

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>Davis Mill Station, LLC</u> <u>c/o Mill Creek Consulting</u>	NAME: <u>Davis Mill Station, LLC</u> <u>c/o Mill Creek Consulting</u>
ADDRESS: <u>4480 Commerce Drive, Suite A</u>	ADDRESS: <u>4480 Commerce Drive, Suite A</u>
CITY: <u>Buford</u>	CITY: <u>Buford</u>
STATE: <u>GA</u> ZIP: <u>30518</u>	STATE: <u>GA</u> ZIP: <u>30518</u>
PHONE: <u>770-614-6511</u>	PHONE: <u>770-614-6511</u>
CONTACT PERSON: <u>MITCH PEEVY</u> PHONE: <u>(770) 614-6511</u>	
EMAIL ADDRESS: <u>millcreekconsulting@gmail.com</u>	

*Include any person having a property interest and any person having a financial interest in any business entity having property interest (use additional sheets if necessary).

APPLICANT IS THE:	
<input type="checkbox"/> OWNERS AGENT <input checked="" type="checkbox"/> PROPERTY OWNER <input type="checkbox"/> CONTRACT PURCHASER	
PRESENT ZONING DISTRICT (S): <u>C-1</u>	REQUESTED ZONING DISTRICT: <u>C-2 with buffer reduction</u>
LAND DISTRICT (S): <u>5</u> LAND LOT: <u>079</u> ACREAGE: <u>10.448</u>	
ADDRESS OF PROPERTY: <u>1575 Lawrenceville Highway</u>	
PROPOSED DEVELOPMENT: <u>Lease part of existing shopping center for a furniture store</u>	
RESIDENTIAL DEVELOPMENT: NO. OF LOTS/DWELLING UNITS: _____ DWELLING UNIT SIZE (SQ. FT.): _____ GROSS DENSITY: _____ NET DENSITY: _____	NON-RESIDENTIAL DEVELOPMENT: NO. OF BUILDINGS/UNITS: <u>1</u> TOTAL GROSS SQUARE FEET: <u>76,760</u> DENSITY: <u>7,347 sq ft per acre</u>

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LAND DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 79 of the 5th District of Gwinnett County, Georgia, which tract is being more particularly described as follows:

COMMENCE at a point located at the southerly end of the mitered right-of-way between the northerly right-of-way line of U.S. Highway 29 & S.R. 8 (right-of-way varies) and the westerly right-of-way line of Sugarloak parkway (Davis Mill Road) (right-of-way varies); running thence along the northerly right-of-way line of U.S. Highway 29 & State Route 8 and along the arc of a curve to the left (said curve having a radius of 1,200.00 feet and being subtended by a chord bearing South 54 degrees 23 minutes 45 seconds West and having a chord distance of 129.48 feet) an arc distance of 129.55 feet to an iron pin set, said point being the POINT OF BEGINNING; thence continuing along said northerly right-of-way line and along the arc of curve to the left (said curve having a radius of 1,200.00 feet and being subtended by a chord bearing South 48 degrees 22 minutes 50 seconds West and having a chord distance of 122.35 feet) an arc distance of 122.40 feet to an iron pin set; thence continuing along said northerly right-of-way line South 45 degrees 27 minutes 30 seconds West a distance of 184.69 feet to an iron pin found; thence leaving said northerly right-of-way line North 39 degrees 22 minutes 39 seconds West a distance of 200.43 feet to an iron pin found; thence South 44 degrees 39 minutes 39 seconds West a distance of 120.00 feet to a point; thence South 39 degrees 22 minutes 39 seconds East a distance of 29.78 feet to an iron pin found; thence South 44 degrees 39 minutes 26 seconds West a distance of 99.79 feet to an iron pin found; thence North 40 degrees 53 minutes 00 seconds West a distance of 806.06 feet to an iron pin found; thence North 49 degrees 05 minutes 12 seconds East a distance of 159.30 feet to an iron pin found; thence South 40 degrees 53 minutes 00 seconds East a distance of 225.00 feet to an iron pin set; thence North 54 degrees 27 minutes 58 seconds East a distance of 513.60 feet to an iron pin set on the westerly right-of-way line of Sugarloaf Parkway (Davis Mill Road); thence along said westerly right-of-way line South 39 degrees 18 minutes 17 seconds East a distance of 498.95 feet to an iron pin set; thence leaving said westerly right-of-way line South 45 degrees 27 minutes 30 seconds West a distance of 146.48 feet to a point; thence South 44 degrees 32 minutes 30 seconds East a distance of 165.64 feet to an iron pin set on the northerly right-of-way line of U.S. Highway 29 & S.R. 8, said point being the POINT OF BEGINNING; as per Record Drawing of Davis Mill Station prepared for Barry F. O'Neill, Allstate Life Insurance Company and Chicago Title Insurance Company, prepared by G-B ENGINEERING, INC. dated March 31, 1995, last revised May 30, 1995.

TOGETHER WITH the easements and benefits created in that certain Declaration of Reciprocal Easements dated June 15, 1986, by Barry F. O'Neill, recorded in Deed Book 3707, Page 280, Gwinnett County, Georgia records; as amended by that certain First Amendment to Declaration of Reciprocal Easements dated August 1, 1988, recorded in Deed Book 5094, Page 125, aforesaid records; as amended by Second Amendment to Declaration of reciprocal Easements dated August 31, 1988, recorded in Deed Book 5094, Page 132, aforesaid records.

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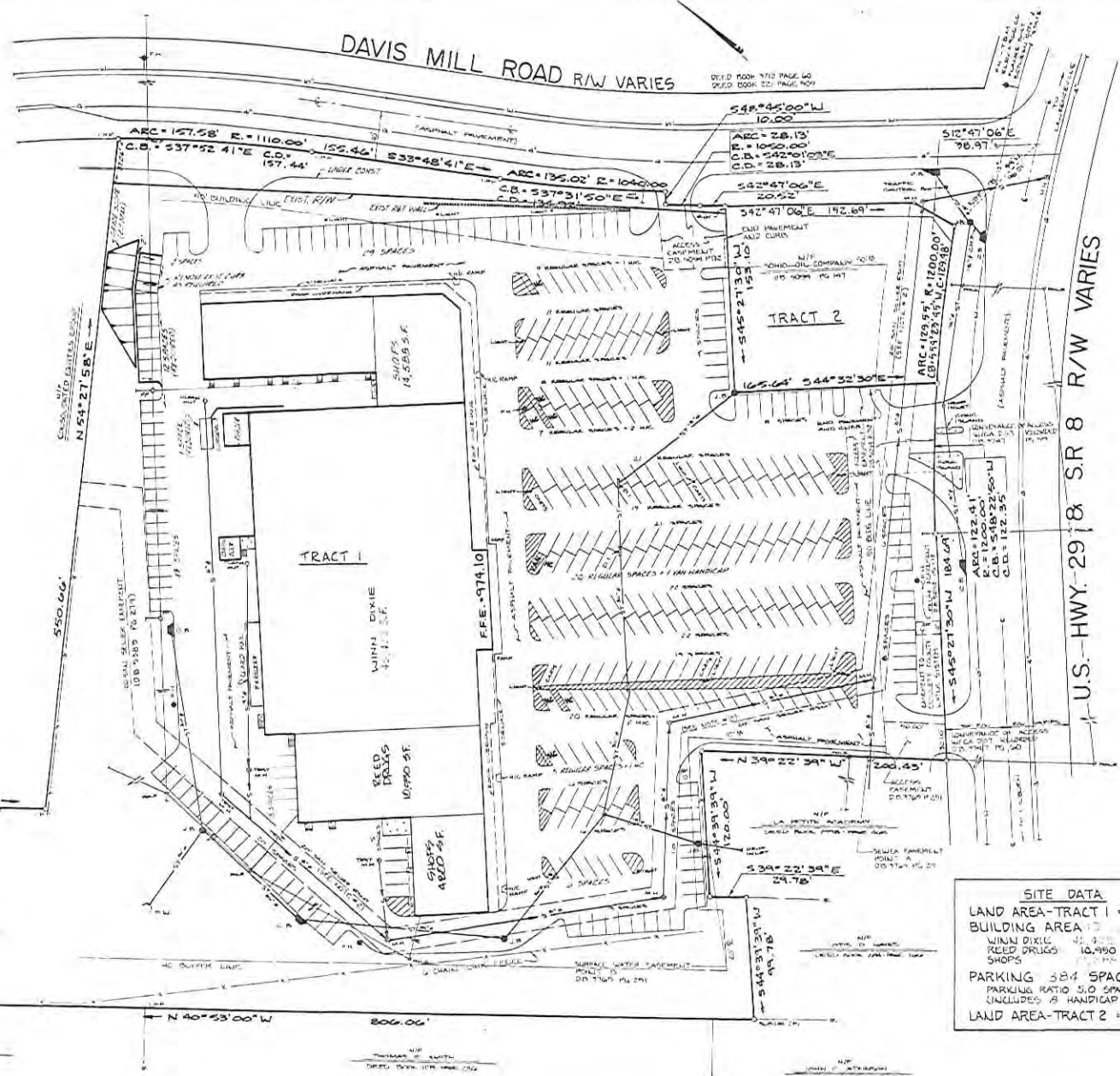
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SITE DATA	
LAND AREA-TRACT 1	= 10.448 AC.
BUILDING AREA	= 30,339 SQ. FT.
WINN-DIXIE	14,589 SQ. FT.
FRED DRUGS	10,950 SQ. FT.
SHOPS	4,800 SQ. FT.
PARKING	384 SPACES
PARKING RATIO	3.0 SPACES/1000 SQ. FT.
	(INCLUDES 19 HANDICAP SPACES)
LAND AREA-TRACT 2	= 0.600 AC.

SCHEMATIC PLAN - PARKING DECK
 DAVIS MILL STATION
 COLUMBIA PROPERTIES, INC.
 1365 TEEBELL MILL RD., RIDG. HTS., QUITE 200
 MARIETTA, GA. 30027 (404) 783-5332

ENGINEERING, INC.
 ENGINEER - FREE
 SURVEYOR - \$100
 PLANNING - \$100
 TOTAL - \$200

DATE: 02/03/14	SCALE: AS SHOWN	PROJECT: DAVIS MILL STATION
DRAWN BY: J. STEPLER	CHECKED BY: J. STEPLER	DATE: 02/03/14
DATE: 02/03/14	SCALE: AS SHOWN	PROJECT: DAVIS MILL STATION
DRAWN BY: J. STEPLER	CHECKED BY: J. STEPLER	DATE: 02/03/14

SHEET 1
 OF 1

DM Stepler

STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

PURSUANT TO SECTION 1702 OF THE 1985 ZONING RESOLUTION, 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:

THE APPLICANT BELIEVES THE PROPOSED USE IS SUITABLE.

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

THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE USE OF THE SURROUNDING PROPERTIES.

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

THE APPLICANT BELIEVES THAT THE SUBJECT PROPERTY DOES NOT HAVE 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 STREET, TRANSPORTATION FACILITIES, UTILITIES OR SCHOOLS:

THE PROPOSED USE WILL NOT PRODUCE AN ADVERSE AFFECT ON THE EXISTING INFRASTRUCTURE.

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

THE SUBJECT PROPERTY IS DESIGNATED AS CORRIDOR MIXED-USE

(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:

SEE LETTER OF INTENT.

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Based upon the above reasons, the applicant feels that this is a reasonable request and that action contradictory to the zoning request will constitute a taking of 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, and Article P, Section 1, Paragraph 1, and Article 1, Section 3, Paragraph 1 of the Constitution of Georgia, denying the owner viable use of its land.

.....
PLANNING DIVISION USE ONLY

CASE NUMBER _____

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REZONING APPLICANT'S LETTER OF INTENT

The Applicant and Owner, Davis Mill Station, LLC requests a rezoning from C-1 to C-2 for their existing shopping center located at the corner of Sugarloaf Parkway and Highway 29. The subject property is a total of 10.448 acres with gross leasable area of 76,760 square feet. The center was built in 1987 by the owners with the main tenant at that time being a Winn Dixie grocery store. Winn Dixie occupied over 46,000 square feet of the center and since they withdrew from the Atlanta marketplace several years ago the center has struggled to find a user for the large space. They have had a health club occupy about half of the space for 5 years but they closed in 2013 and the large tenant space has been vacant since then. The owners now have a signed lease with a franchisee for a division of Ashley Furniture for all of the old Winn Dixie space and since all of the other retail space in the area is zoned C-2 the owners believe that it makes sense for this property to be zoned C-2. The applicant also requests that the existing 40 foot buffer adjacent to residential property be maintained since there will not be any changes to the exterior of the facility but just interior finish work. The shopping center is built of brick and was approved as C-1 with a buffer reduction and with no changes to the exterior the neighbors will not notice any difference. Because of the size of the development, C-1 limits the users allowed, such as the proposed furniture store and in fact the health club should not have been allowed under the C-1 category. The area has changed dramatically since the center was built and Sugarloaf Parkway at this location exceeds 44,000 cars per day and highway 29 exceeds 24,000 cars per day. The bottom line is that an active viable shopping center will add value to the area but a vacant deserted center will not and the current C-1 zoning restricts the center from attracting valued retail tenants.

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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.

X *DD Soyl* 1-22-14
Signature of Applicant Date

Daniel S. O'Neill, Manager
Type or Print Name and Title

Maryellen Yancey 1-22-14
Signature of Notary Public Date



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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.

X *[Handwritten Signature]* 1-22-14
Signature of Property Owner Date

DANIEL S. O'NEILL, MANAGER
Type or Print Name and Title

Maryellen Yancey 1-22-14
Signature of Notary Public Date



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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.

X *DOSAP* 1-22-14 DANIEL S O'NEILL, MANAGER
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

Maryellen Yancey 1.22.14
 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 X *DOSAP*
 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.

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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 . 079 . 106
(Map Reference Number) District Land Lot Parcel

X [Signature] 1-22-14
Signature of Applicant Date

Daniel S. ONeill, Manager
Type or Print Name and Title

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)

[Signature] 2/3/14 Tax Services Assoc
NAME TITLE
2/3/14
DATE

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