitted this 28th day of September, 2023.

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham

Shane M. Lanham
Attorneys for Applicant

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JUSTIFICATION FOR REZONING

The portions of the Gwinnett County Unified Development Ordinance (the “UDO”) which classify or may classify the property which is the subject of this Application (the “Property”) into any less intensive zoning classification other than as requested by the Applicant, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the UDO as applied to the subject Property, which restricts its use to the present zoning classification, is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the TND classification as requested by the Applicant, and is not economically suitable for development under the present R-100 zoning classification of Gwinnett County. A denial of this Application would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the TND classification with such conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia

of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the subject Property to the TND classification, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application.

This 3rd day of November, 2022.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham

Shane M. Lanham
Attorneys for Applicant

1550 North Brown Road
Suite 125
Lawrenceville, Georgia 30043
(770) 232-0000

GWINNETT COUNTY
PLANNING AND DEVELOPMENT

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REZONING 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 REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Please see attached

(B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

Please see attached

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

Please see attached

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

Please see attached

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

Please see attached

(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 REZONING:

Please see attached

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7.28.2023

REZONING APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- (A) Yes, approval of the proposed Rezoning Application will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed residential development is compatible with existing residential uses and will further diversify housing options in the surrounding area. Land across Ozora Road is zoned TND and accommodates both single-family detached homes and townhomes.
- (B) No, approval of the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties. Rather, the proposed development will complement the housing mix of the surrounding area and will provide residential critical mass for existing commercial uses along the Loganville Highway (State Route 20) corridor.
- (C) Due to the size, location, layout and dimensions of the subject property, the Applicant submits that the property does not have reasonable economic use as currently zoned.
- (D) No, approval of the proposed rezoning will not result in an excessive or burdensome use of the infrastructure systems. The proposed development has direct access to Ozora Road and is located in close proximity to Loganville Highway. The Property has access to water and sewer utilities.
- (E) Yes, approval of the proposed rezoning is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan which encourages residential development and also encourages the continued diversification of housing types in the County. These policies were underscored by the findings of Gwinnett County's recently published Housing Study.
- (F) The Applicant submits that the quality of the proposed homes, the relatively large park space at the rear of the Property, and Property's close proximity to regional transportation corridors provide additional supporting grounds for approval of the Application.

Exhibit E: Application and Disclosure of Campaign Contributions

[attached]

RECEIVED

10.9.2023

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF GWINNETT COUNTY, GA.

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*	
NAME: _____	NAME: _____	
ADDRESS: _____	ADDRESS: _____	
CITY: _____	CITY: _____	
STATE: _____ ZIP: _____	STATE: _____ ZIP: _____	
PHONE: _____	PHONE: _____	
CONTACT PERSON: _____	PHONE: _____	
CONTACT'S E-MAIL: _____		
APPLICANT IS THE:		
<input type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER	<input type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICT(S): _____	REQUESTED ZONING DISTRICT: _____	
PARCEL NUMBER(S): _____	ACREAGE: _____	
ADDRESS OF PROPERTY: _____		
PROPOSED DEVELOPMENT: _____		

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units _____	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. _____
Gross Density: _____	Density: _____
Net Density: _____	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

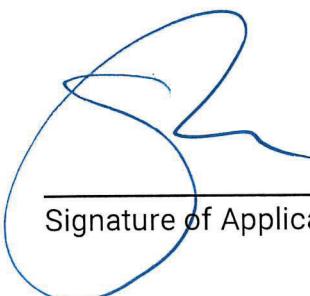
RECEIVED

7.28.2023

Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

REZONING 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.



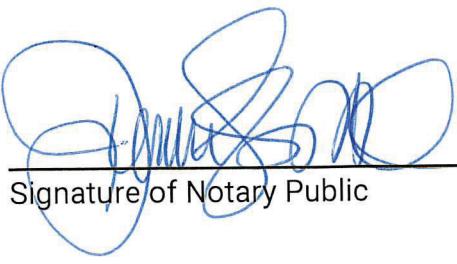
Signature of Applicant

10/26/22

Date

Shane Lanham, attorney for the Applicant

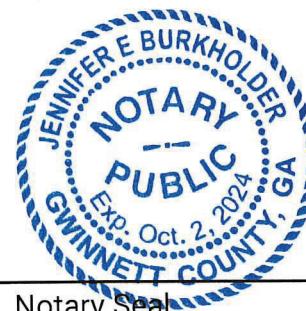
Type or Print Name and Title



Signature of Notary Public

10/26/2022

Date



Notary Seal

RECEIVED

7.28.2023

REZONING 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

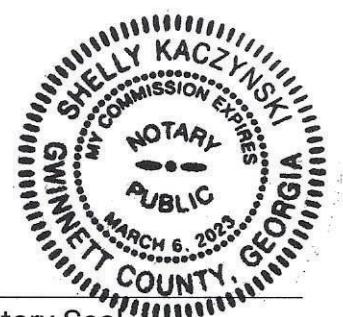
10/28/2022
Date

Wayne Mason, Manager
Type or Print Name and Title


Signature of Notary Public

10/28/2022
Date

Notary Seal



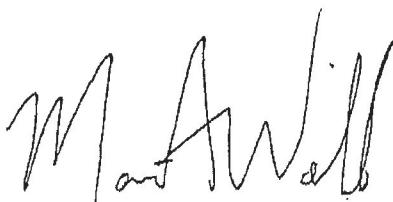
RECEIVED

7.28.2023

Gwinnett County Planning Division
Rezoning Application
Last Updated 12/2015

REZONING 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.



11-30-22

Signature of Property Owner

Date

Marvin Webb, executor

Type or Print Name and Title

Shelly Kacynski

11/30/22

Date

Notary Seal PUBLIC



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7.28.2023

Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

CONFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, 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 OR PRINT NAME AND TITLE



10/26/22

Shane Lanham, attorney for the Applicant

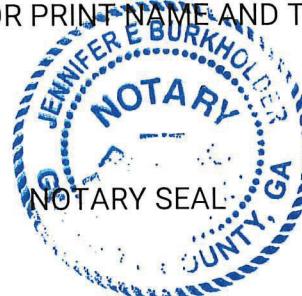
SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
ATTORNEY OR REPRESENTATIVE



10/26/22

JENNIFER E. BURKHOLDER
NOTARY SEAL

SIGNATURE OF NOTARY PUBLIC DATE



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 Please see attached

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)
Please see attached		

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

**CONFLICT OF INTEREST CERTIFICATION FOR REZONING/CHANGE IN
CONDITIONS AND SPECIAL USE PERMIT APPLICATIONS**

MAHAFFEY PICKENS TUCKER, LLP

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
Kirkland Carden, Commissioner	\$2,800	11/18/2021
Ben Ku, Commissioner	\$1,500	10/03/2022

CONFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, 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 OR PRINT NAME AND TITLE

**SIGNATURE OF APPLICANT'S
ATTORNEY OR REPRESENTATIVE**

DATE

TYPE OR PRINT NAME AND TITLE

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

Wayne Mason

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

7.28.2023

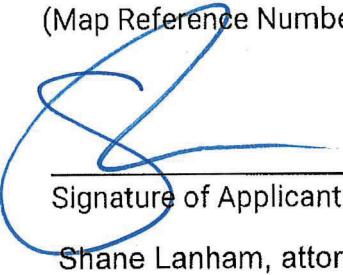
Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. 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: 5 166 001
(Map Reference Number) District Land Lot Parcel


Signature of Applicant

10/26/22
Date

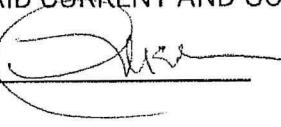
Shane Lanham, attorney for the Applicant

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)

Jessilyn McBruffie 
NAME

TSA

TITLE

10/26/2022

DATE

RECEIVED

7.28.2023

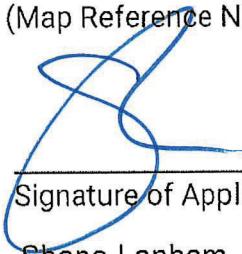
Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

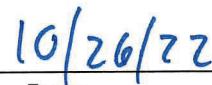
VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING

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

PARCEL I.D. NUMBER: 5 _____ - 166 _____ - 028 _____
(Map Reference Number) District Land Lot Parcel


Signature of Applicant

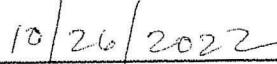

Date

Shane Lanham, attorney for the Applicant
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)


NAME

DATE


TITLE

Exhibit F: Internal and External Agency Review Comments

[attached]



Department of Planning and Development
TECHNICAL REVIEW COMMITTEE

TRC Meeting Date: 11.08.23		
Department/Agency Name: Transportation		
Reviewer Name: Brent Hodges		
Reviewer Title: Construction Manager 1		
Reviewer Email Address: Brent.Hodges@gwinnettcounty.com		
Case Number: RZR2023-00003		
Case Address: 2725 Moon Road, Loganville, 30052 (corner of Ozora Road).		
Comments: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
1	Ozora Road is a major collector. ADT = 14,122.	
2	5.6 miles to the nearest transit facility (#2454884) Grayson Highway and VFW Post 5255.	
3	Any internal street that exceeds 500' in length shall include traffic calming.	
4		
5		
6		
7		
Recommended Zoning Conditions: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
1	The emergency only access along Moon Road shall be gated with a Knox box so that only emergency vehicles may access. If a regular vehicular access is provided along Moon Road, additional improvements may be required, subject to the review and approval of the Gwinnett County Department of Transportation.	
2		
3		
4		
5		
6		
7		

Note: Attach additional pages, if needed

Revised 7/26/2021

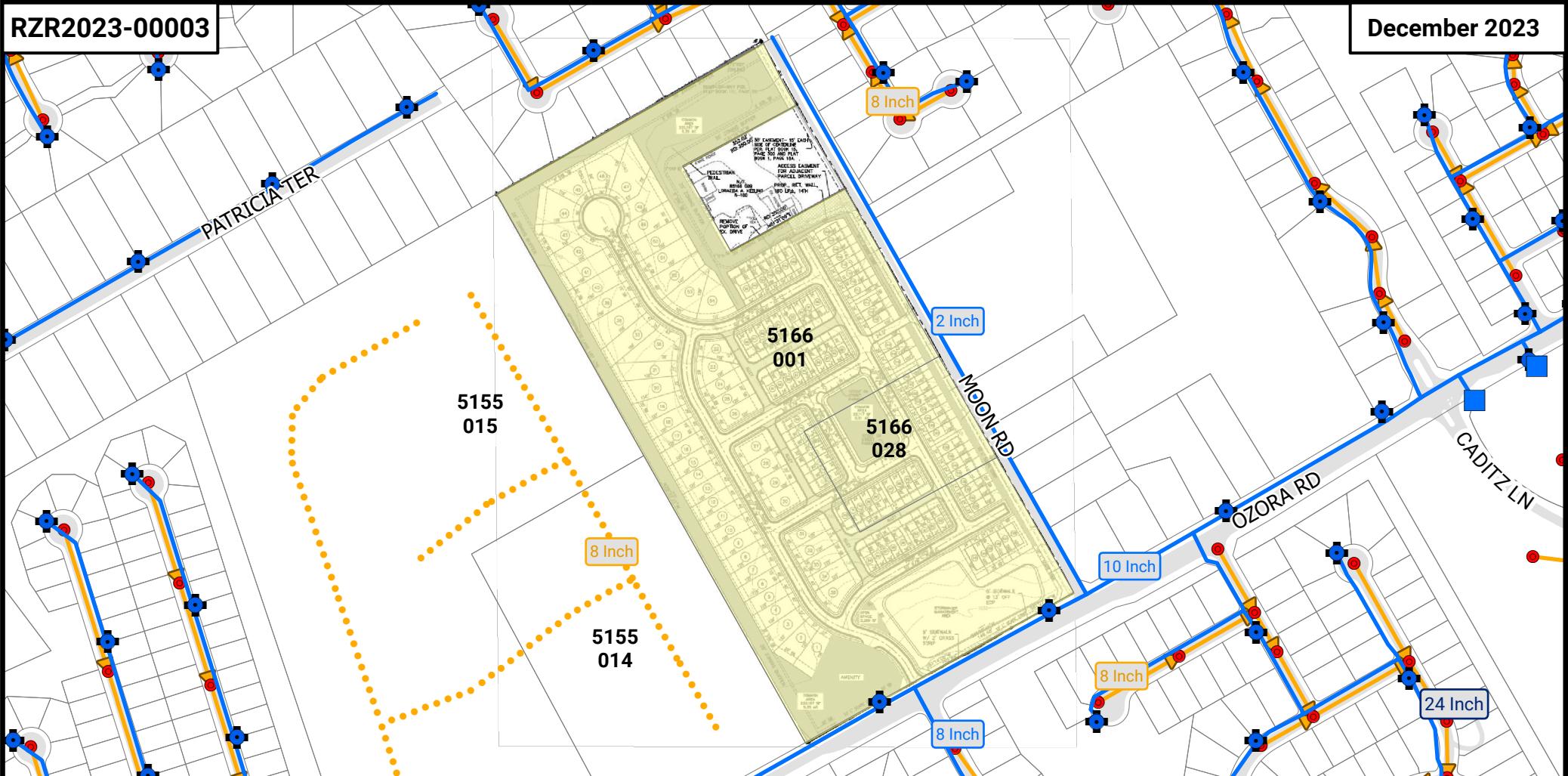


Department of Planning and Development
TECHNICAL REVIEW COMMITTEE

TRC Meeting Date:	
Department/Agency Name: DWR	
Reviewer Name: Mike Pappas	
Reviewer Title: GIS Planning Manager	
Reviewer Email Address: Michael.pappas@gwinnettcounty.com	
Case Number: RZR2023-00003	
Case Address: 2725 Moon Rd & 2700 Block of Moon Rd	
Comments:	
	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
1	Water: The proposed development may connect to an existing 10-inch water main along the northern right-of-way of Ozora Road. The existing 2-inch water main on Moon Road shall not be tapped. A fire hydrant and stub-out at the emergency access entrance on Moon Road for future water system interconnection is required.
2	Sewer: A Sewer Capacity Certification (C2023-020-01) has been approved for 141 single-family residential units and townhomes. The proposed development plans to connect to an 8-inch gravity sewer currently under construction on parcels 5155 015 and 5155 014 to the west (Bay Creek Overlook).
3	
4	
5	
6	
7	
Recommended Zoning Conditions:	
	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
1	
2	
3	
4	
5	
6	
7	

Note: Attach additional pages, if needed

Revised 7/26/2021



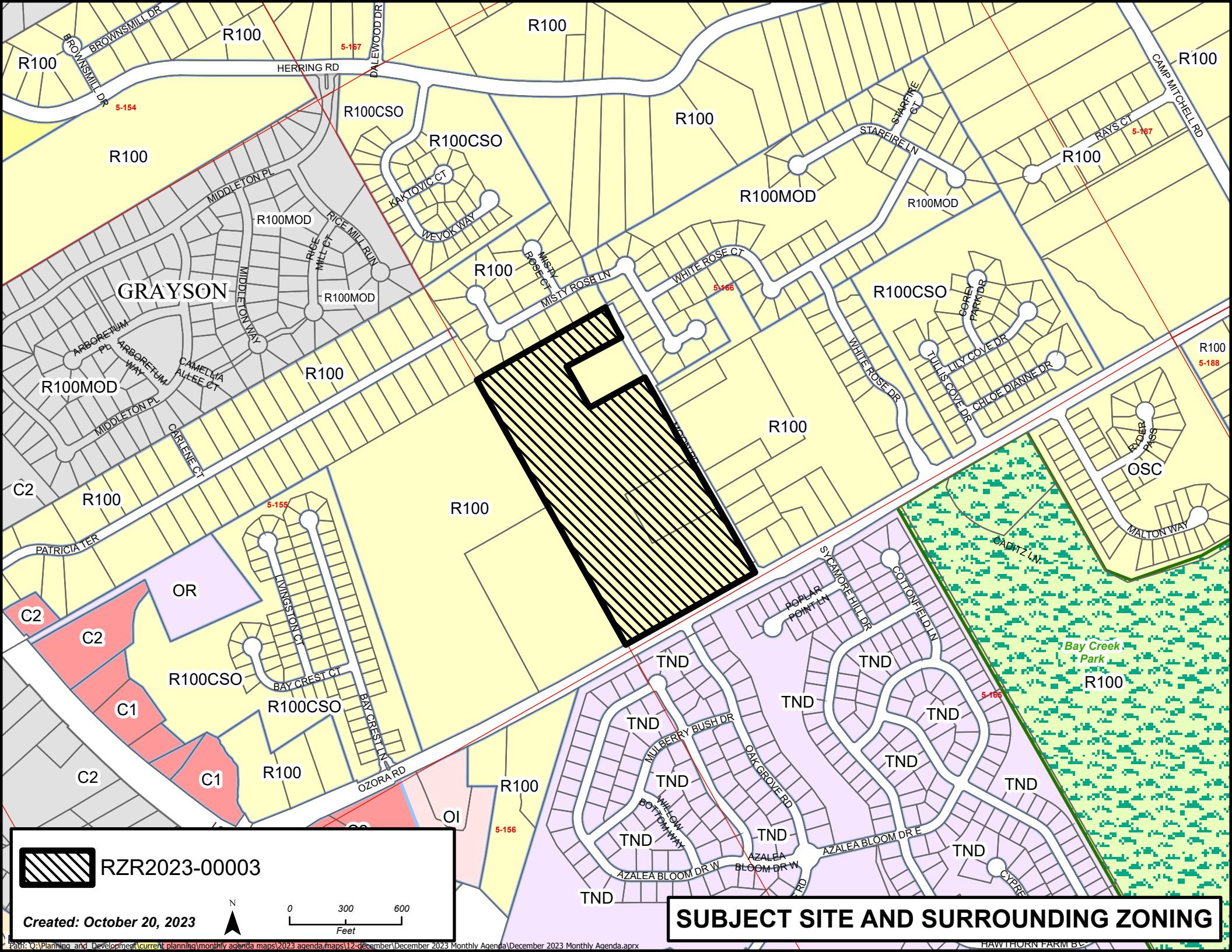
Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County BOC, December, 2023

												Proposed Zoning
	School	2023-24			2024-25			2025-26			Approximate Student Projections from Proposed Developments	
		Forecast	Capacity	+/- Cap.	Forecast	Capacity	+/- Cap.	Forecast	Capacity	+/- Cap.		
RZR2023-00003	Grayson HS	3,420	3,000	420	3,506	3,000	506	3,576	3,000	576	35	
	Bay Creek MS	1,361	1,150	211	1,380	1,150	230	1,433	1,150	283	26	
	Grayson ES	1,049	950	99	1,070	950	120	1,091	950	141	45	
RZR2023-00024	Archer HS	3,202	2,575	627	3,250	2,575	675	3,283	2,575	708	6	
	McConnell MS	2,111	1,775	336	2,153	1,775	378	2,196	1,775	421	4	
	Harbins ES	1,443	1,225	218	1,486	1,225	261	1,531	1,225	306	9	
RZR2023-00025	Mill Creek HS	2,685	2,800	-115	2,644	2,800	-156	2,697	2,800	-103	26	
	Osborne MS	1,737	1,575	162	1,770	1,575	195	1,833	1,575	258	21	
	Duncan Creek ES	1,468	1,300	168	1,500	1,300	200	1,556	1,300	256	36	
RZM2023-00021	South Gwinnett HS	2,651	2,750	-99	2,704	2,750	-46	2,758	2,750	8	16	
(combined)	Snellville MS	881	1,625	-744	864	1,625	-761	857	1,625	-768	11	
	Norton ES	944	1,300	-356	953	1,300	-347	968	1,300	-332	21	
RZM2023-00023	Lanier HS	1,903	1,900	3	1,920	1,900	20	1,938	1,900	38	17	
	Lanier MS	1,334	1,700	-366	1,361	1,700	-339	1,388	1,700	-312	14	
	Sugar Hill ES	1,126	1,075	51	1,149	1,075	74	1,171	1,075	96	26	

Exhibit G: Maps

[attached]





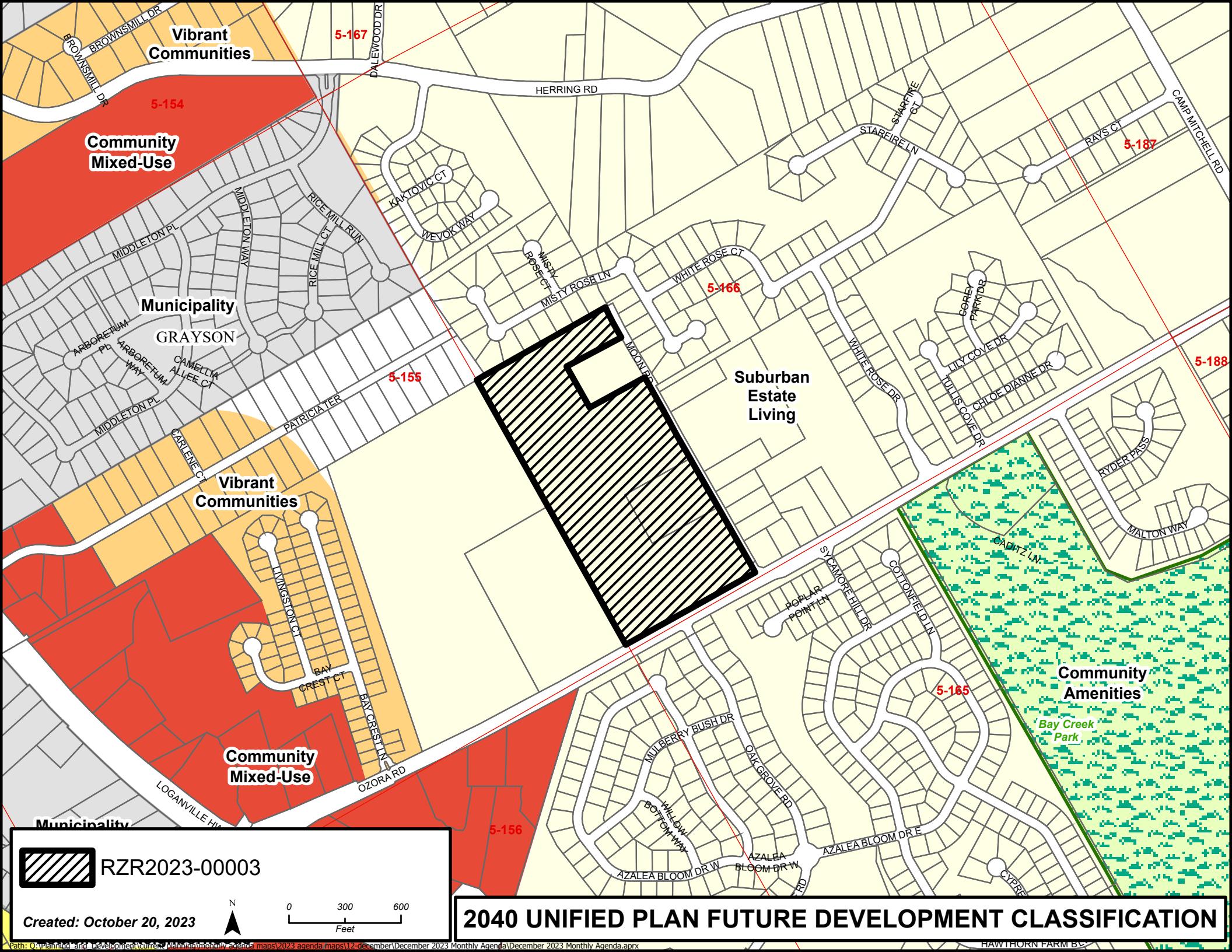
RZR2023-00003

Created: October 20, 2023



A number line diagram for a distance problem. The line starts at 0 and ends at 600. There are tick marks at 0, 300, and 600. The word "Feet" is written below the line.

SUBJECT SITE AND SURROUNDING ZONING



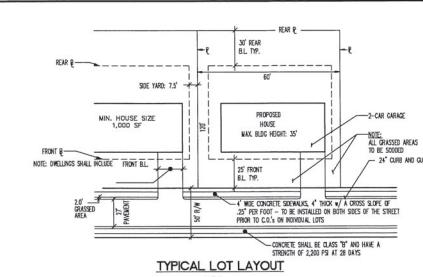
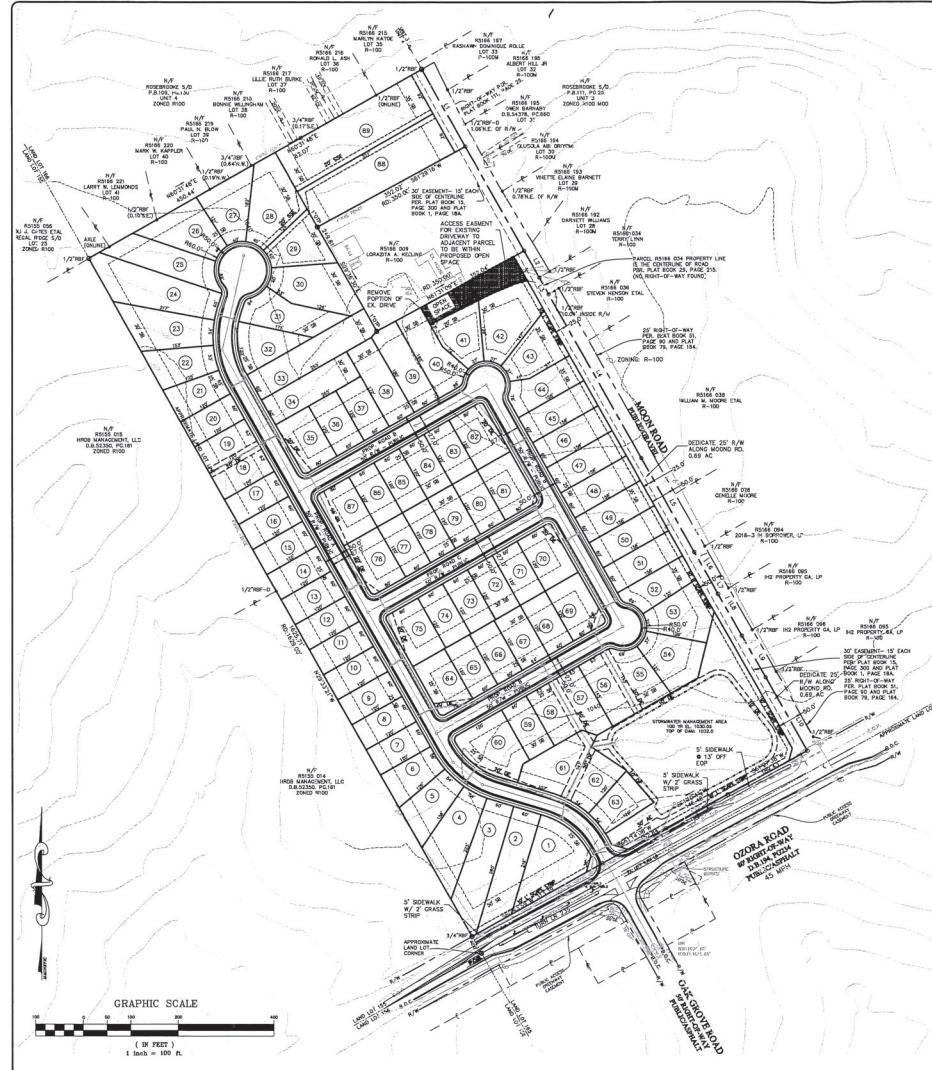
**Exhibit H: Documents Presented at February 6, 2024
Planning Commission Public Hearing**

[attached]

GWINNETT COUNTY
PLANNING AND DEVELOPMENT

RECEIVED

2.6.2024



SUMMARY

PARCELS 517-5166-001 & 5166-028
CURRENT ZONING: R-100
PROP. ZONING: R-60
GROSS AREA: 27.98 AC (INCLUDES AREA WITHIN EASEMENT ALONG MOON RD.)
NET AREA: 27.98 AC (EXCLUDED AREA ALONG MOON NOT INCLUDED)
PROPOSED NUMBER OF UNITS: 89
DENSITY ALLOWED: 4.0 UN/AC
GROSS DENSITY PROPOSED: 3.18 UN/AC
MAX. BUILDING HEIGHT ALLOWED: 35'
MAX. BUILDING HEIGHT PROPOSED: 35'
COMMON AREA REQUIRED: 0 AC (NA < 50 AC)
OPEN SPACE REQUIRED: 0 AC
OPEN SPACE PROVIDED: 0.23 AC
SETBACKS
FRONT: 25'
REAR: 30'
WATER AND SANITARY SEWER SERVICE BY GWINNETT COUNTY
THIS PROPERTY DOES NOT LIE IN A DESIGNATED 100 YEAR FLOOD HAZARD AREA
PER F.I.U.M. PANEL NO. 13135CD119, DATED 9-28-2008

PREPARED BY
PRIMUS
Civil Engineering, Land Surveying, Architecture
3010 HAMILTON MILL RD.
BUFFORD, GA 30519
CONTACT:
Byron A. Stokes, P.E.
(o) 678 858-3642
byron@primusinc.com

PREPARED FOR
CLAYTON PROPERTIES GROUP
CHAPIN LAND DEVELOPMENT
5230 BELLE WOOD CT
BUFFORD, GA 30518
24 HR. CONTACT:
MATT STOKES
404 358-0114

OZORA RD. TRACT SD
2725 MOON RD.
GWINNETT COUNTY, GEORGIA
CONCEPT PLAN
TAX PARCEL # 5166-028

SIGNED / SEALED

GSWCC CERTIFICATION
NO. 0000000899

DATE:	REVISION:
NAME:	DESIGN BY: SJA SCALE: 1"=100'
DRAWN BY: SJA 01	CHECKED BY: SJA SHEET
2-4-24 2021	