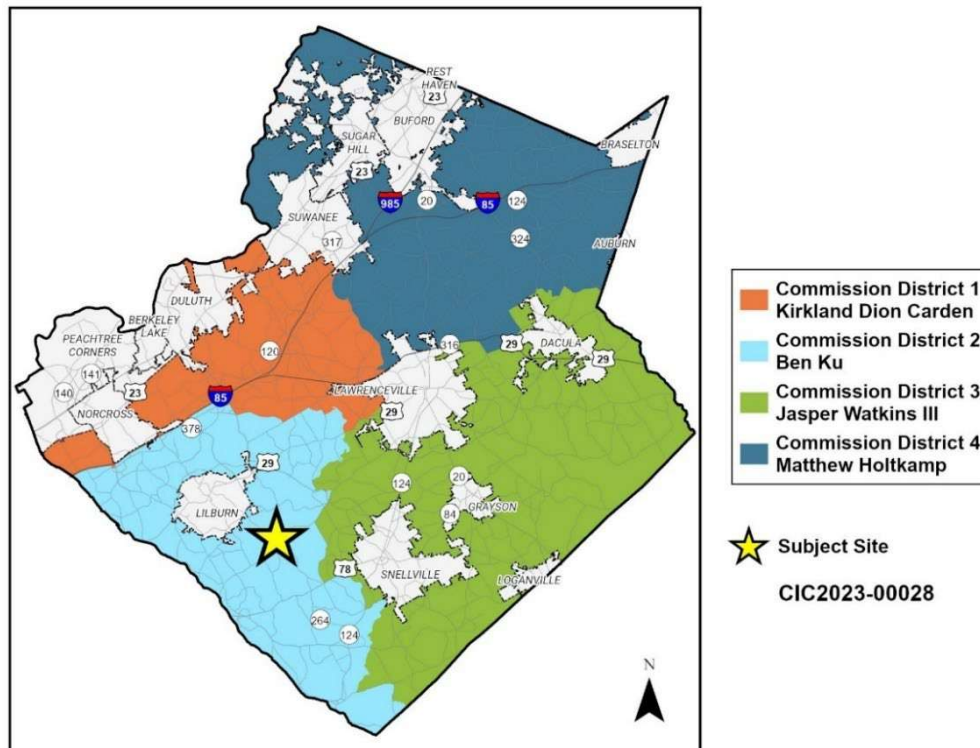


## PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

**Case Number:** CIC2023-00028  
**Current Zoning:** C-2 (General Business District)  
**Request:** Change in Conditions  
**Address:** 4045 Five Forks Trickum Road  
**Map Number:** R6090 189  
**Site Area:** 1.05 acres  
**Square Feet:** 510  
**Proposed Development:** Coffee Shop with Drive-Thru  
**Commission District:** District 2 – Commissioner Ku  
**Character Area:** Neighborhood Node

**Staff Recommendation:** DENIAL

**Planning Commission Recommendation:** APPROVAL WITH CONDITIONS



**Planning Commission Advertised Public Hearing Date:** 12/5/2023 (Public Hearing Held/ Recommendation Tabled to 3/5/2024)

**Board of Commissioners Advertised Public Hearing Date:** 12/12/2023 (Public Hearing Tabled to March 26, 2024)

**Applicant:** Terry M Hampel (Branch Properties)  
3340 Peachtree Rd NE, Suite 2775  
Atlanta, GA 30326

**Owner:** SCG BR Five Forks LP  
3550 Lenox Rd NE, Suite 2000  
Atlanta, GA 30026

**Contact:** Hayley Todd

**Contact Phone:** 757.508.6593

## **Zoning History**

The subject property is zoned C-2 (general Business District). In 1994, the property was rezoned from R-100 (Single-Family Residence District) to C-2 for the development of the shopping center and three outparcels, pursuant to RZ-94-196. In 1998, the property was granted a special use permit for an automobile oil change service station, pursuant to SUP1998-00044.

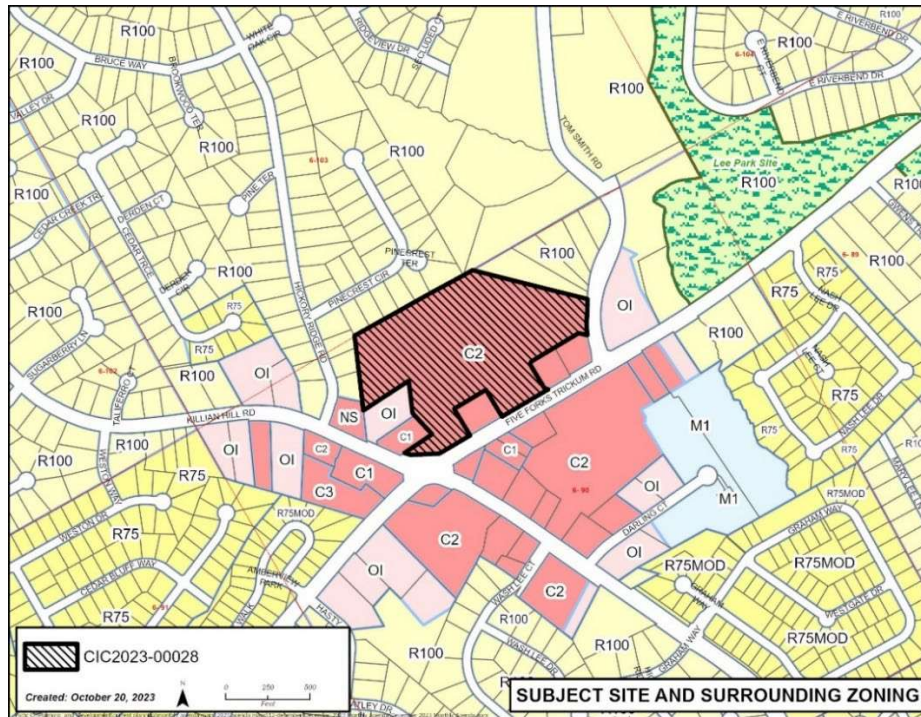
## **Existing Site Condition**

The subject site is a 1.05-acre rectangular parking lot along Five Forks Trickum Road. The proposed outparcel is located within the 19.34-acre Five Forks Corners commercial shopping center property on the north side of Five Forks Trickum Road between its intersections with Killian Hill Road and Tom Smith Road. The shopping center property contains a grocery store anchor space, large surface parking lot, a stand-alone commercial building, and a stormwater detention pond. There are three outparcels along the Five Forks Trickum Road frontage, one of which is an undeveloped grassed lot, immediately to the west of the subject site.

The subject site has full ingress and egress access on all three abutting streets. There is a curb cut and unused driveway apron on Five Forks Trickum Road that terminates in the right-of-way in front of the subject site. The interior of the property is flat and slopes gradually east towards Tom Smith Road. It is approximately 10 to 16 feet below the elevation of Five Forks Trickum Road. There is a five-foot-wide sidewalk with approximately one-foot-wide grass strip in the rights-of-way on all frontages. The Five Forks Trickum Road access driveway, which is the main access point for the shopping center, has a landscaped median to separate traffic and contains a monument-style ground sign. The nearest transit stop is bus stop #2 of Route 25 near the Killian Hill Road and Five Forks Trickum Road intersection adjacent to the subject property, per the Ride Gwinnett Map.

## **Surrounding Use and Zoning**

The subject site is surrounded by commercial uses. To the north, is the parent parcel which contains the multi-tenant shopping center. To the west, is an unimproved outparcel of the same development. To the east, is a restaurant with drive-thru and a bank. Across Five Forks Trickum Road to the south, is another multi-tenant shopping center. The following is a summary of surrounding uses and zoning:



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

## Project Summary

The applicant requests a change in conditions for a 1.05 acres property zoned C-2, including:

- A change in conditions of case RZ-94-196, including the removal of the following condition:
  - Condition 1.B, "Limited to three outparcels, oriented to Five Forks Trickum Road as shown on the submitted site plan." The applicant is requesting to allow a fourth outparcel.
- The creation of a fourth outparcel along the Five Forks Trickum Road frontage.
- A drive-thru only coffee shop with no internal seating areas or walk-up service.
- A 510 square foot building, with a smaller accessory refrigerated cooler structure located to the rear.
- Two drive-thru lanes and one bypass lane with adequate vehicle storage space.
- Two, one-way internal driveway connections to the interior driveway on the shopping center property.
- Six standard parking spaces and one handicap-accessible parking space, with a pedestrian path to a concrete landing area around the building.
- A dumpster enclosure in the rear.
- Removal of 84 parking spaces currently accessible to patrons of the shopping center. The remaining parking spaces will still exceed the minimum number of required parking spaces for existing uses on the site.

## Zoning and Development Standards

The applicant is requesting a change in conditions for a property zoned 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'	19'	YES
Front Yard Setback	Minimum 15'	15'	YES
Side Yard Setback	Minimum 10'	10'	YES
Rear Yard Setback	Minimum 30'	30'	YES
Parking	Minimum 4 spaces Maximum 7 spaces	7 spaces	YES
Landscape Strip (External)	Minimum 10'	10'	YES
Landscape Strip (Internal)	Minimum 5'*	0'	NO

\*A five-foot-wide landscape along internal property lines was a condition of approval for RZ-94-196.

## 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 G). 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

**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 proposed change in conditions to remove the limit of three out-parcels could permit a use that is suitable in view of the use and development of adjacent and nearby property, provided that appropriate controls aligning with the 2040 Unified Plan are also applied. A facility which encourages pedestrians and allows customers to enter and stay inside would be more 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 would adversely impact the existing use or usability of adjacent or nearby property, as currently proposed. This commercial node serves many nearby residents that would be better served by a non-automobile related use intended for those passing thru the area. The drive-thru only business would only add additional traffic to the area, without a local benefit.



**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.

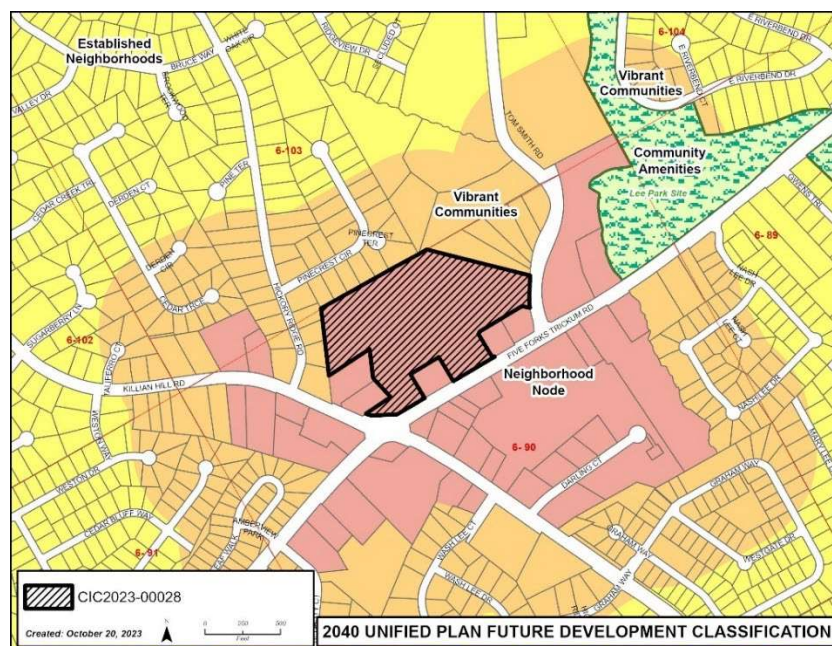
**D. Whether the proposed change in conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

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. Agency review comments related to any potential improvements concerning this rezoning request are attached (Exhibit G).

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

The 2040 Unified Plan Future Development Map indicates that the subject property lies within the Neighborhood Node Character Area. The Neighborhood Node Character Area is intended for smaller commercial/retail nodes at various intersections located throughout the County. Mainly serving the residents of the surrounding residential neighborhoods, these nodes will most likely draw customers from the nearby area. Future development and redevelopment should maintain the community-oriented feel of these areas, with a focus on creating small areas with a mixture of uses combining retail, low-intensity office and medium-density residential in a pedestrian friendly environment and allowing nearby residents to safely walk to and within them.

Development of the subject 1.05-acre site for a small, drive-thru only coffee shop to serve drivers in their vehicles is not in conformity with the Neighborhood Node Character Area. A restaurant or retail use that accommodates pedestrians and the daily needs of nearby residents would be more appropriate.



**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.**

A retail or restaurant use would be appropriate at this location if customers were served inside. Providing a space where local residents can walk to and enjoy would be more beneficial to the area and more aligned with the intent of the Neighborhood Node Character Area and better supplement the existing uses in the area.

**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 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)**

**1. The proposed development shall be constructed in general conformance with Exhibit B: Site Plan dated ~~September 28, 2023~~ January 30, 2024, and Exhibit C: Building Elevations dated ~~September 28, 2023~~ February 27, 2024, with revisions required by conditions of approval and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.**

~~1. To restrict the use of the property as follows:~~

~~A. Retail and service commercial and accessory uses.~~

~~B. Limited to three outparcels, oriented to Five Forks-Trickum Road as shown on the submitted site plan.~~

~~2. To satisfy the following site development considerations:~~

~~2.A. Provide a ten-foot wide landscaped strip outside the right-of-way of Five Forks-Trickum Road, Tom Smith Road and Killian Hill Road.~~

~~B. Provide a minimum 75-foot buffer adjacent to residentially-zoned property on the northerly and northeasterly portions of the subject property. Twenty five feet (25) of this buffer shall remain natural and undisturbed, except for detention pond. Any area inside the 25 feet which is disturbed shall be re-landscaped with a double staggered row of Leyland Cypress trees eight feet in height planted ten feet on center. An opaque six-foot~~

high chain-link fence shall be installed along the buffer adjacent to residentially-zoned property.

~~C. Limited to three entrances/exits onto Five Forks Trickum Road, and entrance/exit onto Tom Smith Road. Location of entrances/exits subject to review and approval of the Gwinnett County Department of Transportation. Review shall include the design of interparcel access.~~

**3. Access to the site shall be from internal driveways. No direct access shall be permitted from Five Forks Trickum Road.**

~~4. D. Provide a five-foot wide landscaped strip adjacent to all internal property lines or outparcel developments.~~

~~E. Provide landscaped islands throughout the parking areas. At a minimum, landscaped islands shall consist of a 100-square foot planted area per eighteen (18) spaces of double row parking with a 100 square foot planted area at the end of each row. These landscaped islands shall include at least two trees per island. Trees shall be a minimum of five feet in height at the time of planting. Submit landscape plans for review and approval by the Development Review Section.~~

**5. F. Buildings** The two freestanding retail shop buildings, as shown on the amended site plan, and all buildings on the outparcels shall be finished with architectural treatments of glass and/or brick, stone or stucco. The front façade of the building containing the supermarket, mini-anchor and retail shops, as shown on the amended site plan, shall be finished with architectural treatments of glass and/or brick, stone, or stucco, with the other three sides to be painted masonry block. Buildings shall be finished with architectural treatments of glass and/or brick, stone or stucco.

~~G. Provide interparcel access to all outparcels.~~

~~H. No billboards allowed on the subject property.~~

~~I. Dumpsters shall be screened by a fence or wall. Hours of dumpster pickup to be between the hours of 8:00 am and 8:00 pm.~~

**6. J.** Provide sidewalks adjacent to the right-of-way of Five Forks Trickum Road, Tom Smith Road and Killian Hill Road.

~~K. Provide ten-foot buffer between the proposed driveway access to Killian Hill Road and the westerly residentially-zoned property, which may be disturbed and replanted so as to provide an effective visual screen. This reduction in buffer requirement shall be limited to the distance adjoining the driveway only. From the point at which the driveway shall be required and shall meet the same conditions as Condition 2.B. above.~~

~~L. Lighting shall be contained in cut-off type luminaries and shall be directed toward the property so as not to reflect into adjacent residential properties.~~

~~M. The detention pond shall be built with a stormwater capacity of 120 percent of that required by the Development Regulations. Any stormwater overflow shall be directed~~

toward Tom Smith Road.

- ~~7.N.~~ No outdoor storage and no delivery trucks/trailers will be allowed to idle overnight on the property.
- ~~8.O.~~ Freestanding signage shall be limited to a single monument sign provided for the outparcel development.
- 9. **The proposed building on new outparcel 4 shall be constructed in general conformance with the Elevations proposed by Planners and Engineers Collaborative dated February 27, 2024 and shall include a brick or stone water table as shown.**
- 10. **The proposed development on outparcel 4 shall include a public green space along Five Forks Trickum Road with seating and landscaping and general conformance as shown on the submitted site plan dated January 30, 2024.**
- 11. **The proposed development on outparcel 4 shall include a 4-foot-wide sidewalk access from the frontage of Five Forks Trickum Road to Publix as shown on the submitted site plan dated January 30, 2024.**

**Exhibits:**

- A. Site Visit Photos
- B. Site Plan dated January 30, 2024
- C. Building Elevations proposed by Planners and Engineers Collaborative dated February 27, 2024
- D. RZ-94-196 Resolution
- E. Letter of Intent and Applicant's Response to Standards
- F. Application and Disclosure of Campaign Contributions
- G. Internal and External Agency Review Comments
- H. Maps



**Exhibit A: Site Visit Photos**



**View of subject property from shopping center parking lot**

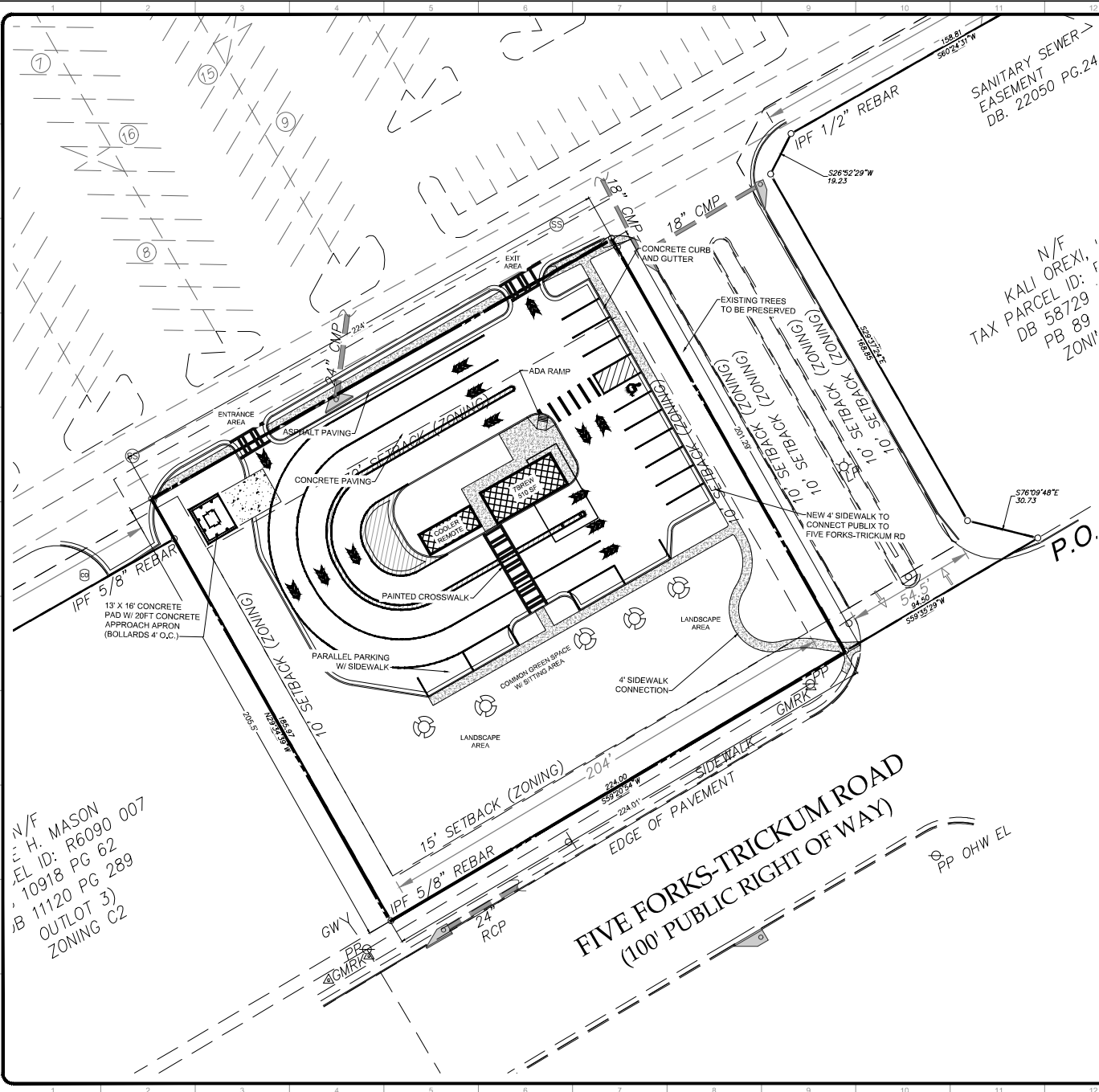


**View of subject property from Five Forks Trickum Road**

**Exhibit B: Site Plan dated January 30, 2024**

**[attached]**

THE INFORMATION CONTAINED HEREON IS FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED AND IS NOT TO BE USED FOR ANY OTHER PROJECT OR SITE.

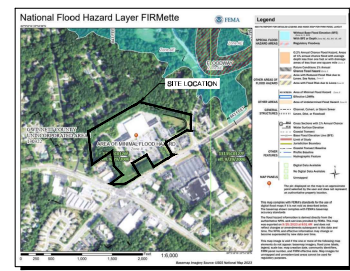


N/F  
 H. MASON  
 EL ID: R6090 007  
 10918 PG 62  
 11120 PG 289  
 OUTLOT 3)  
 ZONING C2

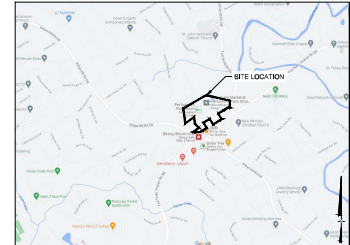
SANITARY SEWER  
 EASEMENT  
 DB. 22050 PG.24

N/F  
 KALI OREX,  
 TAX PARCEL ID:  
 DB 58729  
 PB 89  
 ZONING

**FIVE FORKS-TRICKUM ROAD**  
 (100' PUBLIC RIGHT OF WAY)



**FEMA FIRM MAP**  
NOT TO SCALE



**SITE LOCATION MAP**  
NOT TO SCALE

SITE DATA	
SITE AREA	11.046 ACRES
ZONING	C-2 GENERAL BUSINESS DISTRICT
EXISTING ZONING	C-2 GENERAL BUSINESS DISTRICT
PROPOSED ZONING	C-2 GENERAL BUSINESS DISTRICT
ZONING JURISDICTION	GWINNETT COUNTY, GA
USE CALCULATIONS	
MAXIMUM ALLOWABLE DENSITY	N/A
TOTAL SITE AREA	11.046 ACRES
TOTAL PROPOSED DENSITY	N/A
SETBACK REQUIREMENTS	
FRONT SETBACK	15 FEET
REAR SETBACK	10 FEET
LANDSCAPE STRIP (FIVE FORKS-TRICKUM RD)	10 FEET, 5 FEET (INTERNAL)
REQUIRED BUFFERS	75 FEET (RESIDENTIAL)
OPEN SPACE CALCULATIONS	
OPEN SPACE REQUIRED	N/A
OPEN SPACE PROVIDED	N/A
MINIMUM REQUIRED	N/A
TOTAL PARKING REQUIRED	4 SPACES (1 SPACE PER 100 SQ. FT.)
PROPOSED PARKING	15 SPACES

P: (770) 451-2741 F: (770) 451-3915

WWW.PEC-PLUS



Planners & Engineers Collaborative+

LAND PLANNING • LANDSCAPE ARCHITECTURE • GRA. ENGINEERING  
 ARCHITECTURE • SURVEYING & CONSTRUCTION • PUBLIC UTILITIES

350 RESEARCH COURT, STE 200  
 PEACHTREE CORNERS, GA 30092

PROJECT

### FIVE FORKS TRICKUM RD

A MASTER PLANNED RESIDENTIAL DEVELOPMENT

AT  
 4045 FIVE FORKS-TRICKUM RD  
 LILBUN, GA 30047  
 GWINNETT COUNTY

FOR  
**BRANCH PROPERTIES**

MUNICIPALITY PROJECT #

### REVISIONS

NO.	DATE	BY	DESCRIPTION
1	01/30/2024	JH	Revised S/W / Bookings

THIS SEAL IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.



GSWCC LEVEL II DESIGN PROFESSIONAL  
 CERTIFICATION # 0000068478 EXP. 06/27/2024

### ZONING SITE PLAN

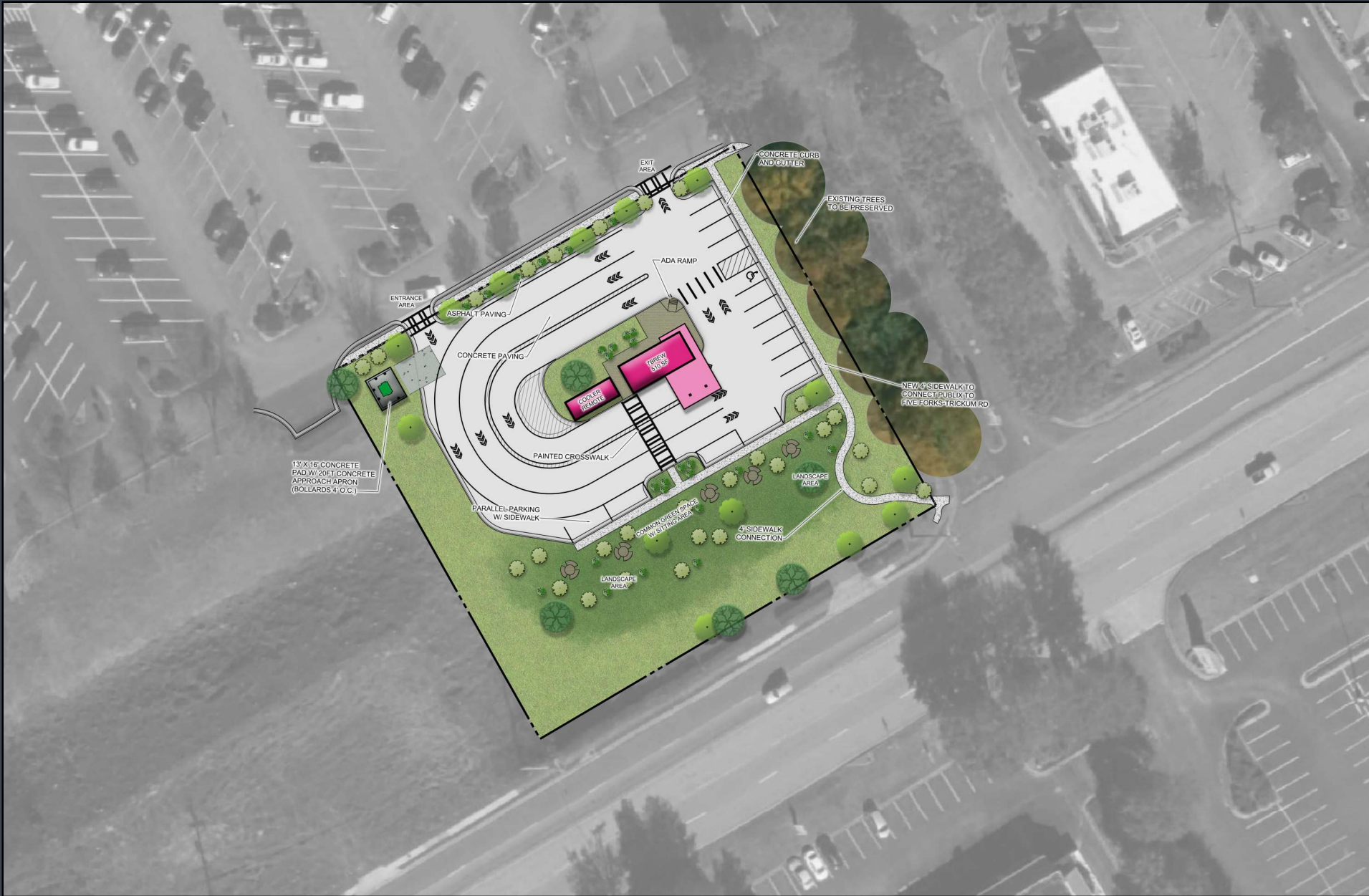


SCALE: 1" = 20'  
 DATE: 01/30/2024  
 PROJECT: 23067.00

GEORGIA  
www.Georgia811.com  
888.888.8888  
Call before you dig.

2/23/2024 10:00:00 AM C:\Users\B... \Desktop\23067.00 - Branch Properties - 2/23/2024 11:31:51 AM





**Exhibit C: Building Elevations proposed by Planners and Engineers Collaborative dated  
February 27, 2024  
[attached]**





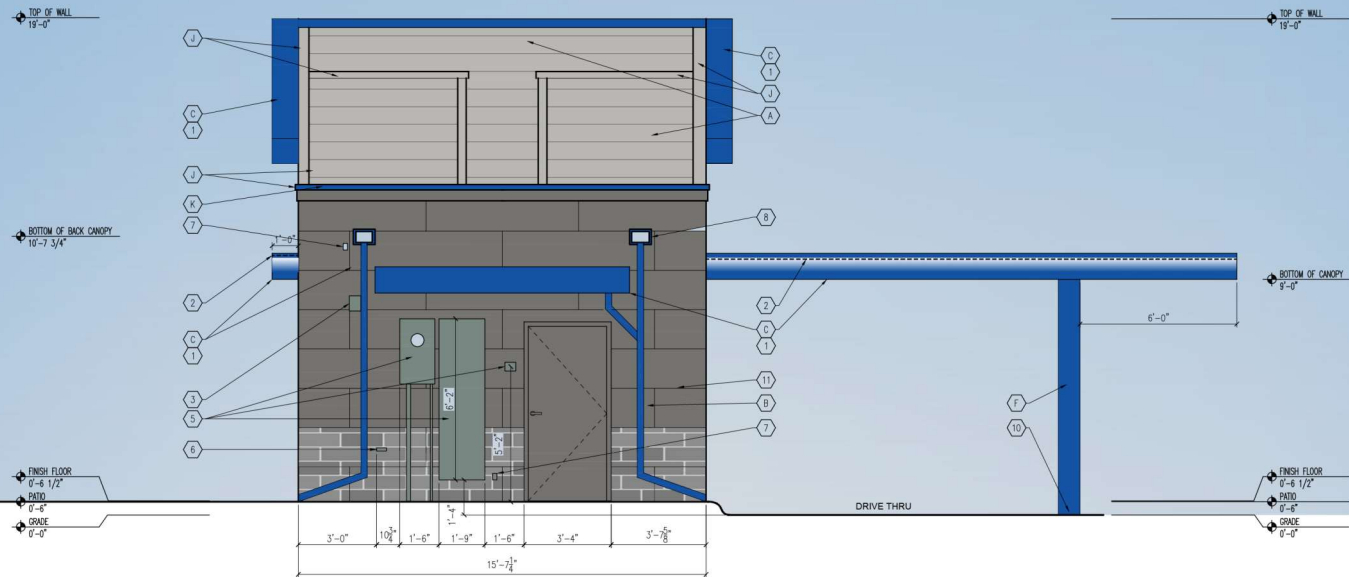
1 FRONT ELEVATION

2023.01.18

EXTERIOR ELEVATION KEYNOTES	
Note Number	Description
1	PRE-ENGINEERED ALUMINUM CANOPY BY OTHERS; SEE SHOP DRAWINGS
2	NEON FLEX LIGHT
3	WALL MOUNTED SPEAKER SYSTEM
4	ADDRESS NUMBERS TO BE 8" TALL x 2" BRUSH STROKE
5	ELECTRICAL EQUIPMENT; SEE ELECTRICAL
6	FROST-PROOF HOSE BIBB
7	EXTERIOR WEATHER-PROOF OUTLET; SEE MEP
8	ROOF SCUPPER DRAIN - TYP. OF 2
9	SURFACE MOUNTED SIGN BOX
10	TOP OF FOOTER. COORDINATE WITH CIVIL.
11	DOWNSPOUT

EXTERIOR ELEVATION MATERIALS LEGEND	
Note Number	Description
A	HARDIPLANK CLAPBOARD SIDING WITH 8" REVEAL
B	NICHIHA PANEL SYSTEM
C	REGAL BLUE BRAKE METAL FASCIA (MP-2)
D	REGAL BLUE SOFFIT PANELS (MP-2)
E	--
F	REGAL BLUE BRAKE METAL (MP-2) ON COLUMN FURR-OUT (TYP.)
G	ROUND STOREFRONT SIGN; SUPPLIED AND INSTALLED BY SIGN CONTRACTOR
H	1/4" THICK ACRYLIC SIGNAGE APPLIED TO SIDING WITH VH DOUBLE SIDE TAPE
J	HARDIPLANK TRIM
K	REGAL BLUE BRAKE METAL CAP
L	ILLUMINATED STOREFRONT SIGNAGE BY SIGN CONTRACTOR
M	BRAKE METAL CAP AND TRIM TO MATCH WALL COLOR

February 27, 2024



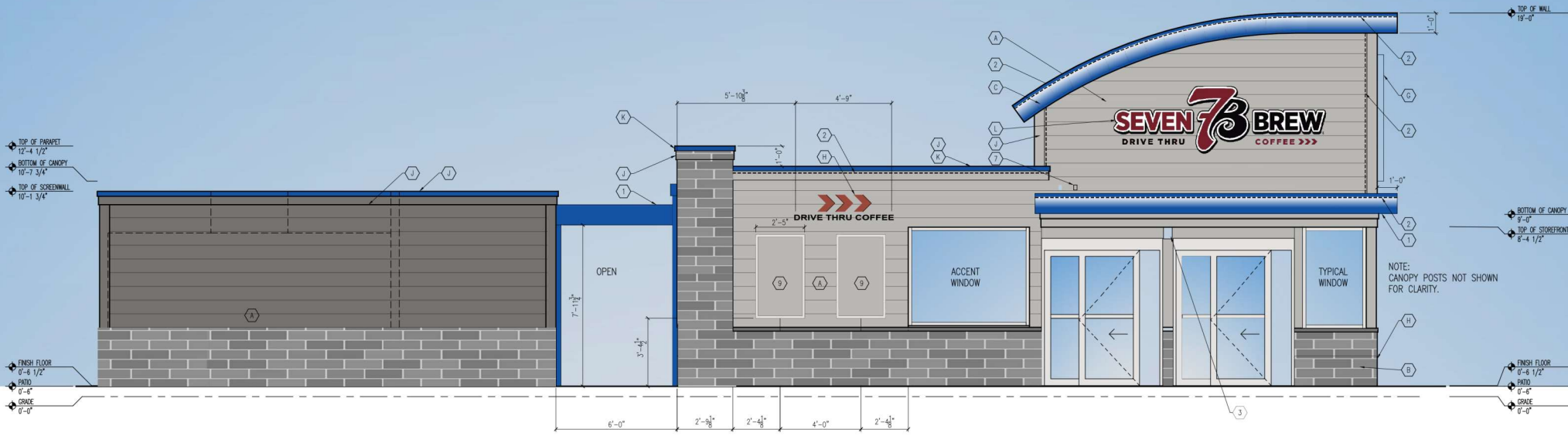
2 BACK ELEVATION

2023.01.18

EXTERIOR ELEVATION KEYNOTES	
Note Number	Description
1	PRE-ENGINEERED ALUMINUM CANOPY BY OTHERS; SEE SHOP DRAWINGS
2	NEON FLEX LIGHT
3	WALL MOUNTED SPEAKER SYSTEM
4	ADDRESS NUMBERS TO BE 8" TALL x 2" BRUSH STROKE
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8	ROOF SCUPPER DRAIN - TYP. OF 2
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L	ILLUMINATED STOREFRONT SIGNAGE BY SIGN CONTRACTOR
M	BRAKE METAL CAP AND TRIM TO MATCH WALL COLOR

February 27, 2024



3 LEFT ELEVATION

2023.01.19

EXTERIOR ELEVATION KEYNOTES	
Note Number	Description
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2	NEON FLEX LIGHT
3	WALL MOUNTED SPEAKER SYSTEM
4	ADDRESS NUMBERS TO BE 8" TALL x 2" BRUSH STROKE
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7	EXTERIOR WEATHER-PROOF OUTLET; SEE MEP
8	ROOF SCUPPER DRAIN - TYP. OF 2
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K	REGAL BLUE BRAKE METAL CAP
L	ILLUMINATED STOREFRONT SIGNAGE BY SIGN CONTRACTOR
M	BRAKE METAL CAP AND TRIM TO MATCH WALL COLOR

February 27, 2024



4 RIGHT ELEVATION

2023.01.10

EXTERIOR ELEVATION KEYNOTES	
Note Number	Description
1	PRE-ENGINEERED ALUMINUM CANOPY BY OTHERS; SEE SHOP DRAWINGS
2	NEON FLEX LIGHT
3	WALL MOUNTED SPEAKER SYSTEM
4	ADDRESS NUMBERS TO BE 8" TALL x 2" BRUSH STROKE
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L	ILLUMINATED STOREFRONT SIGNAGE BY SIGN CONTRACTOR
M	BRAKE METAL CAP AND TRIM TO MATCH WALL COLOR

February 27, 2024

**Exhibit D: RZ-94-196 Resolution**

**[attached]**



CASE NUMBER RZ-94-196

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>
Doug Williamson, District 2	<u>AYE</u>
Judy Waters, District 3	<u>AYE</u>
Renee Unterman, District 4	<u>AYE</u>

On motion of COMM. UNTERMAN, 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

C-1, O-I & R-100 to C-2

by BRIGHT-MEYERS DEVELOPMENT CORPORATION & W. MICHAEL MURPHY &

ASSOCIATES for the proposed use of SHOPPING CENTER

(REDUCTION IN BUFFERS) on a tract of

land described by the attached legal description, which

CASE NUMBER RZ-94-196

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 POST-TRIBUNE, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on December 13, 1994, and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 13th day of December, 1994, that the aforesaid application to amend the Official Zoning Map from C-1, O-I, & R-100 to C-2 is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:
  - A. Retail and service commercial and accessory uses.
  - B. Limited to three outparcels, oriented to Five Forks-Trickum Road as shown on the submitted site plan.
2. To satisfy the following site development considerations:
  - A. Provide a ten-foot wide landscaped strip outside the right-of-way of Five Forks-Trickum Road, Tom Smith Road and Killian Hill Road.
  - B. Provide a minimum 75-foot buffer adjacent to residentially-zoned property on the northerly and northeasterly portions of the subject property. Twenty-five feet (25) of this buffer shall remain natural and undisturbed, except for detention pond. Any area inside the 25 feet which is disturbed shall be re-landscaped with a double staggered row of Leyland Cypress trees eight feet in height planted ten feet on center. An opaque six-foot high chain-link fence shall be installed along the buffer adjacent to residentially-zoned property.

- C. Limited to three entrances/exits onto Five Forks-Trickum Road, and one entrance/exit onto Tom Smith Road. Location of entrances/exits subject to review and approval of the Gwinnett County Department of Transportation. Review shall include the design of interparcel access.
- D. Provide a five-foot wide landscaped strip adjacent to all internal property lines or outparcel developments.
- E. Provide landscaped islands throughout the parking areas. At a minimum, landscaped islands shall consist of a 100-square foot planted area per eighteen (18) spaces of double row parking with a 100-square foot planted area at the end of each row. These landscaped islands shall include at least two trees per island. Trees shall be a minimum of five feet in height at the time of planting. Submit landscape plans for review and approval by the Development Review Section.
- F. The two free-standing retail-shop buildings, as shown on the amended site plan, and all buildings on the outparcel shall be finished with architectural treatments of glass and/or brick, stone or stucco. The front facade of the building containing the supermarket, mini-anchor and retail shops, as shown on the amended site plan, shall be finished with architectural treatments of glass and/or brick, stone, or stucco, with the other three sides to be painted masonry block.
- G. Provide interparcel access to all outparcels.
- H. No billboards allowed on the subject property.
- I. Dumpsters shall be screened by a fence or wall. Hours of dumpster pickup to be between the hours of 8:00 am and 8:00 pm.
- J. Provide sidewalks adjacent to the right-of-way of Five Forks-Trickum Road, Tom Smith Road and Killian Hill Road.
- K. Provide a ten-foot buffer between the proposed driveway access to Killian Hill Road and the westerly residentially-zoned property, which may be disturbed and replanted so as to provide an effective visual screen. This reduction in buffer requirement shall be limited to the distance adjoining the driveway only. From the point at which the driveway turns easterly into the site, a 75-foot buffer shall be required and shall meet the same conditions as Condition 2.B. above.

CASE NUMBER RZ-94-196

- L. Lighting shall be contained in cut-off type luminaries and shall be directed toward the property so as not to reflect into adjacent residential properties.
- M. The detention pond shall be built with a stormwater capacity of 120 percent of that required by the Development Regulations. Any stormwater overflow shall be directed toward Tom Smith Road.
- N. No outdoor storage and no delivery trucks/trailers will be allowed to idle overnight on the property.
- O. Freestanding signage for the entire development shall be limited to a single monument type sign constructed of brick. All out parcels shall meet the signage regulations already existing in Gwinnett County.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: *F. Wayne Hill*  
F. Wayne Hill, Chairman

Date Signed: 1-10-95

ATTEST:

*Barbara A. Brue*  
Clerk

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

**[attached]**



9/28/2023

Re: **Zoning Standards Analysis - Change in Conditions**  
**4045 Five Forks Trickum Road**  
PEC+ Project No. 23067.00

Dear Community Development officials,

Please see below the responses to the Standards Governing the Exercise of the Zoning Power:

The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the official zoning map:

**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 proposed change in conditions will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The property was rezoned to C2 in the mid-90s for the purpose of constructing a new shopping plaza. Today, that plaza includes a Publix with an excess of parking, along with a Marco's Pizza, a nail salon, a pet supply store, a Truist Bank and a Wendy's. The Truist and Wendy's are on outparcels located along Five Forks Trickum frontage. The change in conditions would allow for the redevelopment of existing parking to become a new commercial outparcel. The new outparcel would become a coffee shop with drive thru, that would not be in direct competition with the surrounding uses. Therefore, the proposed change would allow for a use that is suitable in view of the use and development of adjacent and nearby property.

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

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. Most of the nearby properties are already developed. As mentioned, the proposed use of the new outparcel (a coffeeshop) would not be in direct competition with the existing uses or encroach on them. The proposed new use would be in harmony with the use and usability of existing properties.

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

The proposal has reasonable economic use as zoned, and the proposal would not alter the use of the property. The change to allow the fourth outparcel would allow for the redevelopment of existing, unused parking space to become a new structure.

**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:**

The proposed rezoning will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The proposed use would be contained to its own outparcel area and the size would be comparable with other uses. The new outparcel will utilize existing curb cuts for entrance and egress and is not anticipated to generate more traffic than existing counts.

**E. Whether the proposed change in conditions is in conformity with the policy and intent of the land use plan:**

The proposed rezoning is in conformity with the policy and intent of the comprehensive plan. The proposed change in conditions will not alter the approved use of the site, it will only enhance the buildable area of the site, to facilitate a development in line with the goals of the Gwinnett County Comprehensive 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:**

The proposed redevelopment of the existing, unused parking space is beneficial on two counts:

One, it redevelops existing impervious coverage in an area that is already proven to be a successful commercial development, thereby limiting new disturbance and construction elsewhere.

Two, the proposed use will generate new jobs on the existing site for a new business.

The applicant and owner respectfully request that the Gwinnett County Board of Commissioners, Planning Commission and Planning Staff approve and support the Applicant's Change of Conditions request to allow for a fourth outparcel on the Five Forks Trickum site to facilitate a new coffee shop establishment. The developer and their representatives welcome the opportunity to meet with all interested parties and representatives.

Sincerely,

*Hayley Todd*

Zoning Manager, Planners and Engineers Collaborative, Inc.

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

**RECEIVED**

9.28.2023  
CIC2023-00028

9/28/2023

Re: **Letter of Intent - Change in Conditions**  
**4045 Five Forks Trickum Road**  
PEC+ Project No. 22243.00

Dear Community Development Officials,

This change in conditions and waiver application relates to 4045 Five Forks Trickum Road ( the “Subject Property”) and the existing zoning conditions (zoning case RZ-94-196, dated December 13, 1994). The application seeks to strike condition 1.B.: “Limited to three outparcels, oriented to Five Forks Trickum Road as shown on the submitted site plan” from the list of approved zoning conditions in the above-referenced case. The change would allow for the redevelopment of existing, unused parking area into a new coffee shop.

**Site, Site History and Proposal**

The Subject Property is located on the northwest intersection of Five Forks Trickum Road and Tom Smith Road. The site consists of one large parcel (PID 6090 189; the Publix site) that was subdivided with three additional outparcels (PIDs 6090 007, 6090 191, and 6090 008) per the conditions of zoning established in December 1994.

This proposal intends to carve off the southernmost portion of the Publix site (an area of 1.05 acres; PID 6090 189) that is currently developed with underutilized surface parking, and redevelop it into an additional, small commercial outparcel. The proposed use of the outparcel would be a new coffee shop.

**Summary of Request:**

To proceed with this redevelopment, the applicant proposes to strike condition 1.B of the 1994 rezoning (RZ-94-196). The condition reads as follows:

*“Limited to three outparcels, oriented to Five Forks Trickum Road as shown on the submitted site plan”*

The proposal would add a fourth outparcel to the site (an increase of 1 outparcels from the original approval).

**Rationale for Request**

The redevelopment of this parcel is not only consistent with the surrounding uses and comprehensive plan, but it also presents a rare opportunity for converting unused land into usable area. There is sufficient parking for each of the existing uses. Without the spaces along the frontage of Five Forks Trickum (those which would be removed for the purposes of a redevelopment), there is still sufficient parking at the Publix and other shopping center uses, even at peak times. Traffic counts have revealed that the existing parking is severely underutilized.

The proposal to redevelop these parking spaces as a new outparcel for a new coffee shop use is beneficial from environmental and comprehensive planning standpoints—it reduces the amount of impervious coverage on-site and prevents another similar site from being newly disturbed for the same use.

Additionally, the new outparcel will create new jobs for a new business while utilizing the existing curb cuts to the overall site. Traffic is not anticipated to increase or become particularly burdensome at this location.

**Constitutional Objections**

The portions of the Code of Ordinances and Zoning Ordinance for Gwinnett County (the “Zoning Ordinance”) which classifies or conditions the Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are unconstitutional, in that they would destroy the Applicant's and property owner’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, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

The Property is presently suitable for the proposed change in conditions as amended by the Applicant, and is not economically suitable for uses restricted under the existing conditions of zoning and development classification, conditions, regulations, and restrictions due to its location, shape, size, surrounding development, and other factors. A denial of the requested rezoning and related variances would constitute an arbitrary and capricious act by Gwinnett County and the Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment. A refusal by Gwinnett County and the Board of Commissioners to approve this requested rezoning, with only such additional conditions as agreed to by the Applicant and/or owner, so as to permit the only feasible economic use of the Property, would be unconstitutional between the Applicant, owner, and similarly situated property owners, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment.

**Conclusion**

The applicant and owner respectfully request that the Gwinnett County Board of Commissioners, Planning Commission and Planning Staff approve and support the Applicant’s Change of Conditions request to allow for the redevelopment of a fourth outparcel on the site. This will contribute to an overall better site plan, improved user experience and aesthetics. The developer and their representatives welcome the opportunity to meet with all interested parties and representatives.

Sincerely,

*Hayley Todd*

**Zoning Manager, Planners and Engineers Collaborative, Inc.**

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

**RECEIVED**

9.28.2023  
CIC2023-00028

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

**[attached]**

**RECEIVED**

10.18.2023

**CHANGE IN CONDITIONS APPLICATION**

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>TERRY M HAMPEL (BRANCH PROPERTIES)</u>	NAME: <u>SCG BR FIVE FORKS LP</u>
ADDRESS: <u>3340 PEACHTREE ROAD NE STE 2775</u>	ADDRESS: <u>3550 LENOX ROAD NE STE 2000</u>
CITY: <u>ATLANTA</u>	CITY: <u>ATLANTA</u>
STATE: <u>GA</u> ZIP: <u>30326</u>	STATE: <u>GA</u> ZIP: <u>30026</u>
PHONE: <u>404-832-8900</u>	PHONE: _____
EMAIL: <u>THAMPEL@BRANCHPROP.COM</u>	EMAIL: _____
CONTACT PERSON: <u>HAYLEY TODD (PEC+)</u> PHONE: <u>757-508-6593</u>	
CONTACT'S E-MAIL: <u>HTODD@PEC.PLUS</u>	

APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input checked="" type="checkbox"/> PROPERTY OWNER
<input type="checkbox"/> CONTRACT PURCHASER	
ZONING DISTRICTS(S): <u>C2</u>	PRIOR ZONING CASE: <u>RZ-94-196</u>
PARCEL NUMBER(S): <u>6090 189</u>	ACREAGE: <u>19.34</u>
ADDRESS OF PROPERTY: <u>4045 FIVE FORKS TRICKUM ROAD</u>	
PROPOSED CHANGE IN CONDITIONS: <u>ALLOW FOR A FOURTH OUTPARCEL (INCREASE BY 1)</u>	
<b>RESIDENTIAL DEVELOPMENT:</b>	<b>NON-RESIDENTIAL DEVELOPMENT:</b>
NO. OF LOTS/DWELLING UNITS: _____	NO. OF BUILDINGS/LOTS: <u>1</u>
DWELLING UNIT SIZE (Sq. Ft.): _____	TOTAL GROSS SQUARE FEET: <u>6000 SF</u>
GROSS DENSITY: _____	DENSITY: <u>N/A</u>
NET DENSITY: _____	

**PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED**



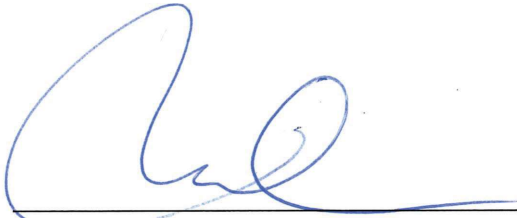
**RECEIVED**

9.28.2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 7/2023

**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.



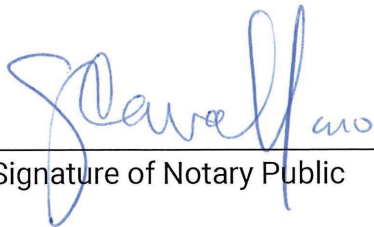
Signature of Applicant

9/27/2023

Date

Terry M Hamfel, Authorized Signatory

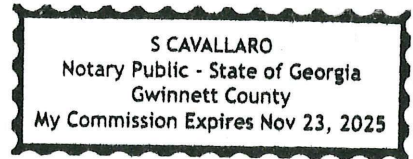
Type or Print Name and Title



Signature of Notary Public

9/27/23

Date



Notary Seal



RECEIVED

9.28.2023

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 7/2023

**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

9/27/2023

Date

Terry M. Hanft  
on behalf of SCG BR FIVE FORKS LP

Type or Print Name and Title

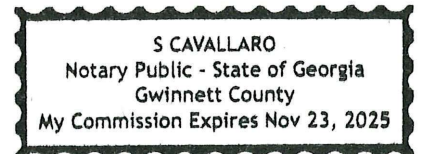
Authorized Signatory



Signature of Notary Public

9/27/23

Date



Notary Seal

**RECEIVED**

9.28.2023

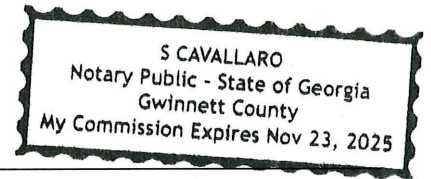
**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

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] 9/27/2023 Terry M Hampel  
Signature of Applicant Date Type of Print Name and Title  
on behalf of BRANCH PROPERTIES  
Authorized Signatory

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

[Signature] 9/27/23  
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

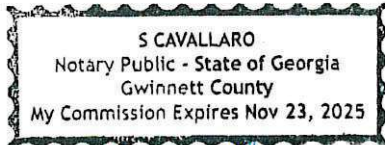
Terry M. Hampel

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.



*S Cavallaro*  
*9/27/23*

Gwinnett County Planning Division  
Change in Conditions Application  
Last Updated 7/2023

**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:**                      6                      -                      090                      -                      189  
(Map Reference Number)                      District                      Land Lot                      Parcel

*[Handwritten Signature]*

Signature of Applicant  
*Felcy M. Hamrel*  
on behalf of BRANCH PROPERTIES

*9/27/2023*

Date

*Authorized Signatory*

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)

*Kathy Lyles*  
NAME

*TSA*  
TITLE

*9/27/2023*  
DATE



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

**[attached]**



**Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE**

<b>TRC Meeting Date:</b>				11.08.23			
Department/Agency Name:				Transportation			
Reviewer Name:				Brent Hodges			
Reviewer Title:				Construction Manager 1			
Reviewer Email Address:				<a href="mailto:Brent.Hodges@gwinnettcounty.com">Brent.Hodges@gwinnettcounty.com</a>			
Case Number:				CIC2023-00028			
Case Address:				4045 Five Forks Trickum Road, Lilburn, 30047			
<b>Comments:</b>				<input checked="" type="checkbox"/>	<b>YES</b>	<input type="checkbox"/>	<b>NO</b>
1	Five Forks Trickum Road is a minor arterial. ADT = 19,412.						
2	0.2 mile to the nearest transit facility (Route 25) located at Five Forks Trickum Road and Killian Hill Road.						
3							
4							
5							
6							
7							
<b>Recommended Zoning Conditions:</b>				<input checked="" type="checkbox"/>	<b>YES</b>	<input checked="" type="checkbox"/>	<b>NO</b>
1							
2							
3							
4							
5							
6							
7							

**Note:** Attach additional pages, if needed

Revised 7/26/2021



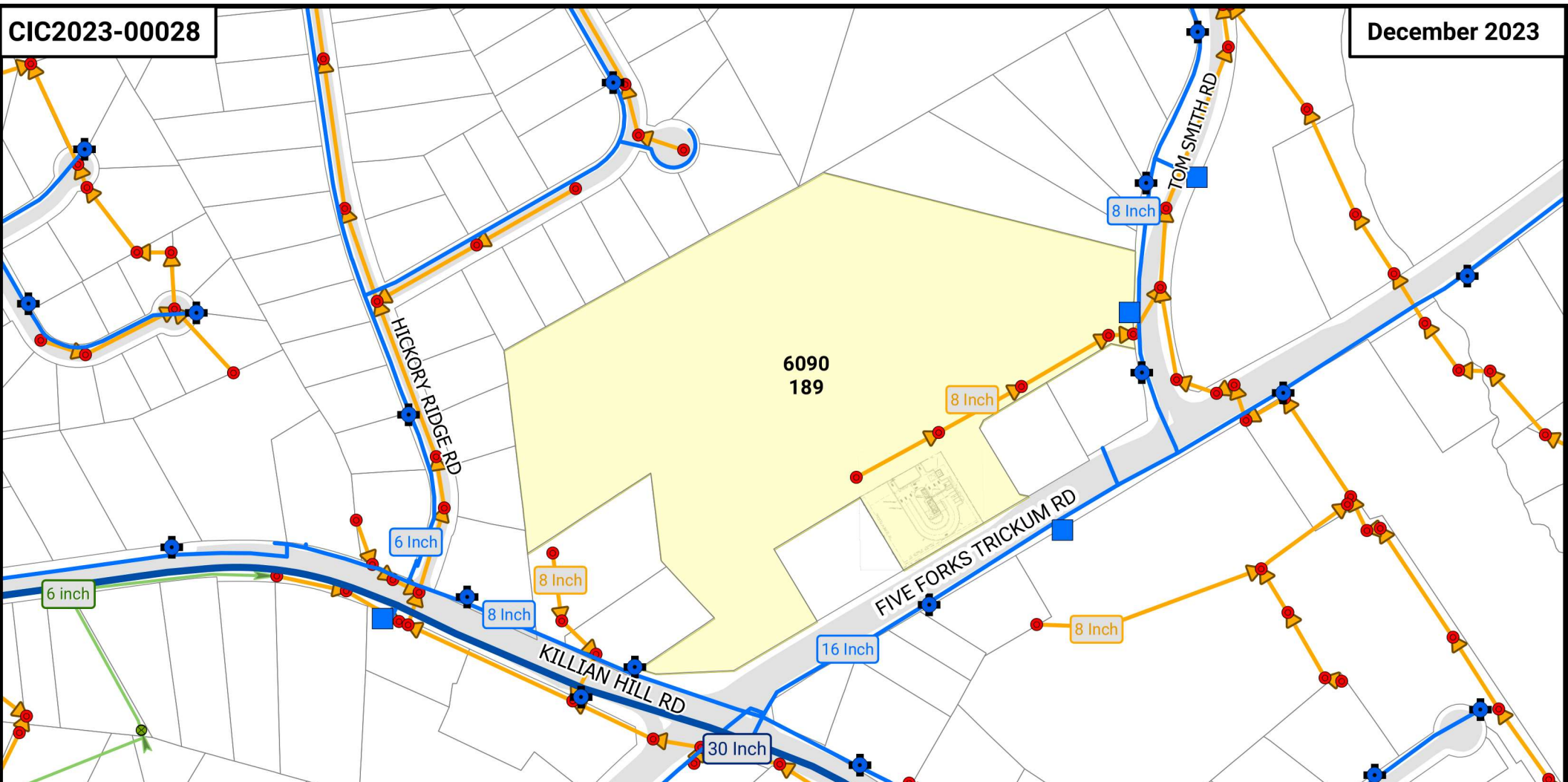
**Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE**

<b>TRC Meeting Date:</b>				
Department/Agency Name:	DWR			
Reviewer Name:	Mike Pappas			
Reviewer Title:	GIS Planning Manager			
Reviewer Email Address:	<a href="mailto:Michael.pappas@gwinnettcountry.com">Michael.pappas@gwinnettcountry.com</a>			
Case Number:	CIC2023-00028			
Case Address:	4045 Five Forks Trickum Rd			
<b>Comments:</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	Water: The proposed development may connect to an existing 16-inch water main along the southern right-of-way of Five Forks Trickum Road.			
2	Sewer: A Sewer Capacity Certification is required for this development. Pending available capacity, the proposed development may connect to an existing an existing 8-inch gravity sewer to the north of the proposed outparcel on the subject site.			
3				
4				
5				
6				
7				
<b>Recommended Zoning Conditions:</b>		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1				
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**Note:** Attach additional pages, if needed

Revised 7/26/2021



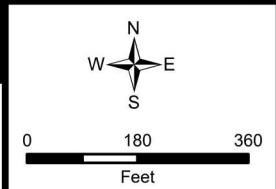


LEGEND

- Master Vault
- Manhole
- Water Main
- Sewer Collector
- ⊕ Hydrant
- Sewer Force Main

**4045 Five Forks Trickum Rd**  
C2 to RZ-94-196

## Water & Sewer Utility Map



LOCATION



**Water Comments:** The proposed development may connect to an existing 16-inch water main along the southern right-of-way of Five Forks Trickum Road.

**Sewer Comments:** A Sewer Capacity Certification is required for this development. Pending available capacity, the proposed development may connect to an existing an existing 8-inch gravity sewer to the north of the proposed outparcel on the subject site.

**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 H: Maps**

**[attached]**





PINECREST TER

PINECREST CIR

TOM SMITH RD

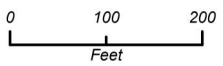
HICKORY RIDGE RD

FIVE FORKS TRICKUM RD

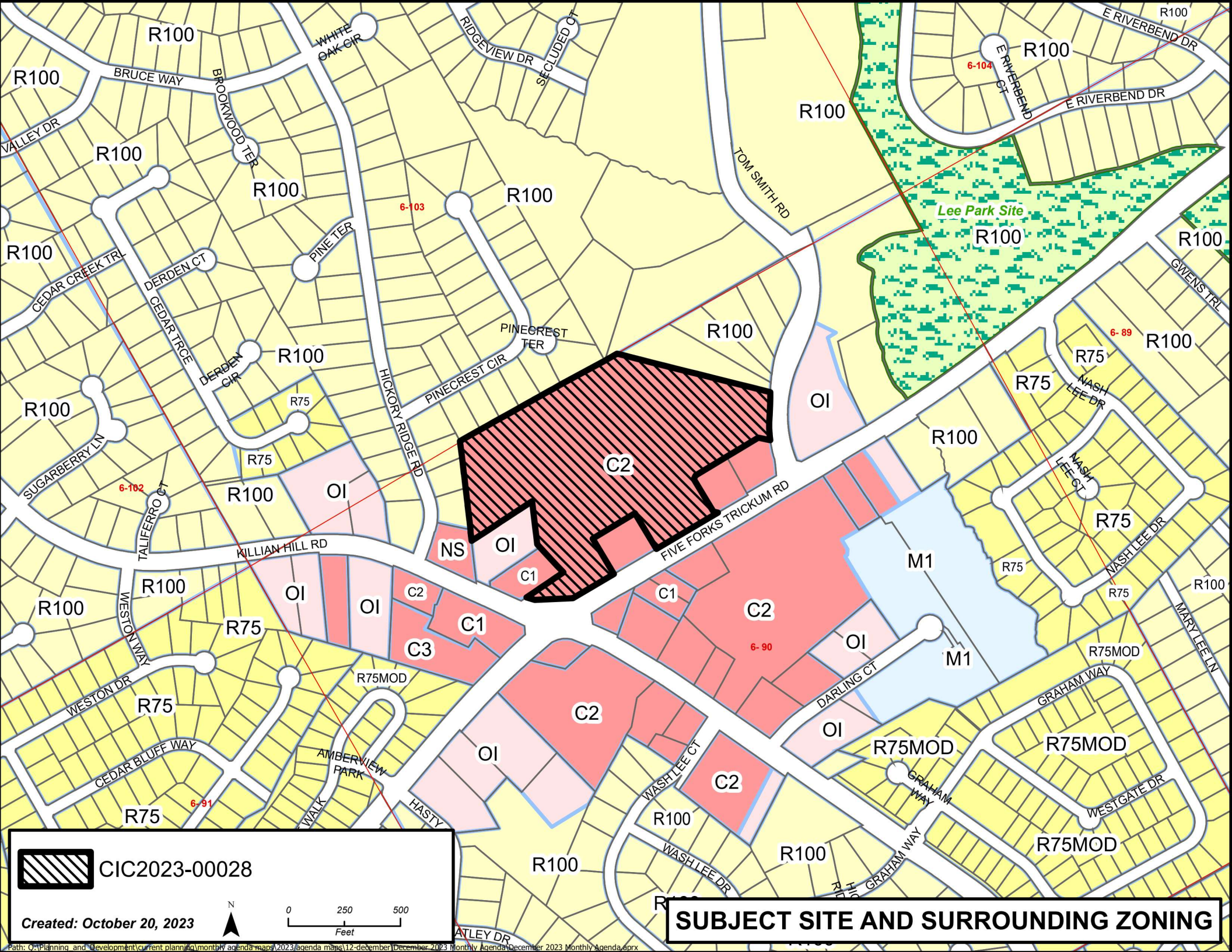
KILLIAN HILL RD

 CIC2023-00028

Created: October 20, 2023

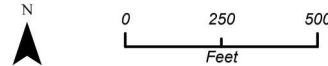






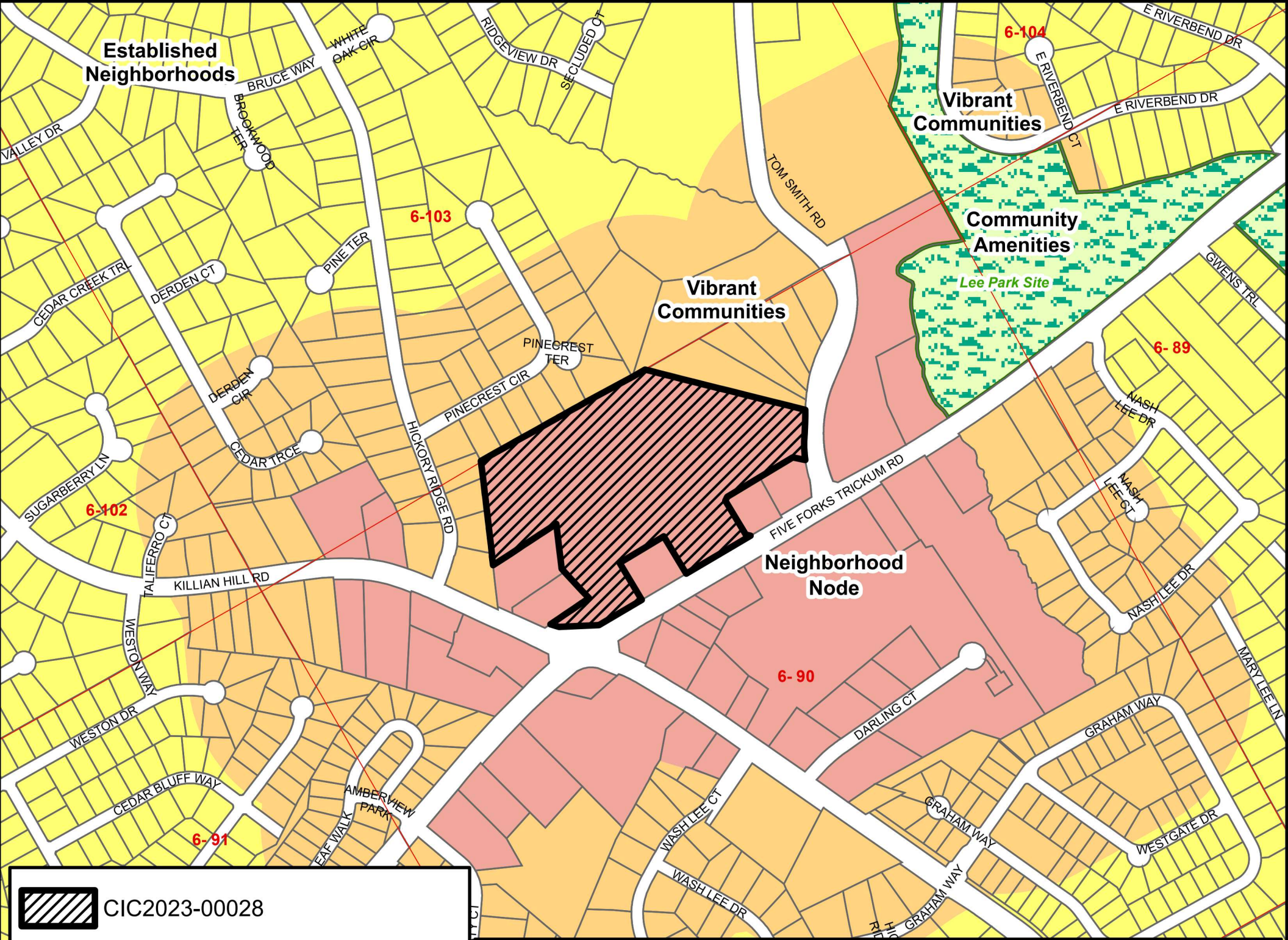
 CIC2023-00028

Created: October 20, 2023



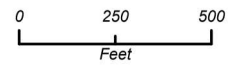
**SUBJECT SITE AND SURROUNDING ZONING**





 CIC2023-00028

Created: October 20, 2023



**2040 UNIFIED PLAN FUTURE DEVELOPMENT CLASSIFICATION**