

Department of Planning and Development

446 West Crogan Street • Lawrenceville, GA 30046-2440
(tel) 678.518.6000
www.gwinnettcountry.com



MUNICIPAL-GWINNETT COUNTY PLANNING COMMISSION

PUBLIC HEARING AGENDA

**GWINNETT JUSTICE AND ADMINISTRATION CENTER
TUESDAY, SEPTEMBER 6, 2015 AT 7:00 P.M.**

AS SET FORTH IN THE AMERICANS WITH DISABILITIES ACT OF 1992, THE GWINNETT COUNTY GOVERNMENT DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY AND WILL ASSIST CITIZENS WITH SPECIAL NEEDS GIVEN PROPER NOTICE (SEVEN WORKING DAYS). FOR INFORMATION, PLEASE CALL THE FACILITIES MANAGEMENT DIVISION AT 770.822.8015.

- A. CALL TO ORDER, INVOCATION, PLEDGE TO FLAG
- B. OPENING REMARKS BY CHAIRMAN AND RULES OF ORDER
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES (AUGUST 2, 2016 MEETING)
- E. ANNOUNCEMENTS
- F. OLD BUSINESS

- I. CASE NUMBER :**RZC2016-00015**
 - APPLICANT :MAHAFFEY, PICKENS, TUCKER, LLP
 - CONTACT :SHANE LANHAM OR LEE TUCKER
 - PHONE NUMBER :770.232.0000
 - ZONING CHANGE :C-2 TO MU-R
 - LOCATION :3100 BLOCK OF WOODWARD CROSSING BLVD
:2600 BLOCK OF MALL OF GEORGIA BOULEVARD
 - MAP NUMBER :R7177 047
 - ACREAGE :16.0 ACRES
 - SQUARE FEET :217,170 SQUARE FEET (RETAIL)
:91,200 SQUARE FEET (OFFICE)
:134,460 SQUARE FEET (250 HOTEL GUEST ROOMS)
 - UNITS :352 UNITS (APARTMENTS)
:40 UNITS (CONDOMINIUMS)
 - PROPOSED DEVELOPMENT :REGIONAL MIXED-USE DEVELOPMENT
 - COMMISSION DISTRICT : (4) HEARD
 - DEPARTMENT RECOMMENDATION :**APPROVAL WITH CONDITIONS**

gwinnettcountry

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|----|---|--|
| 2. | CASE NUMBER
APPLICANT
CONTACT
PHONE NUMBER
ZONING CHANGE
LOCATION
MAP NUMBERS
ACREAGE
UNITS
PROPOSED DEVELOPMENT
COMMISSION DISTRICT
DEPARTMENT RECOMMENDATION | :RZR2016-00009
:MAHAFFEY, PICKENS, TUCKER, LLP
:SHANE LANHAM
:770.232.0000
:RA-200 TO R-60
:2200-2300 BLOCK OF KILGORE ROAD
:R7178 014, 015, 016 & R7185 068
:17.44 ACRES
:36 UNITS
:SINGLE-FAMILY SUBDIVISION
:(4) HEARD
: DENIAL |
| | | |
| 3. | CASE NUMBER
APPLICANT
CONTACT
PHONE NUMBER
ZONING CHANGE
LOCATION
MAP NUMBERS
ACREAGE
UNITS
PROPOSED DEVELOPMENT

COMMISSION DISTRICT
DEPARTMENT RECOMMENDATION | :RZR2016-00011
:MAHAFFEY, PICKENS, TUCKER, LLP
:SHANE LANHAM OR LEE TUCKER
:770.232.0000
:R-100 TO TND
:1100-1200 BLOCK OF WEBB GIN HOUSE ROAD
:R5087 120 & R5106 003, 067 & 278
:43.56 ACRES
:99 UNITS
:TRADITIONAL NEIGHBORHOOD DEVELOPMENT
(REDUCTION IN BUFFERS)
:(4) HEARD
: DENIAL |
| | | |
| 4. | CASE NUMBER
APPLICANT
CONTACT
PHONE NUMBER
ZONING CHANGE
LOCATION
MAP NUMBERS
ACREAGE
UNITS
PROPOSED DEVELOPMENT
COMMISSION DISTRICT
DEPARTMENT RECOMMENDATION | :RZM2016-00003
:MAHAFFEY, PICKENS, TUCKER, LLP
:SHANE LANHAM OR LEE TUCKER
:770.232.0000
:R-100 TO RM-24
:1100-1200 BLOCK OF WEBB GIN HOUSE ROAD
:R5087 120 & R5106 278
:12.57 ACRES
:300 UNITS
:APARTMENTS (REDUCTION IN BUFFERS)
:(4) HEARD
: DENIAL |

5. CASE NUMBER :**RZR2016-00012 (Public Hearing Held)**
APPLICANT :MAHAFFEY, PICKENS, TUCKER, LLP
CONTACT :SHANE LANHAM
PHONE NUMBER :770.232.0000
ZONING CHANGE :R-75 TO R-TH
LOCATION :3200-3300 BLOCK OF SUGARLOAF PARKWAY
MAP NUMBER :R7164 183
ACREAGE :6.05 ACRES
UNITS :36 UNITS
PROPOSED DEVELOPMENT :ATTACHED TOWNHOMES (REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(1) BROOKS
DEPARTMENT RECOMMENDATION :**DENIAL**

6. CASE NUMBER :**RZR2016-00016**
APPLICANT :EDGE CITY PROPERTIES, INC.
CONTACT :MITCH PEEVY
PHONE NUMBER :770.614.6511
ZONING CHANGE :C-2 TO R-TH
LOCATION :2000 BLOCK OF HAMILTON CREEK PARKWAY
MAP NUMBER :R3002 110
ACREAGE :4.47 ACRES
UNITS :35 UNITS
PROPOSED DEVELOPMENT :TOWNHOMES (REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(3) HUNTER
DEPARTMENT RECOMMENDATION :**DENIAL**

7. CASE NUMBER :**CIC2016-00019**
APPLICANT :CMH PARKS, INC. D/B/A CHAFIN BUILDERS
CONTACT :SHANE LANHAM
PHONE NUMBER :770.232.0000
ZONING :R-ZT
LOCATION :2900 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBERS :R7143 004 & 005
ACREAGE :44.86 ACRES
PROPOSED DEVELOPMENT :REVISE SITE PLAN AND ARCHITECTURAL STANDARDS
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION :**DENIAL**

8. CASE NUMBER :**CIC2016-00020**
APPLICANT :CMH PARKS, INC. D/B/A CHAFIN BUILDERS
CONTACT :SHANE LANHAM
PHONE NUMBER :770.232.0000
ZONING :R-60
LOCATION :2900 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBERS :R7143 004 & 005
ACREAGE :14.78 ACRES
PROPOSED DEVELOPMENT :REVISE SITE PLAN AND ARCHITECTURAL STANDARDS
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION :**DENIAL**

G. NEW BUSINESS

1. CASE NUMBER :**RZC2016-00008 (APPLICANT WITHDRAWAL)**

2. CASE NUMBER :**SUP2016-00019 (APPLICANT WITHDRAWAL)**

3. CASE NUMBER :**RZC2016-00017**
APPLICANT :SATILLA CAPITAL PARTNERS
CONTACT :MARIAN ADEIMY
PHONE NUMBER :678.518.6855
ZONING CHANGE :RA-200 TO C-2
LOCATION :2800 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBER :R7143 010
ACREAGE :7.0 ACRES
SQUARE FEET :150,000 SQUARE FEET
PROPOSED DEVELOPMENT :CONGREGATE PERSONAL CARE HOME
(REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION :**APPROVAL WITH CONDITIONS AS O-I
WITH A SPECIAL USE PERMIT**

4. CASE NUMBER :**RZR2016-00018**
APPLICANT :SATILLA CAPITAL PARTNERS
CONTACT :MARIAN ADEIMY
PHONE NUMBER :678.518.6855
ZONING CHANGE :RA-200 TO R-60
LOCATION :2800 BLOCK OF GRAVEL SPRINGS ROAD
:2300 BLOCK OF BROWN ROAD
MAP NUMBER :R7143 010
ACREAGE :76.12 ACRES
UNITS :118 UNITS
PROPOSED DEVELOPMENT :SINGLE-FAMILY SUBDIVISION
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION :**APPROVAL WITH CONDITIONS AS R-SR**

5. CASE NUMBER :**RZM2016-00004**
APPLICANT :SATILLA CAPITAL PARTNERS
CONTACT :MARIAN ADEIMY
PHONE NUMBER :678.518.6855
ZONING CHANGE :RA-200 TO R-TH
LOCATION :2700 BLOCK OF BROWN ROAD
MAP NUMBER :R7136 010
ACREAGE :35.29 ACRES
UNITS :190 UNITS
PROPOSED DEVELOPMENT :TOWNHOMES (REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION :**DENIAL**

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| 6. CASE NUMBER | : RZR2016-00017 |
| APPLICANT | :RINGO ABERNATHY, INC. |
| CONTACT | :GUY ABERNATHY |
| PHONE NUMBER | :770.231.9013 |
| ZONING CHANGE | :RA-200 TO R-100 |
| LOCATION | :900 BLOCK OF AUBURN ROAD |
| MAP NUMBER | :R2001 019 |
| ACREAGE | :3.67 ACRES |
| UNITS | :7 UNITS |
| PROPOSED DEVELOPMENT | :SINGLE-FAMILY SUBDIVISION |
| COMMISSION DISTRICT | :(3) HUNTER |
| DEPARTMENT RECOMMENDATION | : DENIAL |
| | |
| 7. CASE NUMBER | : RZR2016-00019 |
| APPLICANT | :AARON YOUNG |
| CONTACT | :FIELDING D. ALDERMAN |
| PHONE NUMBER | :770.862.4133 |
| ZONING CHANGE | :R-100 TO RA-200 |
| LOCATION | :4100 BLOCK OF BEAVER ROAD |
| MAP NUMBER | :R5096 028 |
| ACREAGE | :26.21 ACRES |
| UNITS | :1 UNIT |
| PROPOSED DEVELOPMENT | :EQUESTRIAN FACILITY |
| COMMISSION DISTRICT | :(3) HUNTER |
| DEPARTMENT RECOMMENDATION | : APPROVAL WITH CONDITIONS |
| | |
| 8. CASE NUMBER | : CIC2016-00013 (ADMINISTRATIVELY WITHDRAWN) |
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| 9. CASE NUMBER | : SUP2016-00034 (ADMINISTRATIVELY WITHDRAWN) |
| | |
| 10. CASE NUMBER | : CIC2016-00021 |
| APPLICANT | :HENNESSY RANGE ROVER & JAGUAR |
| CONTACT | :MITCH PEEVY |
| PHONE NUMBER | :770.614.6511 |
| ZONING | :C-2 |
| LOCATION | :3400 BLOCK OF OLD NORCROSS ROAD |
| | :3300 BLOCK OF MCDANIEL ROAD |
| MAP NUMBER | :R6232 150 |
| ACREAGE | :5.04 ACRES |
| SQUARE FEET | :23,388 SQUARE FEET |
| PROPOSED DEVELOPMENT | :CHANGE IN CONDITIONS OF ZONING |
| COMMISSION DISTRICT | :(1) BROOKS |
| DEPARTMENT RECOMMENDATION | : APPROVAL WITH CONDITIONS |

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| 11. CASE NUMBER | : CIC2016-00022 |
| APPLICANT | :TUNCE REALTY, LLC |
| CONTACT | :ANDREW KAISER |
| PHONE NUMBER | :770.349.8202 |
| ZONING | :C-2 |
| LOCATION | :3900 BLOCK OF ANNISTOWN ROAD |
| MAP NUMBER | :R6020 279 |
| ACREAGE | :1.24 ACRES |
| SQUARE FEET | :8,000 SQUARE FEET |
| PROPOSED DEVELOPMENT | :CHANGE IN CONDITIONS OF ZONING |
| COMMISSION DISTRICT | :(3) HUNTER |
| DEPARTMENT RECOMMENDATION | : APPROVAL WITH CONDITIONS |
| | |
| 12. CASE NUMBER | : BRD2016-00004 |
| APPLICANT | :TUNCE REALTY, LLC |
| CONTACT | :ANDREW KAISER |
| PHONE NUMBER | :770.349.8202 |
| ZONING | :C-2 |
| LOCATION | :3900-4000 BLOCKS OF ANNISTOWN ROAD |
| MAP NUMBERS | :R6020 279 & 022A |
| ACREAGE | :2.02 ACRES |
| PROPOSED DEVELOPMENT | :REDUCTION IN BUFFER FROM 75 FEET TO 20 FEET |
| COMMISSION DISTRICT | :(3) HUNTER |
| DEPARTMENT RECOMMENDATION | : APPROVAL WITH CONDITIONS |
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| 13. CASE NUMBER | : SUP2016-00025 (APPLICANT WITHDRAWAL) |
| | |
| 14. CASE NUMBER | : SUP2016-00051 |
| APPLICANT | :SANDIP PATEL |
| CONTACT | :JOYCE LLORENS |
| PHONE NUMBER | :770.490.8476 |
| ZONING | :C-2 |
| LOCATION | :2000 BLOCK OF BEAVER RUIN ROAD |
| MAP NUMBER | :R6213 023 |
| ACREAGE | :1.00 ACRE |
| SQUARE FEET | :6,512 SQUARE FEET |
| PROPOSED DEVELOPMENT | :TRUCK RENTAL |
| COMMISSION DISTRICT | :(1) BROOKS |
| DEPARTMENT RECOMMENDATION | : DENIAL |

15. CASE NUMBER	: SUP2016-00053
APPLICANT	:SANDIP PATEL
CONTACT	:JOYCE LLORENS
PHONE NUMBER	:770.490.8476
ZONING	:C-2
LOCATION	:2000 BLOCK OF BEAVER RUIN ROAD
MAP NUMBER	:R6213 023
ACREAGE	:1.00 ACRE
SQUARE FEET	:6,512 SQUARE FEET
PROPOSED DEVELOPMENT	:LIMOUSINE SERVICE
COMMISSION DISTRICT	:(I) BROOKS
DEPARTMENT RECOMMENDATION	: DENIAL

16. CASE NUMBER :**SUP2016-00052 (ADMINISTRATIVELY HELD)**

I. UNIFIED DEVELOPMENT ORDINANCE AMENDMENT

UDOA2016-00003- AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE OF GWINNETT COUNTY; TITLE 1: ADMINISTRATION AND TITLE 2: LAND USE AND ZONING TO PROVIDE NEW OR REVISED REQUIREMENTS FOR DONATION DROP BOXES.

H. AUDIENCE COMMENTS

I. COMMITTEE REPORTS

J. COMMENTS BY STAFF AND PLANNING COMMISSION

K. ADJOURNMENT

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER	: RZC2016-00015
ZONING CHANGE	:C-2 TO MU-R
LOCATION	:3100 BLOCK OF WOODWARD CROSSING BOULEVARD :2600 BLOCK OF MALL OF GEORGIA BOULEVARD
MAP NUMBER	:R7177 047
ACREAGE	:16.0 ACRES
SQUARE FEET	:217,170 SQUARE FEET (RETAIL) :91,200 SQUARE FEET (OFFICE) :134,460 SQUARE FEET (250 HOTEL GUEST ROOMS)
UNITS	:352 UNITS (APARTMENTS) :40 UNITS (CONDOMINIUMS)
PROPOSED DEVELOPMENT	:REGIONAL MIXED-USE DEVELOPMENT
COMMISSION DISTRICT	:(4) HEARD
FUTURE DEVELOPMENT MAP	: REGIONAL MIXED-USE

APPLICANT: MAHAFFEY, PICKENS, TUCKER, LLP
1550 NORTH BROWN ROAD, SUITE 125
LAWRENCEVILLE, GA 30043

CONTACT: SHANE LANHAM OR LEE TUCKER PHONE: 770.232.0000

OWNER: J & J 360, LLC
1790 MALL OF GEORGIA BOULEVARD
BUFORD, GA 30519

DEPARTMENT RECOMMENDATION: **APPROVAL WITH CONDITIONS**

PROJECT DATA:

The applicant requests rezoning of a 16-acre property from C-2 (General Business District) to MU-R (Mixed Use Regional District) for development of a mixed-use project consisting of 217,170 square feet of retail space, 91,200 square feet of office space, a 250-room hotel, 352 apartment units and 40 condominium units. The site is located at the corner of Mall of Georgia Boulevard and Woodward Crossing Boulevard, and was part of the original rezoning approval for the Mall of Georgia. Ivy Creek is located along the west property line with a portion of its floodplain on the subject site. The property was graded several years ago, but is still undeveloped. Located within the Mall of Georgia Activity Center/Corridor Overlay District, the project is subject to those overlay requirements as set forth in the Gwinnett County Unified Development Ordinance.

As indicated on the submitted site plan, the retail/service commercial uses which include the family entertainment center and the 250-room, maximum 21-story hotel, would be developed within eight buildings throughout the site. The proposed office project would be located within

one maximum eight-story building. Residential uses consisting of 352 apartment units in one building and 40 condominium units within another building would yield a gross density of 24.5 units per acre. The overall development is proposed with a Floor Area Ratio (FAR) of 1.29.

The required undisturbed stream buffer and impervious surface setbacks are shown on the submitted boundary survey. The Ivy Creek Greenway runs along Ivy Creek opposite of the subject site. Connection to the trail would be made via a proposed pedestrian bridge across the creek from the subject property to the Mall of Georgia property. Additional pedestrian connections would be made via internal sidewalks and sidewalks along both road frontages. Stormwater management is proposed to be underground. The submitted architectural renderings depict urban style, mixed-use buildings constructed with a mix of masonry, glass, and steel materials. A total of 2,453 parking spaces would be provided through on-street, surface, and structured parking. The site plan also indicates various outdoor spaces and street-level pedestrian access.

A Development of Regional Impact (DRI) review is underway by the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA), however, the final DRI findings were not complete at the time of publication of this report.

ZONING HISTORY:

The property was zoned RA-200 (Agriculture Residence District) in 1970. The current C-2 (General Business District) classification was approved in 1997 as part of the Mall of Georgia rezoning actions (RZ-97-013, RZ-97-014 and SUP-97-014). At that time, a DRI was required for the mall development. The mall project has been built out and the new rezoning request requires additional DRI review as the proposal is beyond the scope of the original DRI approval. A change in conditions for a building height increase was approved on the site in December 2007, pursuant to CIC-07-035. In 2013, a request to rezone the subject site to RM-13 (Multi-family Residence District) was denied without prejudice by the Board of Commissioners pursuant to RZM2013-00004.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property contains areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development. The applicant/developer shall obtain all required approvals from the Gwinnett Department of Public Utilities and the U.S. Army Corps of Engineers for construction or land disturbance activities which may impact floodplain or wetland areas.

OPEN SPACE AND GREENWAY MASTER PLAN:

No Comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Section 610-20.3 of the Unified Development Ordinance requires screening of dumpsters and loading/unloading facilities.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance and Section 210-225.3.

Parking spaces shall be provided at a ratio of:

Non-residential (at a minimum) - One space per 400 square feet.

Residential (at a minimum)- 1.5 spaces per residential dwelling unit.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application.

The developer must submit detailed site development plans, including a landscape and tree preservation/replacement plan, for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Stormwater Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including stormwater detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

This project lies within an Activity Center/Corridor Overlay District, and is subject to all requirements set forth in Chapter 220 of the Unified Development Ordinance.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers and floodplain. The proposed conceptual plan may require revision to show the appropriate stream buffer area and floodplain. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Mall of Georgia Boulevard is a Major Collector and 40 feet of right-of-way is required from the centerline.

Woodward Crossing Boulevard is a Major Collector and 40 feet of right-of-way is required from the centerline.

Commercial entrances shall be provided to the site per current Development Regulations.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The project entrance shall align with opposing roads or driveways in accordance with the Gwinnett County Unified Development Ordinance.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

Prior to the issuance of a Development Permit, the applicant shall provide a traffic impact study and a signal warrant study.

Prior to the issuance of the first certificate of occupancy, the applicant shall make any improvements recommended by the traffic impact study, provided the improvements are

approved by the D.O.T. All design and construction will be subject to D.O.T. review and approval.

If it is determined by the signal warrant study that a signal is warranted, and the signal is approved by the D.O.T., the applicant shall contact and pay for the signal design. The application shall also contract for the installation of the signal by a D.O.T. approved contractor. All design and construction will be subject to D.O.T. review and approval. The signal will be installed and operational prior to the issuance of the first certificate of occupancy.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 12-inch water main located on the northeastern right-of-way of Woodward Crossing Boulevard, and a 16-inch water main located on the southeastern right-of-way of Mall of Georgia Boulevard.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an 8-inch sanitary sewer main located on the right-of-way of Woodward Crossing Boulevard, two sanitary sewer manholes located on the western edge of the property, an 8-inch sanitary sewer main located approximately 181 feet south of the property on the right-of-way of Appaloosa Lane, and a 24-inch sanitary sewer main located east of the property.

The subject development is located within the Ivy Creek service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

1. The applicant shall submit civil site drawings to Building Plan Review for review and approval.
2. The applicant shall submit architectural, structural, mechanical, electrical and plumbing drawings for each building for review and approval by Building Plan Review.
3. Each building shall comply with the height and area limitations of Table 503 and the fire resistive and horizontal separation requirements of Table 601 and 602 of the 2012 International Building Code with Georgia state amendments based on occupancy group classification, type of construction, and location of each building from property lines and other buildings.
4. Architectural design of the proposed building shall incorporate the requirements of the Gwinnett County Unified Development Ordinance, Architectural Design Standards, Category 3.
5. Upon completion of plan review approvals, the applicant shall obtain a building permit for each building and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.

For assistance, you may contact this office at (678) 518-6000 Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

Fire Plan Review has no objections to the above rezoning request, under the following conditions:

1. Applicant submits civil drawings to Fire Plan Review for review and approval.
2. Applicant submits architectural drawings to Fire Plan Review for review and approval.
3. Upon completion of plan review approvals, applicant successfully achieves a satisfactory Fire field inspection for issuance of a Certificate of Occupancy - Business Operation.

For assistance, you may contact this office at (678) 518-6000, Monday through Friday, from the hours of 8:00 a.m. to 5:00 p.m.

DEPARTMENT ANALYSIS:

The subject property is a 16-acre site located at the corner of Mall of Georgia Boulevard and Woodward Crossing Boulevard. The site was graded several years ago and is currently vacant. Ivy Creek forms the western property line, separating the property from the main mall site.

The 2030 Unified Plan Future Development Map indicates that the property lies within the Regional Mixed-Use Character Area. This proposal for a large scale mixed-use development could be consistent with the Unified Plan Map, as well as with policies of the Unified Plan to promote major mixed-use developments, to promote densification in specific areas designated for mixed-use through rezoning actions, to improve the walkability of activity centers and neighborhoods, and to provide more housing choices for residents. Therefore, the Department is of the opinion that the proposed mixed-use complex could be compatible with the 2030 Unified Plan policies and the intense commercial/retail activity currently surrounding the Mall of Georgia.

The surrounding area is anchored by the Mall of Georgia to the west with numerous commercial and office outparcels surrounding the mall. Two multifamily developments, the Reserve at Ivy Creek and Century Mill Creek, are located in close proximity to the subject site. These apartment complexes were rezoned RM-10 in 1997 (RZ-97-013) and 2001 (RZM-01-014), and are located immediately to the southeast across Mall of Georgia Boulevard. The presence of existing commercial, office and multifamily buildings in the mall area could provide supporting grounds for approval of this rezoning request.

In conclusion, the proposed rezoning to MU-R for a mixed-use development could be considered suitable at this location in light of the previously approved rezonings and the existing development pattern of the area, if approved with staff's recommended conditions. In addition, the proposed development could be consistent with a number of Unified Plan policies to promote mixed-use projects and to provide more housing choices for residents. Therefore, the Department recommends this petition be **APPROVED WITH CONDITIONS**.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Approval as MU-R (Mixed-Use Regional) subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. A mixed-retail, office, hotel and residential development in general accordance with the submitted site plan and architectural renderings. Final site and building design shall be subject to review and approval of the Director of Planning and Development.
 - B. Development architecture shall meet the standards of Category 4 of the Architectural Standards of the Gwinnett County Unified Development code and shall be generally consistent with the renderings submitted on April 1, 2016.
2. To abide by the following site development considerations:
 - A. Provide a minimum ten-foot wide landscaped strip adjacent to Woodward Crossing Boulevard and Mall of Georgia Boulevard.
 - B. Ground signage shall be limited to monument type signs, and shall be subject to review and approval by the Director of Planning and Development. The signs shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the cabinet shall be fully surrounded by the same materials. Ground signs shall not exceed ten feet in height.
 - C. Window signage (signs displayed on the interior or exterior of the business storefront windows) shall be prohibited, except for open/closed signs or signs required by county, state or federal law. Flashing or blinking signs and exposed neon or LED signs shall be prohibited. Exposed or visible lighting strips mounted on the building or around window frames shall be prohibited.
 - D. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. Yard and/or bandit signs, sign-walkers and sign-twirlers shall be prohibited.
 - E. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to shine directly into adjacent properties or rights-of-way.
 - F. Peddlers and/or parking lot sales shall be prohibited.
 - G. The property owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.
 - H. Outdoor storage shall be prohibited.

- I. Abide by all requirements of UDO Section 220-30 (Activity Center/Corridor Overlay District). This condition shall not preclude a variance application.
3. To abide by the following requirements, dedications and improvements:
- A. Abide by all applicable requirements of the DRI #2574 ARC and GRTA Notices of Decision.
 - B. Prior to the issuance of a Development Permit, the applicant shall provide a traffic impact study and a signal warrant study. If it is determined by the signal warrant study that a signal is warranted, and the signal is approved by the D.O.T., the applicant shall contact and pay for the signal design. The applicant shall also contract for the installation of the signal by a D.O.T. approved contractor. All design and construction will be subject to D.O.T. review and approval. The signal will be installed and operational prior to the issuance of the first certificate of occupancy.
 - C. Prior to the issuance of the first certificate of occupancy, the applicant shall make any improvements recommended by the traffic impact study, provided the improvements are approved by the D.O.T. All design and construction will be subject to D.O.T. review and approval.
 - D. Construction of a pedestrian bridge over Ivy Creek to the Mall of Georgia shall occur prior to the approval of any certificates of occupancy for commercial, office or residential development

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING THE EXERCISE OF ZONING

SUITABILITY OF USE

The proposed mixed-use development could be suitable at this location, as it is located within the Mall of Georgia major mixed-use activity center.

ADVERSE IMPACTS

With the recommended conditions, the proposed development would not be expected to adversely impact adjacent or nearby properties. In view of the high visibility from Mall of Georgia Boulevard and the architectural standards established in the immediate area, appropriate conditions reinforcing Mall of Georgia Overlay architectural standards, landscape and signage conditions should be included.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACT ON PUBLIC FACILITIES

An increase in traffic, stormwater runoff, and utility demand would be expected.

CONFORMITY WITH POLICIES

The proposed MU-R zoning for a large-scale retail, office, hotel and multifamily mixed-use development could be consistent with the zoning and development pattern established by the Board of Commissioners at the Mall of Georgia and with the 2030 Unified Plan Map designation of Regional Mixed-Use Corridor.

CONDITIONS AFFECTING ZONING

In light of the property's location at the Mall of Georgia activity corridor, accompanied with the scale of the proposed development and its anticipated traffic impacts, the recommended conditions received from the Gwinnett Department of Transportation, Atlanta Regional Commission and the Georgia Regional Transportation Authority should be included in any rezoning approval.

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

- (A) Yes, 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 development is adjacent to high-intensity commercial uses and is consistent with the character of surrounding development.
- (B) No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties.
- (C) In light of the size, location, layout, topography, and nature features of the property and in conjunction with the nature of surrounding development, the Applicant submits that the subject Property does not have reasonable economic use as currently zoned.
- (D) No, the proposed Rezoning Application will not result in an excessive or burdensome use of the infrastructure systems. The proposed development would have convenient access to Gravel Springs Road and Buford Drive as well as Interstate 85 and Interstate 985.
- (E) Yes, the proposed Rezoning Application is in conformity with the policy and intent of the Gwinnett County 2030 Unified Plan. The subject Property is located within an area designated as Regional Mixed Use.
- (F) Applicant submits that the character of surrounding development as well as the proximity of the Property to the Mall of Georgia commercial uses provides additional supporting grounds for approval of the proposed rezoning.

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Shane M. Lanham
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Jeffrey R. Mahaffey
Steven A. Pickens
Andrew D. Stancil
Kenneth W. Stroud
R. Lee Tucker, Jr.
*Of Counsel

LETTER OF INTENT FOR REZONING APPLICATIONS OF
MAHAFFEY PICKENS TUCKER, LLP

Mahaffey Pickens Tucker, LLP (the "Applicant") submits this Letter of Intent for the purpose of rezoning an approximately 16.001 acre tract (the "Property") located on the northerly side of Mall of Georgia Boulevard at its intersection with Woodward Crossing Boulevard. The Property lies adjacent to and east of Ivy Creek within the Mall of Georgia Overlay District. The Property is surrounded by property zoned C2 with the exception of several tracts zoned O-I to the south across Mall of Georgia Boulevard.

The Applicant is proposing to rezone the Property to the Regional Mixed Use zoning classification of the Gwinnett County Unified Development Ordinance (the "UDO") in order to construct a luxury regional mixed-use development containing a variety of retail, office, entertainment and residential uses. The proposed development would include approximately 308,370 square feet of non-residential development in addition to a high-rise, 134,460 square foot, 250-key, full-service hotel. The proposed development would also include 352 multifamily residential units as well as 40 fee simple condominium units with heated square foot areas as set forth in the UDO. As shown on the site plan submitted herewith, Building H is identified as

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containing 91,200 square feet of office space with 24,415 square feet of retail space. This square footage break-down reflects the current plan for utilization of the building. However, as an alternative, Building H could be developed to contain 220 units of multifamily residential units instead of the office space.

The Gwinnett County 2030 Unified Plan (the “2030 Plan”) encourages large-scale mixed-use developments such as the proposed development and identifies the Property as within a Regional Mixed Use area on the 2030 Plan Future Development Map. The proposed development is also in line with the policy goals set forth in the 2030 Plan. For example, Policy A.5.1 provides that “[q]uality of life in Gwinnett can be enhanced by making it easier for people to walk through their neighborhoods to and from attractions such as local parks, schools, churches, or even neighborhood shopping.” The proposed development would enhance the walkability of the Mall of Georgia Activity Center and would improve access to the greater Mall of Georgia area for surrounding developments. Moreover, the 2030 Plan specifically encourages the Mixed Use, Office Professional, Ultra High Density Residential, and High Density land use categories within the Regional Mixed Use Sector.

The Applicant respectfully submits that the proposed development would be a catalyst for continued development in the Mall of Georgia area and would create a unique environment and amenity for the citizens of Gwinnett County. The development is designed to contour and accent the existing creek and greenway area to the west of the Property. This natural area would further contribute to the exceptional character of the Property. The Property’s location on Woodward Crossing Boulevard and Mall of Georgia Boulevard as well as its close proximity to Gravel Springs Road (a/k/a Georgia State Route 324), Interstate 85 and Interstate 985 provide ample convenient access to the Property. Parking on site would be provided through a mix of on and

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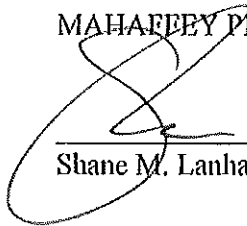
off-street parking spaces as well as multiple above and below-ground parking structures. The proposed development also includes a conceptualized pedestrian access bridge connecting the Property with the main Mall of Georgia property.

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 Applications filed herewith. The Applicant respectfully requests your approval of this Application.

This 1st day of April, 2016.

Respectfully Submitted,

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Lanham

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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 MU-R classification as requested by the Applicant, and is not economically suitable for development under the present C2 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

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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 MU-R 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 MU-R 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.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham

Attorneys for Applicant

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

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NOTICE OF DECISION

To: Douglas Hooker, ARC
(via electronic mail) Sonny Deriso, GRTA
Dick Anderson, GRTA

Al Nash, GRTA
Bob Voyles, GRTA

To: Chairman Charlotte Nash, Gwinnett County Board of Commissioners
(via electronic mail and certified mail) Shane Lanham, Ivy Creek Partners, LLC c/o Mahaffey, Pickens, Tucker, LLP

From: Chris Tomlinson, GRTA Executive Director

Copy: Annie Gillespie, SRTA
(via electronic mail) Laura Beall, GRTA
Jon West, DCA
Andrew Smith, ARC
Shane Giles, GDOT District 1
Kim Wolfe, City of Buford
Kaipo Awana, City of Sugar Hill
Dan Robinson, City of Suwanee

Jeff West, Gwinnett County Zoning
Jerry Oberholtzer, Gwinnett Co Zoning
Vince Edwards, Gwinnett Co DOT
Jonathan Garza, Ivy Creek Partners
Greg Miller, Cooper Carry
Marc Acampora, PE

Date: August 11, 2016

Re: DRI 2574 Destinations at Mall of Georgia

Notice of Decision for Request for Non-Expedited Review of DRI 2574 Destinations at Mall of Georgia

The purpose of this notice is to inform Ivy Creek Partners, LLC c/o Mahaffey, Pickens, Tucker, LLP (the Applicant), Gwinnett County (i.e., the local government), the GRTA Land Development Committee, the Georgia Department of Community Affairs (DCA), the Georgia Department of Transportation (GDOT), and the Atlanta Regional Commission (ARC) of GRTA's decision regarding DRI 2574 Destinations at Mall of Georgia (the DRI Plan of Development). GRTA has completed a non-expedited review for the DRI Plan of Development pursuant to sections 3-101 and 3-103.A of the *Procedures and Principles for GRTA Development of Regional Impact Review* and has determined that the DRI Plan of Development meets the GRTA review criteria set forth in Sections 3-101 and 3-103.A. The DRI Plan of Development as proposed is **approved** by Non-Expedited Review.

Pursuant to Section 1-201.R. of the *Procedures and Principles for GRTA Development of Regional Impact Review*, a "Required Improvement means a land transportation service [def. in Section 1-201.N] or access [def. in Section 1-201.A.] improvement which is necessary in order to provide a safe and efficient level of service to residents, employees and visitors of a proposed DRI." In this case, no Required Improvements in the study network were identified in the Review Package as necessary to bring the level of service up to an applicable standard before the build-out of the proposed project. Accordingly, GRTA will not make its approval subject to specific conditions. However, the technical analysis and staff report and recommendations may identify recommended improvements designed to mitigate traffic impacts or improve safety and functionality in and around the site. The applicant should consult with the local jurisdiction to determine whether the improvements are appropriate.

The notice of decision is based upon review of the applicant's DRI Review Package. The Review Package includes the site development plan (Site Plan) dated July 7, 2016 titled "DRI 2574 Destinations at Mall of Georgia" prepared by Cooper Carry received by GRTA on July 12, 2016 and the transportation analysis dated June 30, 2016 prepared by Marc R. Acampora, PE LLC received by GRTA on July 6, 2016.

Pursuant to Section 2-501 of the *Procedures and Principles for GRTA Development of Regional Impact Review*, the Applicant, the GRTA Land Development Committee and the local government have a right to appeal this decision within five (5) working days of the date on this letter by filing a Notice of Appeal with the GRTA Land Development Committee. A Notice of Appeal must specify the grounds for the appeal and present any argument or analysis in support of the appeal. For further information regarding the right to appeal, consult Part 5 of the *Procedures and Principles for GRTA Development of Regional Impact Review*, available from GRTA or on the Worldwide Web at <<http://www.grta.org/dri/home.htm>>. If GRTA staff receives an appeal, you will receive another notice from GRTA and the Land Development Committee will hear the appeal at its September 14, 2016 meeting.



Chris Tomlinson
Executive Director
Georgia Regional Transportation Authority



REGIONAL REVIEW FINDING

Atlanta Regional Commission • 40 Courtland Street NE, Atlanta, Georgia 30303 • ph: 404.463.3100 • fax: 404.463.3105 • www.atlantaregional.com

DATE: August 3, 2016

ARC REVIEW CODE: R1607141

TO: Chairman Charlotte Nash, Gwinnett County Board of Commissioners
ATTN TO: Jeff West, Planning Division Director
FROM: Douglas R. Hooker, Executive Director, ARC
RE: Development of Regional Impact Review

Digital signature
Original on file

The Atlanta Regional Commission (ARC) has completed regional review of the following Development of Regional Impact (DRI). Below is the ARC finding. ARC reviewed the DRI with regard to its relationship to regional plans, goals and policies – and impacts it may have on the activities, plans, goals and policies of other local jurisdictions as well as state, federal and other agencies. The finding does not address whether the DRI is or is not in the best interest of the local government.

Name of Proposal: Destinations at Mall of Georgia (DRI #2574)

Submitting Local Government: Gwinnett County

Review Type: Development of Regional Impact **Date Opened:** July 14, 2016 **Date Closed:** August 3, 2016

Description: This DRI is located in Gwinnett County, east of the Mall of Georgia and Ivy Creek, northwest of Mall of Georgia Boulevard and southwest of Woodward Crossing Boulevard. The proposed project will consist of 131,820 sq. ft. of retail and restaurant space, a 35,000 sq. ft. grocery store, a 50,000 sq. ft. family entertainment center, 91,200 sq. ft. of office space, a 250-room hotel, 352 apartments, and 40 condominiums. Access to the site is proposed via two full-movement intersections and three right-in/right-out driveways. Also proposed is a pedestrian bridge connecting the DRI across Ivy Creek to the Mall of Georgia property. The DRI trigger for this development is a rezoning application filed with Gwinnett County. Projected build-out for this DRI is 2019. This site was previously reviewed as part of a larger DRI ("Mall of Georgia and Related Development") in 1997.

Comments: According to the ARC Unified Growth Policy Map (UGPM) and Regional Development Guide (RDG), related components of the Atlanta Region's Plan, the proposed development is located in the Developing Suburbs area of the region. Developing Suburbs are areas of development that occurred roughly from 1995 to today. These areas are projected to remain suburbs through 2040.

The RDG details recommended policies for areas and places on the UGPM. Recommended policies for Developing Suburbs include:

- New development should connect to the existing road network and adjacent developments and use of cul-de-sacs or other means resulting in disconnected subdivisions should be discouraged
- Maximize the usefulness of existing recreational facilities in addition to providing new recreational opportunities
- Eliminate vacant or under-utilized parking areas through mechanisms such as out-parceling or conversion to community open space
- Use rain gardens, vegetated swales or other enhanced water filtration design to enhance the quality of stormwater run-off
- Identify other opportunities to foster a sense of community by developing town centers, village centers or other places of centralized location

This DRI appears to manifest many of the above policies for this area of the region, including connecting in multiple places to the existing roadwork and an adjacent use, and creating an activity center that can foster a sense of community.

–CONTINUED ON NEXT PAGE–

From the standpoint of best practices in planning, the DRI takes a positive step by converting an underutilized site to a comparatively dense, mixed-use node with significant housing and employment components in an area predominated by automobile-oriented, largely disconnected commercial uses. These characteristics, along with the proposed pedestrian bridge to the Mall of Georgia property (discussed in pre-review meetings and the GRTA-required traffic study but not shown on the site plan), offer the potential for site residents to work and shop on site, and for workers and visitors to park once or arrive via alternative modes and conduct multiple trips on foot. This framework can eliminate dependency on cars for internal circulation and encourage workers and visitors to use alternative transportation modes to access the development.

Along these lines, care should be taken to ensure that the development promotes a functional, safe, clearly marked and comfortable pedestrian experience on all streets, paths and parking areas, as well as all connections from the project to neighboring uses. This includes the DRI's perimeter along Woodward Crossing Boulevard and Mall of Georgia Boulevard, which serve as the face of the development. Placing buildings closer to the street and providing wide sidewalks on both frontages could create a more comfortable pedestrian experience. To this end, the applicant appears to be proposing a shallower front setback on Mall of Georgia Boulevard than is required by code, which could enhance the pedestrian experience there. However, the deeper front setback on Woodward Crossing Boulevard, coupled with the surface parking area and garage entrances/exits served by Access/Driveway C, could create a barrier to pedestrianism and prevent an effective interface with the street.

Also related to the pedestrian experience and access, ARC encourages the development team to pursue construction of the proposed bike/pedestrian bridge from the DRI's internal east-west road across Ivy Creek to the Mall of Georgia property, as planned, within the framework of applicable environmental and other requirements. This bridge connection was discussed in pre-review meetings and shown in the GRTA-required traffic study and on previous iterations of the site plan, but it is absent from the final site plan provided for this review. The development team is also encouraged to ensure that end-of-trip facilities (bicycle racks, etc.) are provided at key locations throughout the site.

The intensity of this proposed project generally aligns with the RDG's recommendations for the Developing Suburbs area, including for seven of the eight proposed buildings on site. The proposed 24-story Building E is significantly higher than what is recommended in the RDG for this area. This level of intensity would be more suited to development in the Region Core and Regional Employment Corridor areas of the region.

Additional comments are included in this report.

THE FOLLOWING LOCAL GOVERNMENTS AND AGENCIES RECEIVED NOTICE OF THIS REVIEW:

ARC COMMUNITY DEVELOPMENT	ARC TRANSPORTATION ACCESS & MOBILITY	ARC NATURAL RESOURCES
ARC RESEARCH & ANALYTICS	ARC AGING & HEALTH RESOURCES	GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS
GEORGIA DEPARTMENT OF NATURAL RESOURCES	GEORGIA DEPARTMENT OF TRANSPORTATION	GEORGIA REGIONAL TRANSPORTATION AUTHORITY
CITY OF BUFORD	CITY OF BRASELTON	CITY OF CUMMING
CITY OF DACULA	CITY OF FLOWERY BRANCH	CITY OF LAWRENCEVILLE
CITY OF SUGAR HILL	CITY OF SUWANEE	BARROW COUNTY
FORSYTH COUNTY	HALL COUNTY	GEORGIA MOUNTAINS REGIONAL COMMISSION
NORTHEAST GEORGIA REGIONAL COMMISSION		

If you have any questions regarding this review, please contact Andrew Smith at (404) 463-5581 or asmith@atlantaregional.com. This finding will be published to the ARC review website located at <http://www.atlantaregional.com/land-use/planreviews>.

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, June 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZC2016-00015	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	56
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	40
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	77
RZR2016-00009	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	9
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	6
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	12
RZR2016-00010	Parkview HS	3021	2,500	521	3082	2,500	582	3143	2,500	643	19
	Trickum MS	2073	1,775	298	2104	1,775	329	2136	1,775	361	14
	Knight ES	790	900	-110	812	900	-88	835	900	-65	26
RZR2016-00011	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	24
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	17
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	32
RZM2016-00003	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	43
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	31
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	61

Current projections do not include new developments



REDACTED 2017/08/08 05/31/2019

Ivy Creek Partners

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AERIAL VIEW - CORNER OF MALL OF GEORGIA BLVD. & WOODWARD CROSSING BLVD.

MALL OF GEORGIA MASTER PLAN
Duluth, Georgia

COOPER CARRY



PROJECT # 20170000 03.31.2018

PEDESTRIAN VIEW - CORNER OF MALL OF GEORGIA BLVD. & WOODWARD CROSSING BLVD.

Ivy Creek Partners

MALL OF GEORGIA MASTER PLAN
Buckhead, Georgia

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COOPER CARRY



PROJECT: 2nd FLOOR 85.31.2016

Ivy Creek Partners

COOPER CARRY PARTNERS, INC., 191 Peachtree Street NE, Suite 2400, Atlanta, Georgia 30303 Tel: 404.237.2000 Fax: 404.237.4170

PEDESTRIAN VIEW - ENTRANCE AT MALL OF GEORGIA BLVD.

MALL OF GEORGIA MASTER PLAN
Buckhead, Georgia

COOPER CARRY



05/20/2016 05/21/2016

PEDESTRIAN VIEW - ENTRANCE AT MALL OF GEORGIA BLVD

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MALL OF GEORGIA MASTER PLAN
Buckhead Georgia

COOPER CARRY



RENDERING 2017/08/16 09:31:2016

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PEDESTRIAN VIEW - ENTRANCE AT WOODWARD CROSSING BLVD

MALL OF GEORGIA MASTER PLAN
Atlanta, Georgia

COOPER CARRY



PROJECT: 20170001 05.31.2018

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PEDESTRIAN VIEW - ENTRANCE AT WOODWARD CROSSING BLVD.


MALL OF GEORGIA MASTER PLAN
Atlanta, Georgia

COOPER CARRY



REVISED: 08/10/2018

08/31/2018

 Ivy Creek Partners

Ivy Creek Partners, Inc., 110 Peachtree Street NE, Suite 2400, Atlanta, Georgia 30303 Tel: 404.237.2000 Fax: 404.237.4270

PEDESTRIAN VIEW - LOOKING SOUTH ALONG PRIMARY CORRIDOR

MALL OF GEORGIA MASTER PLAN
Buckhead, Georgia

 COOPER CARRY



PROJECT: 2015-0106 03.31.2016

PEDESTRIAN VIEW - LOOKING WEST ALONG SECONDARY CORRIDOR

Ivy Creek Partners

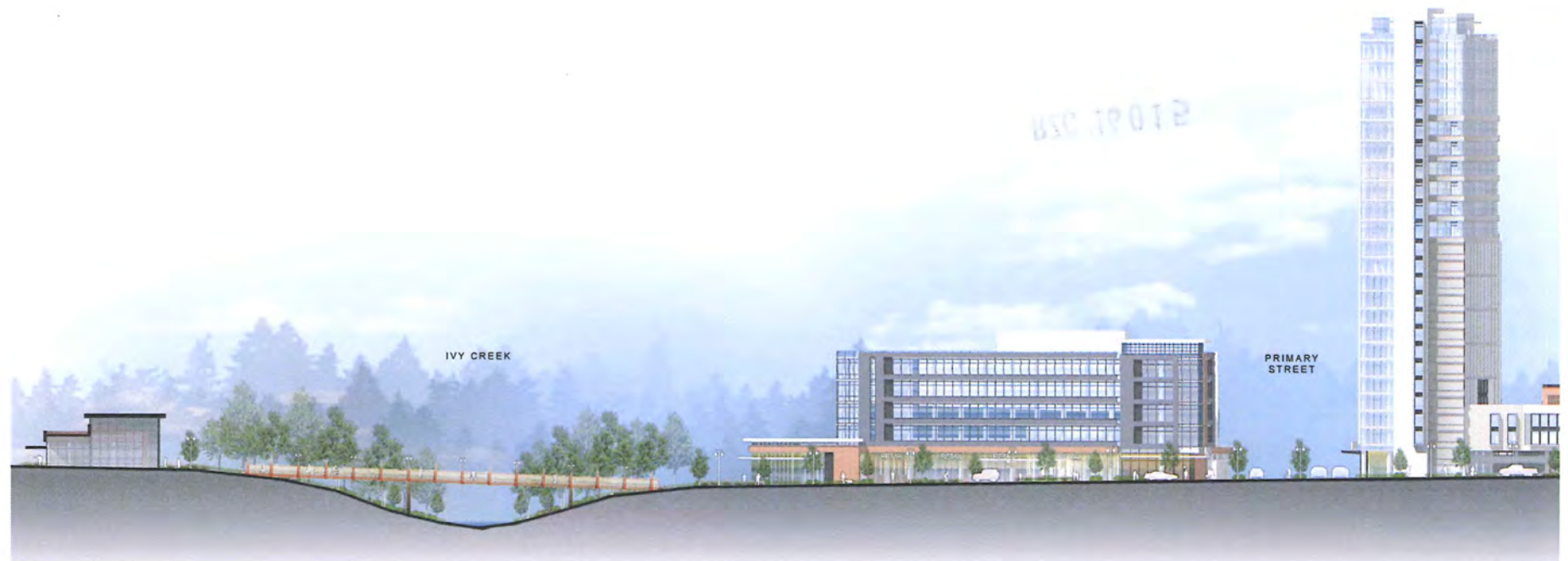
MALL OF GEORGIA MASTER PLAN
Atlanta, Georgia

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COOPER CARRY



OVERALL SITE SECTION



ENLARGED SITE SECTION

PROJECT: 2015/0101 03.31.2014

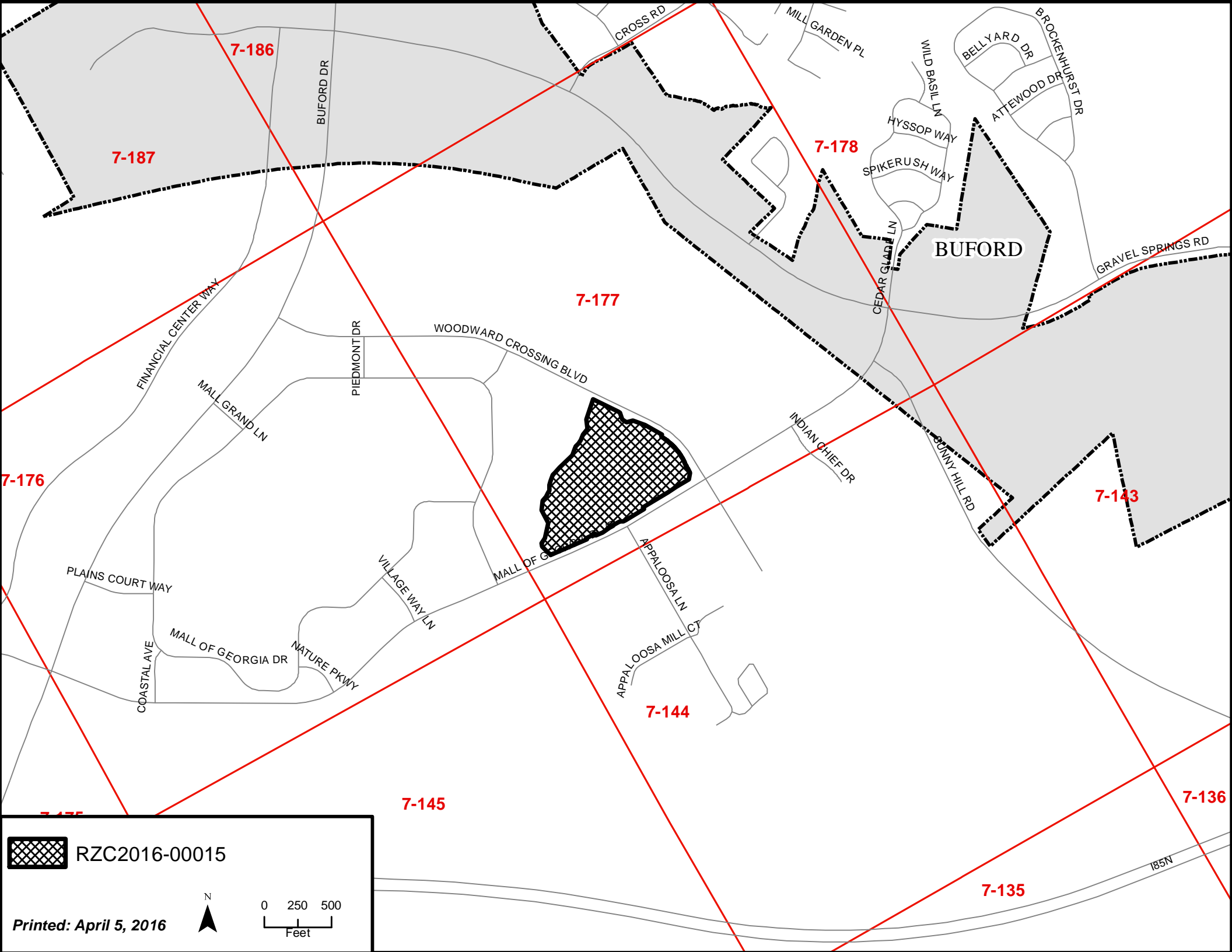
Ivy Creek Partners


Ivy Creek Partners, LLC, 475 Peachtree Street NE, Suite 2400, Atlanta, Georgia 30308 Tel: 404.237.2000 Fax: 404.237.4270

SITE SECTION

MALL OF GEORGIA MASTER PLAN
Atlanta, Georgia

COOPER CARRY



 RZC2016-00015

DEVELOPMENT SUMMARY

- A** RESIDENTIAL, GROCER, RETAIL
352 UNITS RESIDENTIAL
35,000 GSF GROCER
39,160 GSF RETAIL
- B** FAMILY ENTERTAINMENT CENTER, RETAIL
50,000 GSF FEC
15,695 GSF RETAIL
- C** RETAIL, PARKING DECK
9,700 GSF RETAIL
1,104 PARKING SPACES
- D** RETAIL
18,050 GSF
- E** HOTEL, CONDOMINIUM
250 KEYS HOTEL
134,460 GSF HOTEL
40 UNITS CONDOMINIUM
- F** RETAIL
5,150 GSF
- G** RETAIL
20,000 GSF
- H** OFFICE, RETAIL, PARKING
91,200 GSF OFFICE
24,415 GSF RETAIL
264 PARKING SPACES
- I** PARKING DECK
956 PARKING SPACES

RESIDENTIAL (ALTERNATE FOR OFFICE)
220 UNITS

*129 ON-GRADE PARKING SPACES

*STORMWATER MANAGEMENT TO BE PROVIDED BELOW GRADE

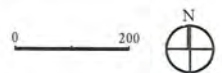


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APR 01 2016

Planning & Development



PROJECT: 20150301 04/01/2016

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MASTER PLAN

MALL OF GEORGIA MASTER PLAN
Buckley, Georgia

COOPER CARRY



MALL OF GEORGIA DR

WOODWARD CROSSING BLVD

TRAIL PATH LN

MALL OF GEORGIA BLVD

APPALOOSA LN

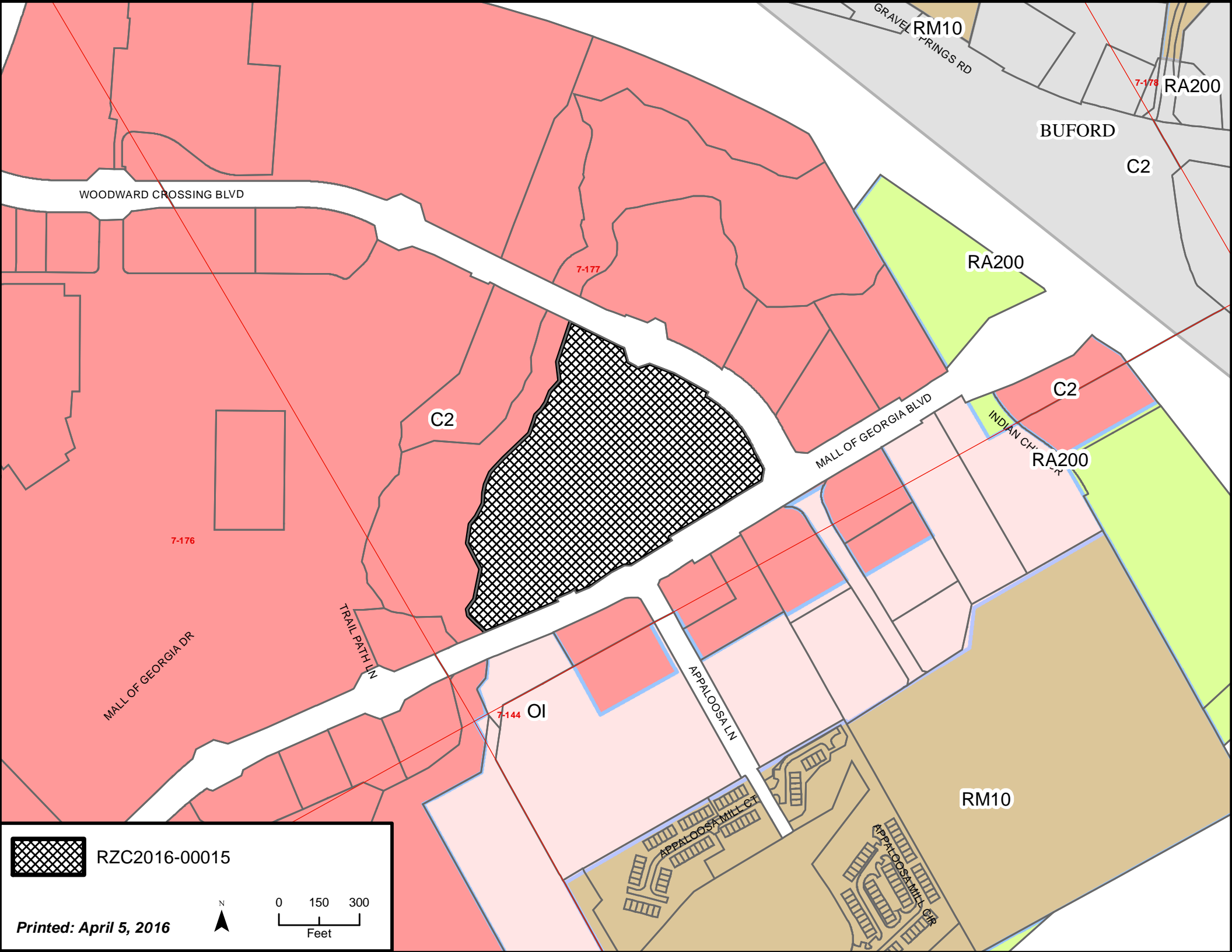


RZC2016-00015



0 25 50
Feet

Printed: April 5, 2016



RM10

RA200

BUFORD

C2

WOODWARD CROSSING BLVD

RA200

C2

MALL OF GEORGIA BLVD

C2

RA200

7-176

7-177

7-178

7-144

OI

MALL OF GEORGIA DR

TRAIL PATH LN

APPALOOSA LN

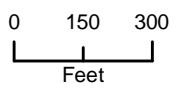
APPALOOSA MILL CT

APPALOOSA CIR

RM10



RZC2016-00015



Printed: April 5, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER	: RZR2016-00009
ZONING CHANGE	:RA-200 TO R-60
LOCATION	:2200-2300 BLOCK OF KILGORE ROAD
MAP NUMBERS	:R7178 014, 015, 016 & R7185 068
ACREAGE	:17.44 ACRES
UNITS	:36 UNITS
PROPOSED DEVELOPMENT	:SINGLE-FAMILY SUBDIVISION
COMMISSION DISTRICT	:(4) HEARD

FUTURE DEVELOPMENT MAP: **EXISTING/EMERGING SUBURBAN**

APPLICANT: MAHAFFEY, PICKENS, TUCKER, LLP
1550 N. BROWN ROAD, SUITE 125
LAWRENCEVILLE, GA 30043

CONTACT: SHANE LANHAM PHONE: 770.232.0000

OWNERS: DAVID A. RAINES & DONNA K. BOYNTON
1295 EAST ROCK SPRINGS ROAD, N.E., #305
ATLANTA, GA 30306

HOYT RICHARD CRYDER
2269 KILGORE ROAD
BUFORD, GA 30519

DAVID A. DUSIK
1470 PINYON PLACE
LAWRENCEVILLE, GA 30043

FRANK C. & CHERYL A. BLALOCK
2319 KILGORE ROAD
BUFORD, GA 30519

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant request rezoning of a 17.44-acre parcel assemblage from RA-200 (Agriculture-Residence District) to R-60 (Single-Family Residence District), for development of a 36 unit detached single-family subdivision. The property is located on the south side Kilgore Road between Cross Road and Southpointe Hill Drive.

The gross area of the subject site is 17.44-acres, and the net area of the site is 15.05-acres, as 4.78-acres is located within a flood hazard area. The net density for the proposed development is 2.39 dwelling units per acre. According to the site plan, seven of the proposed lots are located within the flood hazard area that encompasses the southern portion of the property. A stormwater management pond is located on the east side of the property, between the flood hazard area and the proposed new lots. A tributary of Ivy Creek meanders through the property south of the new single-family lots. Also shown running parallel to the stream is a 20-foot sanitary sewer easement. Although not reflected on the submitted plans, a 75-foot impervious setback is required, which includes the required stream buffer.

The minimum lot width for the development would be 60 feet, with a minimum lot area of 7,200 square feet, meeting the minimum requirements for the requested zoning classification. Access to the subdivision would be provided via a single entrance from Kilgore Road.

The applicant has proposed a minimum dwelling size of 2,200 square feet for one-story homes, 2,400 square feet for two-story homes, and all units would have two-car garages. The submitted materials indicate homes would have front facades of primarily brick or stacked stone with the balance being of brick, stack stone, cedar plank, or fiber-cement siding.

ZONING HISTORY:

Three of the four existing properties proposed to be developed have been zoned RA-200 since 1970. In 1984, one of the properties, identified as Tract 6 on the submitted boundary survey, received approval for rezoning from RA-200 to RT-200 (Temporary Mobile Home) for use of a mobile home pursuant to RZ-84-130.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No Comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a no-access easement along the line of double frontage lots abutting upon a major thoroughfare for residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance.

All open space areas/common areas shall meet the minimum road frontage and lot width requirements for a lot within the subdivision.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

A minimum of 40-foot building setback is required from the right-of-way of Kilgore Road.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

The developer must obtain a Land Disturbance or Development Permit from the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Stormwater Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including stormwater detention facility lots) located within the development shall be controlled by a mandatory

Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers and floodplain. The proposed conceptual plan may require revision to show the appropriate stream buffer area and floodplain. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Kilgore Road is a Major Collector and 40 feet of right-of-way is required from the centerline.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The project entrance shall align with opposing roads or driveways in accordance with the Gwinnett County Unified Development Ordinance.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of an 8-inch water main located on the northwestern right-of-way of Kilgore Road.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an 8-inch sanitary sewer main located on the property, and an 8-inch sanitary sewer main located approximately 45 feet south of the property.

The subject development is located within the Ivy Creek service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject property is located on the south side of Kilgore Road between Cross Road and Southpointe Hill Drive. The project site consists of four separate properties with a total combined gross acreage of 17.44-acres, with three of the properties containing single-family homes and associated accessory structures, which would be removed. The property is heavily wooded, and also contains a stream meandering through three of the tracts.

The 2030 Unified Plan Future Development Map indicates the property is located within an Existing/Emerging Suburban Character Area. Policies of the Unified Plan for this character area encourage residential in-fill developments with densities and character compatible with existing single-family developments. The proposed rezoning is not supported by these policies of the Unified Plan, as the neighboring single-family developments along Kilgore Road are zoned R-75 CSO, R-100 CSO, and R-100 Modified, and are developed with substantially wider and larger lots than those proposed by the applicant.

The surrounding area is characterized by a majority of residentially zoned land. The other properties along Kilgore Road are zoned for single-family developments on larger lots. Located

west of the proposed project is the Enclave at Ivy Creek, a 41 unit conservation subdivision that received rezoning approval from RA-200 to R-75 CSO in 2004 pursuant to RZR2004-00030. This project has been developed with both one and two story single-family dwellings constructed of primarily brick and siding facades, with a 50 foot wide open space buffer along the sides of the property. Previous board action has established that both modified and conservation subdivisions are appropriate for this area, as there are two other developments along Kilgore Road in the vicinity that are zoned R-100 Conservation and R-100 Modified. The requested R-60 zoning may not be considered compatible with the existing zoning of the adjoining properties and subdivisions along Kilgore Road, and may not be appropriate for the subject property given the substantial flood hazard area on the site. In the Department's opinion, a more appropriate zoning classification may be OSC (Open Space Conservation District) given that over 15% of the property falls within a flood hazard area and is unsuitable for development. With appropriate conditions governing density and providing more open space, an OSC single-family development could provide the lot size of the R-60 rezoning request and be more consistent with adjacent and nearby subdivisions.

In conclusion, the requested R-60 zoning may not be considered consistent with policies of the Unified Plan and could adversely affect established single-family subdivision developments along Kilgore Road, through the introduction of incompatible lot sizes and densities of development. Therefore, staff recommends **DENIAL** of this petition. Should the Board of Commissioners choose to approve the request, staff recommends that it be approved for OSC (Open Space Conservation District) with conditions.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided as a guide should the Board choose to approve the request.

Approval as OSC (Open Space Conservation District) for a Single Family Subdivision, subject to the following enumerated conditions:

I. To restrict the use of the property as follows:

- A. Single-family detached dwellings and accessory uses and structures.
- B. A revised layout meeting the requirements of OSC zoning shall be submitted for review and approval by the Director of Planning and Development
- C. The minimum heated floor area per dwelling unit shall be 2,200 square feet for one story homes and 2,400 square feet for two story homes.
- D. Homes shall be constructed with three sides of brick and/or stacked stone. The balance of the home may be the same or of fiber-cement shake or siding with a three-foot watertable.
- E. All dwellings shall have at least a double-car garage.

2. To satisfy the following site development considerations:

- A. The Kilgore Road street frontage shall be landscaped by the developer and maintained by the Homeowner's Association, and shall include a decorative masonry entrance feature. Landscape and entrance plans shall be subject to review and approval of the Director of Planning and Development.
- B. Direct lot access to Kilgore Road shall be prohibited.
- C. All grassed areas on dwelling lots shall be sodded.
- D. Provide underground utilities throughout the development.
- E. Natural vegetation shall remain on the property until the issuance of a subdivision development permit.
- F. Building lots shall not be located within the required stream buffer or impervious setback area.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

In light of the nearby R-100 and R-75 zoning and developments, an R-60 rezoning may not be suitable at this location. A development with the OSC zoning district could be more appropriate given the neighboring subdivisions in the area.

ADVERSE IMPACTS

Adverse impacts on neighboring properties could be anticipated from the introduction of an incompatible zoning classification, density and lot dimension standard.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

An increase in traffic, utilities usage, stormwater runoff, and the number of school-aged children could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within the Existing/Emerging Suburban Character Area, the policies of which do not support the requested R-60 zoning at this location. The requested R-60 may be out of character with existing R-100 and R-75 single-family developments in the area, and inconsistent with the policies of the Unified Plan for infill development in this Character Area.

CONDITIONS AFFECTING ZONING

There are subdivisions along Kilgore Road, in close proximity to the subject property, that have been rezoned R-75 CSO, R-100 CSO, and R-100 MOD giving support for an OSC zoning approval.

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

- (A) Yes, 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 development is adjacent to property zoned RZT and is consistent with the character of surrounding development.
- (B) No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties.
- (C) In light of the size, location, layout, topography, and nature features of the property and in conjunction with the nature of surrounding development, the Applicant submits that the subject Property does not have reasonable economic use as currently zoned.
- (D) No, the proposed Rezoning Application will not result in an excessive or burdensome use of the infrastructure systems. The proposed development would have convenient access to Gravel Springs Road and Buford Drive as well as Interstate 85 and Interstate 985.
- (E) Yes, the proposed Rezoning Application is in conformity with the policy and intent of the Gwinnett County 2030 Unified Plan.
- (F) Applicant submits that the character of surrounding development as well as the proximity of the Property to the Mall of Georgia commercial uses provides additional supporting grounds for approval of the proposed rezoning.

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RZR '16009



Matthew P. Benson
Alissa L. Cummo
Brian T. Easley
Kelly O. Faber
Amanda F. Henningsen
Christopher D. Holbrook
Joshua P. Johnson
Gerald Davidson, Jr.*

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RZR '16 009

Shane M. Lanham
Austen T. Mabe
Jeffrey R. Mahaffey
Steven A. Pickens
Andrew D. Stancil
Kenneth W. Stroud
R. Lee Tucker, Jr.
*Of Counsel

**LETTER OF INTENT FOR REZONING APPLICATION
OF MAHAFFEY PICKENS TUCKER, LLP**

Mahaffey Pickens Tucker, LLP (the “Applicant”) submits this Rezoning Application for the purpose of rezoning an approximate 17.439 acre tract situated along Kilgore Road in northern Gwinnett County, Georgia (the “Property”) to the R-60 zoning classification. The Property is currently zoned RA-200.

The Applicant proposes to develop a single-family residential community, including 36 detached residential homes. The proposed development would have a net density of approximately 2.39 units per acre which is below the maximum density of 4.0 units per acre prescribed for the R-60 zoning classification in the Gwinnett County Unified Development Ordinance (the “UDO”). The proposed community would consist of homes at a size, quality, and price point commensurate with or exceeding homes in nearby communities. The homes on the subject Property would be constructed with front facades of primarily brick or stacked stone with the balance being the same, cedar plank, or fiber-cement siding.


The subject Property abuts land zoned R-75 CSO to the west, RA-200 to the northeast and across Kilgore Road, RZT to the southeast, and R-TH to the south. The adjacent property to

the east was zoned RZT and R-60 pursuant to CIC2015-00008 and RZR2015-00007 in November 2015. The proposed development would also include substantial green space and natural areas in the southerly portions of the Property. The proposed development would also have convenient access to Interstate 85 and Interstate 985. The Applicant respectfully submits that the proposed development is consistent with the character of the surrounding area and other nearby developments.

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 this Application.

Respectfully submitted this 29th day of March, 2016.

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Lanham
Attorneys for Applicant

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RZR '16 009

JUSTIFICATION FOR REZONING APPLICATION

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 R-60 classification and is not economically suitable for development under the present RA-200 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.

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RZR '16 009


A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the R-60 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 R-60 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 29th day of March, 2016.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Lanham
Attorneys for Applicant

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

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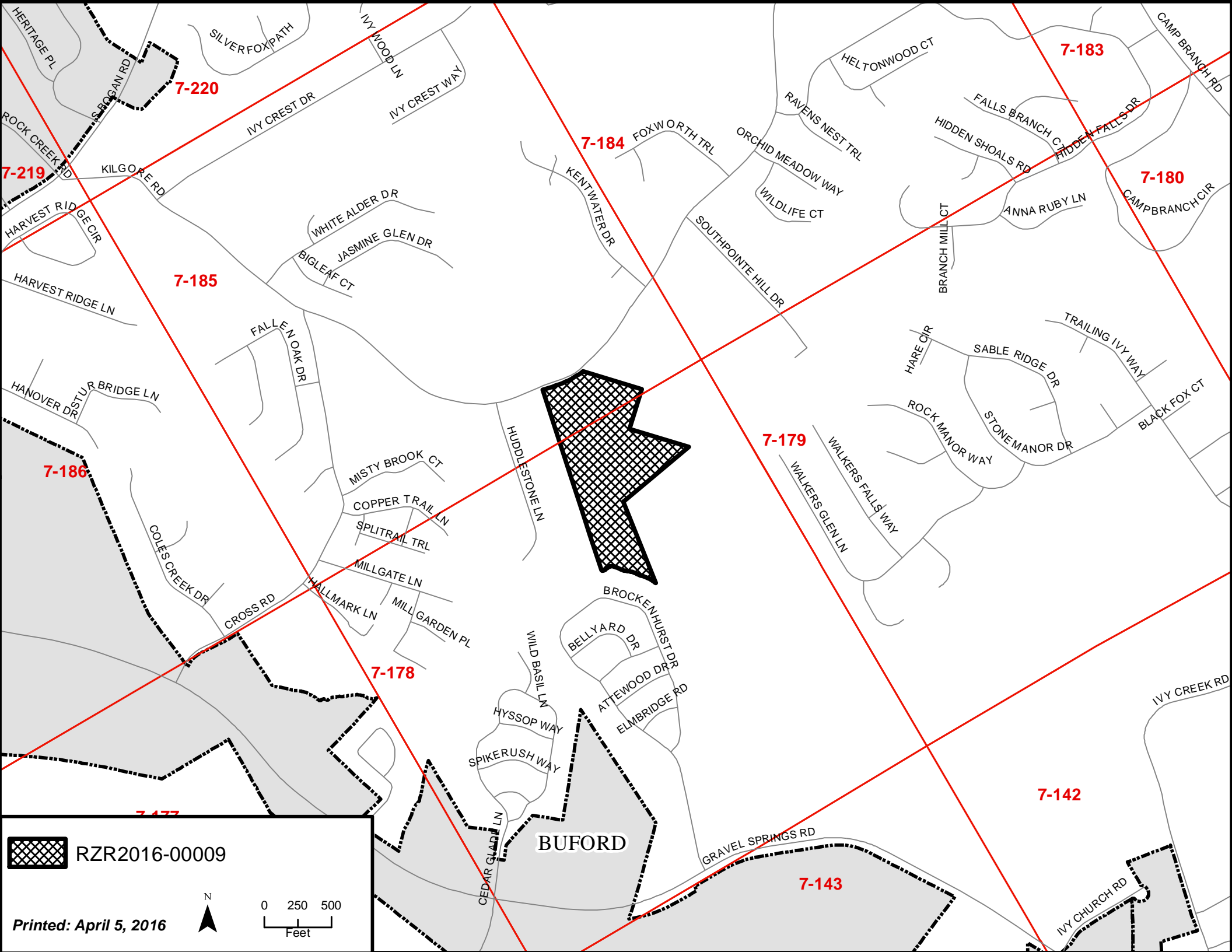
MAR 31 2016

Planning & Development

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, June 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZC2016-00015	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	56
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	40
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	77
RZR2016-00009	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	9
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	6
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	12
RZR2016-00010	Parkview HS	3021	2,500	521	3082	2,500	582	3143	2,500	643	19
	Trickum MS	2073	1,775	298	2104	1,775	329	2136	1,775	361	14
	Knight ES	790	900	-110	812	900	-88	835	900	-65	26
RZR2016-00011	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	24
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	17
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	32
RZM2016-00003	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	43
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	31
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	61

Current projections do not include new developments

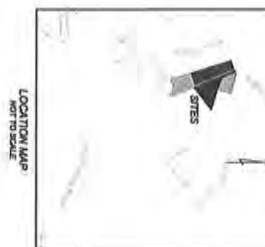




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RZR '16 009



SUMMARY

PLANT TO BE PROVIDED BY GRANITE COUNTY
 DESIGNED TO BE PROVIDED BY GRANITE COUNTY
 RETAILAGE
 PROPOSED LOTS 36
 NORTH DOWNTOWN 126 PPA
 NORTH DOWNTOWN 125 PPA
 NET AREA: 13.05 ACRES
 GROSS AREA: 11.43 ACRES
 CURRENT ZONING: R400
 PARCELS: 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 83

WATER TO BE PROVIDED BY GUNNETT COUNTY
BEFORE TO BE PROVIDED BY GUNNETT COUNTY

①

03/30/16

D=5E 140 DE 3000711024

CONCEPT PLAN

SHEET TITLE



KILGORE ROAD TRACT





KILGORE RD

HUDSTONE LN

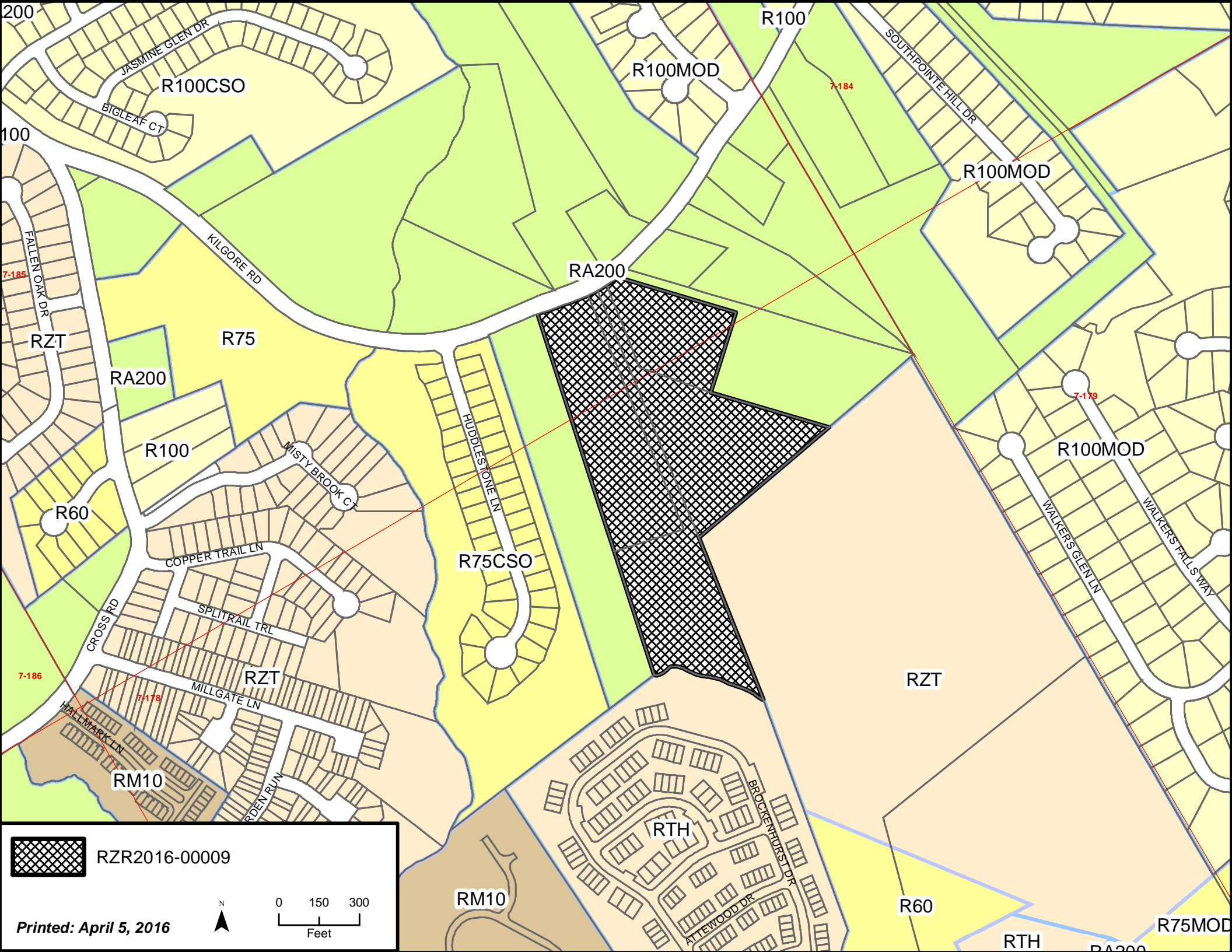


RZR2016-00009



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Feet

Printed: April 5, 2016



 RZR2016-00009

Printed: April 5, 2016



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**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSES**

CASE NUMBER :**RZR2016-00011**
ZONING CHANGE :R-100 TO TND
LOCATION :1100-1200 BLOCK OF WEBB GIN HOUSE ROAD
MAP NUMBERS :R5087 120 AND R5106 003, 067 & 278
ACREAGE :43.56 ACRES
UNITS :99 UNITS
PROPOSED DEVELOPMENT :TRADITIONAL NEIGHBORHOOD DEVELOPMENT
(REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD

CASE NUMBER :**RZM2016-00003**
ZONING CHANGE :R-100 TO RM-24
LOCATION :1100-1200 BLOCK OF WEBB GIN HOUSE ROAD
MAP NUMBERS :R5087 120 AND R5106 278
ACREAGE :12.57 ACRES
UNITS :300 UNITS
PROPOSED DEVELOPMENT :APARTMENTS (REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD

FUTURE DEVELOPMENT MAP :**EXISTING & EMERGING SUBURBAN**

APPLICANT: MAHAFFEY, PICKENS, TUCKER, LLP
1550 NORTH BROWN ROAD, SUITE 125
LAWRENCEVILLE, GA 30043

CONTACT: SHANE LANHAM OR LEE TUCKER PHONE: 700.232.0000

OWNERS: JLC HOLDINGS, LLLP
RICHARD L. HARRISON & JOYCE C. HARRISON
ESTATE OF VINNIE LUCILLE CLARK
C/O MAHAFFEY, PICKENS, TUCKER, LLP
1550 NORTH BROWN ROAD, SUITE 125
LAWRENCEVILLE, GA 30043

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant is requesting rezoning on two tracts of land located on the north side of Webb Gin House Road east of Scenic Highway. The first tract is a 43.56-acre parcel assemblage zoned R-100 (Single Family Residence District), developed with four single family residences and a number of accessory structures. On this tract, pursuant to RZR2016-00011, the applicant requests TND (Traditional Neighborhood Development District) zoning for a total of 99 units

at a density of 2.27 units per acre. The three required lot size categories indicated on the site plan are 39 small single family detached lots (minimum 5,000 square feet), 33 mid-size single family detached lots (minimum of 7,500 square feet) and 27 attached townhomes. Access to the TND project is proposed from a single driveway on Webb Gin House Road, to be directly aligned with Bennett Road. A recreation area with a swimming pool, clubhouse and tennis courts would be located near the proposed townhomes. Two detention ponds for this development are indicated on the site plan. Buffers ranging from 20 feet to 25 feet are required adjacent to the R-75 Modified and R-100 Modified zonings; however, a minimum 50-foot wide common area is shown on the site plan, which is not considered a buffer. Sufficient parking and common areas are being proposed. In the letter of intent, the applicant states that the townhomes would be a minimum of 1,150 square feet and the single family detached units would be a minimum of 1,200 square feet. Architectural treatments are proposed to be a combination of brick, stacked stone, cedar plank, hardiplank or fiber-cement siding.

The second tract contains 12.57 acres, is also zoned R-100 (Single Family Residence District) and is currently developed with a single family residence. Pursuant to RZM2016-00003, the applicant requests RM-24 (Multifamily Residence District) zoning for a total of 300 apartment units at a density of 23.87 units per acre. Access to the apartment project is proposed from a separate driveway on Webb Gin House Road. Six apartment buildings and one maintenance building are shown on the site plan. According to the letter of intent, a clubhouse and pool are proposed for the development. A detention pond is indicated on the site plan in the northwest corner of the subject site. Although the property adjacent to the west is zoned R-100, it is currently developed as a place of worship and a 50-foot buffer is required along that property line. The site plan does not indicate any buffer on the west property line. A minimum square footage and break down of unit type was not provided. The applicant states that the apartment buildings will include brick and/or stone masonry accents with cement/hardiplank siding and panels.

Staff notes that the site plan does not indicate any interparcel access, vehicular, pedestrian or bicycle, between the two zoning tracts, or between the TND zoning and the adjacent commercial development to the northwest.

ZONING HISTORY:

The entire 56.13-acre subject property was zoned R-100 in 1970. In 1981, the westernmost 30 acres of the property was rezoned to RT-200 (Temporary Mobile Home) for a mobile home as an accessory use pursuant to RZ-48-81. In 1982, a Moved In House (MIH) request was approved on five acres to allow a house to be relocated to that site pursuant to MIH-22-82.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property contains areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development. The applicant/developer shall obtain all required approvals from the Gwinnett Department of Public Utilities and the U.S. Army Corps of Engineers for construction or land disturbance activities which may impact floodplain or wetland areas.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

Provide a 25-foot natural, undisturbed buffer adjacent to R-100 and R-100 Modified zoned properties, and a 20-foot natural disturbed buffer adjacent to R-75 Modified zoned properties. (Unified Development Ordinance Chapter 610, Table 610.1 and Section 610-20.2).

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Stormwater Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Section 700-40.1B of the Unified Development Ordinance requires that the lowest floor including the basement, of all non-residential building be constructed at an elevation of at least one foot above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including stormwater detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Webb Gin House Road is a Minor Arterial and 40 feet of right-of-way is required from the centerline, with 50 feet required within 500 feet of a major intersection.

A left turn lane shall be provided at the project entrance.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The project entrance shall align with opposing roads or driveways in accordance with the Gwinnett County Unified Development Ordinance.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

The project shall comply with the Gwinnett County Criteria and Guidelines for left turn lanes.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 10-inch water main located on the southeastern right-of-way of Webb Gin House Road, reducing to an 8-inch water main.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of 8-inch sanitary sewer mains located approximately 469 feet west of the property, approximately 193 feet east of the property on the right-of-way of Havenstone Walk, approximately 188 feet east of the property on the right-of-way of Heatherglade Lane, and approximately 165 feet north of the property on the right-of-way of Hidden Spirit Trail.

The subject development is located within the Yellow River service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design,

construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

1. The applicant shall obtain a residential building permit for each residential building and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.
2. Architectural design of the proposed building shall incorporate the requirements of the Gwinnett County Unified Development Ordinance, Architectural Design Standards, Category 2.

For assistance, you may contact this office at (678) 518-6000 Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

Fire Plan Review has no comments regarding RZR2016-00011.

Fire Plan Review has no objections to RZM2016-00003 under the following conditions:

1. Applicant submits civil drawings to Fire Plan Review for review and approval.
2. Applicant submits architectural drawings to Fire Plan Review for review and approval.
3. Upon completion of plan review approvals, applicant successfully achieves a satisfactory Fire field inspection, for issuance of a Certificate of Occupancy - Business Operation.

For assistance, you may contact this office at (678) 518-6000, Monday through Friday, from the hours of 8:00 a.m. to 5:00 p.m.

DEPARTMENT ANALYSIS:

Located on the north side of Webb Gin House Road opposite of its intersection with Bennett Road, both tracts of land can be characterized as open pasture with a few homes and a few small stands of trees. The requests are for TND and RM-24 zoning, respectively, for a total of 399 residential units.

The 2030 Unified Plan Future Development Map indicates that the site is located in an Existing/Emerging Suburban Character Area. The requested 23.87 unit per acre apartment plan and the proposed attached townhomes within the TND request could be considered inconsistent with 2030 Unified Plan policies of which encourage low to medium density single-family residential development, and with the established single family zoning and development pattern of the immediate area. Within the Existing/Emerging Suburban Character Area,

multifamily residential uses are discouraged. According to 2030 Unified Plan policies, the density limit for new residential development located within the vicinity of existing low density, single family subdivisions should not exceed a density of three units per acre. The proposed development far exceeds the density recommendations of the 2030 Unified Plan.

The surrounding area is characterized primarily by single family subdivisions to the north, east and south, and commercial uses along Scenic Highway to the west. Adjacent to the north is the Villas of Knollwood Lakes subdivision, zoned R-75 Modified pursuant to RZ-98-107. The maximum density for that subdivision is 2.6 single family detached units per acre. To the northeast is the Knollwood Lakes subdivision, zoned R-100 Modified pursuant to SUP-98-026 for a maximum density of 2.3 single family detached units per acre. Adjacent to the east is the Arbors of Knollwood Lakes subdivision, zoned R-75 Modified pursuant to RZ-00-142. Maximum density of that subdivision is 2.62 single family detached units per acre. On the south side of Webb Gin House Road are several R-100 subdivisions, Gin House Station and Graystone North, developed in the two to three single family detached units per acre range. To the west is Sola Fide Lutheran Church, zoned R-100. North and west of the church located along Scenic Highway are a number of commercial uses oriented toward that corridor and the intersection with Webb Gin House Road. Staff is of the opinion that the proposed TND and RM-24 zoning petitions are too intense for the subject properties given the existing single family detached residential developments located on three sides of the subject property.

Given the existence of multiple established single family subdivisions surrounding the proposed TND and high-density multifamily developments, staff considers these petitions unsuitable for the subject properties. In addition, the requested density of the overall site could be considered inconsistent with the 2030 Unified Plan Future Development Map designation of the Existing/Emerging Suburban Character Area, which discourages medium and high density residential developments. Therefore, staff recommends **DENIAL** of these petitions. Should the Board of Commissioners choose to approve these requests, staff recommends that they be approved for R-75 (Single Family Residence District).

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided as a guide should the Board choose to approve these requests.

Approval as R-75 for a single-family subdivision, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Single-family detached dwellings and accessory uses and structures.
 - B. The minimum heated floor area per dwelling unit shall be 2,000 square feet for one-story homes and 2,200 square feet for two-story homes.
 - C. Homes shall be constructed with three sides of brick or stacked stone. The balance of the home may be the same, or of fiber-cement siding or shake with a minimum three-foot high brick or stacked stone water table.
 - D. All dwellings shall have at least a double-car garage.
 - E. Any recreational area for the subdivision shall be located internally to the development and not adjacent to any property line, or as may be approved by the Director of Planning and Development.
2. To satisfy the following site development considerations:
 - A. Provide a minimum 25-foot wide construction buffer adjacent to external property lines.
 - B. No direct lot access shall be allowed from Webb Gin House Road.
 - C. Maintain a 50-foot building setback along Webb Gin House Road.
 - D. The Webb Gin House Road frontage and project entrance shall be landscaped by the developer and maintained by the Homeowner's Association. Entrance shall include a decorative masonry entrance feature. Landscape and entrance feature plans shall be subject to review and approval of the Director of Planning and Development.
 - E. Natural vegetation shall remain on the property until the issuance of a development permit.
 - F. All grassed areas on building lots shall be sodded.
 - G. Underground utilities shall be provided throughout the development.

- H. Stormwater detention facilities shall be screened from view from adjoining residential properties. Screening plans shall be subject to review and approval of the Director of Planning and Development.
- I. Provide a bicycle/pedestrian connection to the commercial area along Scenic Highway via the common property boundary at the northwest of the subject property.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

In light of the existing R-100 and R-75 single family detached developments in the surrounding area, TND and RM-24 rezonings may not be suitable at this location. An R-75 development could be more appropriate given the adjacent and neighboring single family detached subdivisions in the area.

ADVERSE IMPACTS

Adverse impacts on neighboring properties could be anticipated from the introduction of an incompatible zoning classification, density and unit type.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

An increase in traffic, utilities usage, stormwater runoff, and the number of school-aged children could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within the Existing/Emerging Suburban Character Area, the policies of which do not support the requested higher density TND and RM-24 zonings at this location.

CONDITIONS AFFECTING ZONING

The existing low density single family detached subdivisions surrounding three sides of this project suggest that multifamily development may be inappropriate for this location.

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

- (A) Yes, the proposed development will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (B) No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties.
- (C) In light of the size, location, layout, and character of surrounding uses, the Applicant submits that the property does not have reasonable economic use as currently zoned.
- (D) No, the proposed Rezoning Application will not result in an excessive or burdensome use of the infrastructure systems. The subject Property has convenient access to Georgia Highway 124 and Grayson Highway.
- (E) Yes, the proposed development is in conformity with the policy and intent of the Gwinnett County 2030 Unified Plan.
- (F) Applicant submits that the commercial/retail nature of adjoining properties provides additional support for the Applications.

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RZR '16 011



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**LETTER OF INTENT FOR REZONING APPLICATIONS OF
MAHAFFEY PICKENS TUCKER, LLP**

Mahaffey Pickens Tucker, LLP (the "Applicant") submits this Letter of Intent for the purpose of rezoning an approximately 56.1235 acre tract (the "Property") located on the northerly side of Webb Gin House Road approximately one half mile east of its intersection with Scenic Highway (a/k/a State Route 124). The Applicant respectfully submits that the proposed development should be considered as a single development project, with a variety of residential uses, but submits two separate applications (the "Applications") herewith in accordance with the requirements of the Gwinnett County Unified Development Ordinance (the "UDO"). Currently, the UDO does not include multi-family dwellings in the allowable mix of housing options provided for TND developments in UDO §210-80.7(E). Accordingly, the Applicant submits one application requesting to rezone an approximately 43.56 acre portion of the Property (the "TND Portion") from the R-100 zoning classification to the TND zoning classification of the UDO. The Applicant submits a second application requesting to rezone the approximately 12.57 acre balance of the Property (the "RM-24 Portion") to the RM-24 zoning classification.

The Applicant proposes to develop the TND Portion as a Traditional Neighborhood Development District with a mix of residential uses. The proposed development will include a diversity of lot sizes, housing types and sizes to accommodate persons of a variety of stages of

RZR '16 01 1

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life in a pedestrian-oriented setting that would be well-integrated with the County's neighborhoods, parks, civic spaces, and supportive services. The subject Property borders property zoned R-100 to the southwest and across Webb Gin Road. The property to the north and east of the subject Property is zoned R-75. The subject Property also borders the Snellville Exchange shopping retail center zoned C-2. The Scenic Lake Townhomes development zoned RM-6 is also in close proximity to the subject Property.

In addition to its location just east of Scenic Highway, the Property is also conveniently located in close proximity to Grayson Highway and Sugarloaf Parkway. The Property is depicted on the Gwinnett County 2030 Unified Plan Future Development map as near or within areas designated as Existing/Emerging Suburban and Corridor Mixed-Use. The Applicant submits that the proposed development would serve as a transitional use between the higher-intensity commercial uses along Scenic Highway and the lower-intensity residential uses to the south and east.

The TND Portion of the proposed development would include a mix of housing types including 27 townhomes and 72 single-family detached homes. The proposed single-family homes would be developed on a variety of lot sizes ranging from 5,000 square feet to over 7,500 square feet. The proposed townhomes will be at least 1,150 square feet for three-bedroom units and proposed single-family detached homes will be at least 1,200 square feet for three-bedroom units. Architectural treatments for these homes would include a combination of brick, stacked stone, cedar plank, and hardiplank, or fiber-cement siding.

The Applicant is also proposing to develop the RM-24 Portion of the Property to include 300 units of young professional and millennial housing. The proposed development would create an upscale professional housing development consisting of 300 multi-family attached residences

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spread throughout six buildings. The proposed buildings will feature attractive architecture including brick and/or stone masonry accents with cement/hardiplank siding and panels. Additionally, the proposed buildings will include low-pitched roofs with articulated parapets. The millennial housing development also features a luxurious clubhouse that will include an executive business center and conference room, a cyber café with free Wi-Fi, a state-of-the-art fitness center, a resort-style saltwater pool, pergolas and poolside grilling stations. The proposed development would include a total of 567 parking spaces which would be provided through a mix of surface parking, tuck-under garages, and on-street parking.

The Applicant has designed the development to include higher-intensity uses such as the townhomes and young professional housing towards the center and westerly portions of the property. This design creates a transitional flow to the development and locates the lower-intensity elements of the project closer to existing single-family residential developments. The Applicant submits that this design strategy, in conjunction with the provided fifty-foot buffer along the northerly and easterly Property boundaries, provides adequate buffering and screening for adjoining property owners and mitigates any negative effects of the proposed development.

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 Applications filed herewith. The Applicant respectfully requests your approval of this Application.

This 29th day of March, 2016.

Respectfully Submitted,

MAHAFFEY PICKENS TUCKER, LLP


Shane M. Lanham

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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 these Applications (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 and RM-24 classifications 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 these Applications 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

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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 and RM-24 classifications, as set forth in the Applications, 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 or RM-24 classifications, subject to conditions which are different from the conditions by which the Applicant may amend its applications, 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.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP


Shane M. Lanham
Attorneys for Applicant

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

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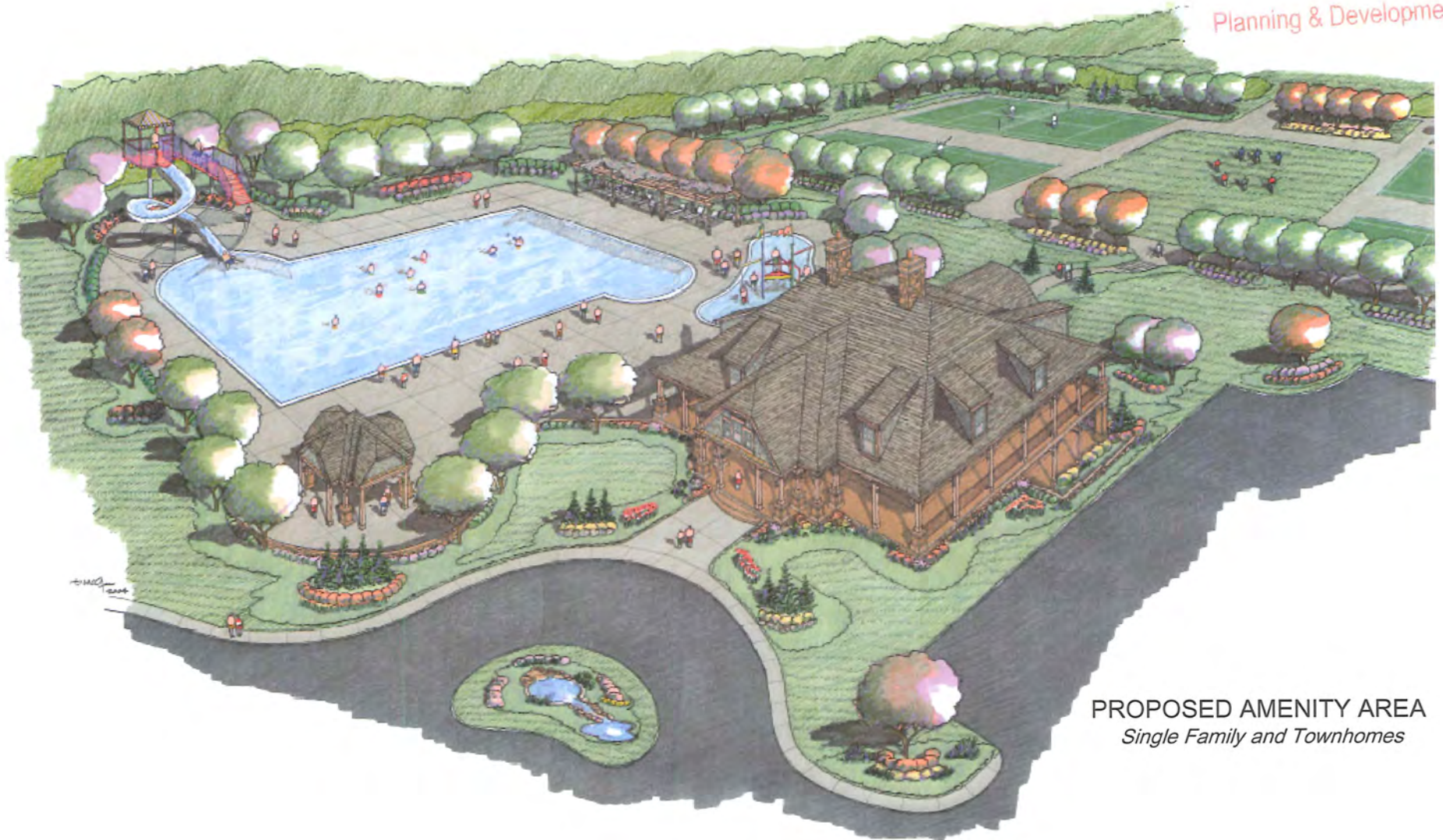
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PROPOSED AMENITY AREA
Single Family and Townhomes

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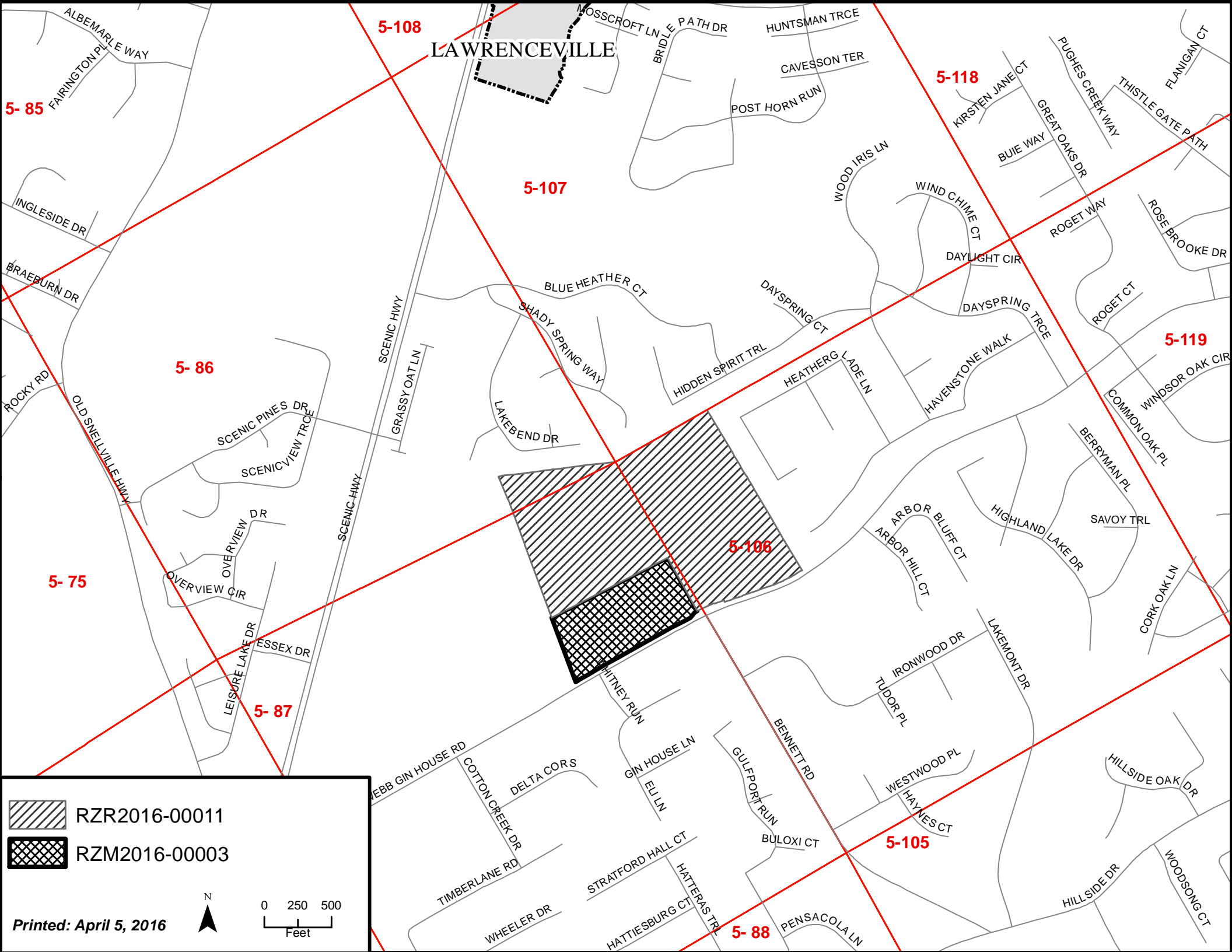
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Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, June 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZC2016-00015	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	56
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	40
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	77
RZR2016-00009	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	9
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	6
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	12
RZR2016-00010	Parkview HS	3021	2,500	521	3082	2,500	582	3143	2,500	643	19
	Trickum MS	2073	1,775	298	2104	1,775	329	2136	1,775	361	14
	Knight ES	790	900	-110	812	900	-88	835	900	-65	26
RZR2016-00011	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	24
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	17
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	32
RZM2016-00003	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	43
	Couch MS	1025	1,150	-125	1040	1,150	-110	1056	1,150	-94	31
	Pharr ES	669	975	-306	660	975	-315	653	975	-322	61

Current projections do not include new developments





RZR2016-00011

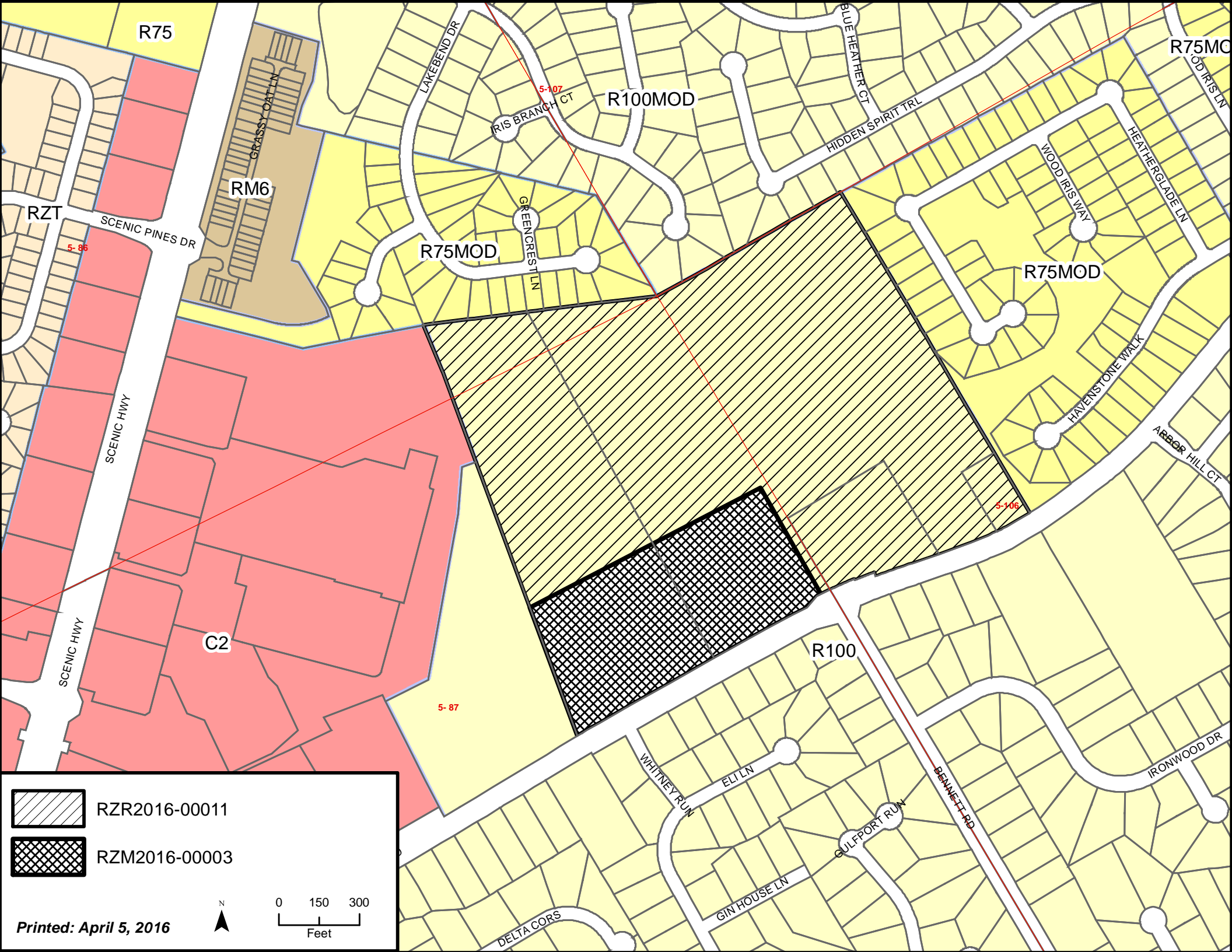


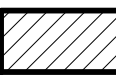

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Printed: April 5, 2016



-  RZR2016-00011
-  RZM2016-00003

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER	:RZR2016-00012
ZONING CHANGE	:R-75 TO R-TH
LOCATION	:3200-3300 BLOCK OF SUGARLOAF PARKWAY
MAP NUMBER	:R7164 183
ACREAGE	:6.05 ACRES
UNITS	:36 UNITS
PROPOSED DEVELOPMENT	:ATTACHED TOWNHOMES
COMMISSION DISTRICT	:(I) BROOKS

FUTURE DEVELOPMENT MAP :**EXISTING/EMERGING SUBURBAN**

APPLICANT: MAHAFFEY, PICKENS, TUCKER, LLP
 1550 N. BROWN ROAD, SUITE 125
 LAWRENCEVILLE, GA 30043

CONTACT: SHANE LANHAM PHONE: 770.232.0000

OWNER: SUGARLOAF PARKING LOT, LLC
 100 PGA TOUR BOULEVARD
 PONTE VEDRA, FL 32082

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant requests rezoning from R-75 to R-TH to develop 36 attached townhomes at a density of 5.95 units per acre. The subject 6.05-acre site is located on the north side of Sugarloaf Parkway southeast of its intersection with Old Peachtree Road. The site has been partially cleared in the center with trees remaining around the periphery of the site. A driveway onto Sugarloaf Parkway was also previously constructed and utilized as overflow parking for the TPC golf tournament held annually at the Sugarloaf Country Club located across Sugarloaf Parkway.

The submitted site plan indicates a 25-foot wide landscaped setback along Sugarloaf Parkway. The Department notes, however, that a 50-foot wide landscaped setback is required, and that Variances would be required to reduce the landscaped setback width and allow the driveway and detention pond encroachments shown on the site plan. Also shown on the plan are the required 30-foot wide buffer along the side (south) property line adjacent to R-75 zoning and a 35-foot wide buffer along the rear (east) property line adjacent to R-100 zoning. The property adjacent to the north is located within the city limits of Duluth and is zoned PUD (Planned Unit Development). It is currently vacant but approved for residential development at a maximum density of 3.9 units per acre. A 40-foot side yard setback is shown along that property line with one of the two detention ponds proposed within the setback.

One right-in/right-out access point on Sugarloaf Parkway is shown on the site plan. The applicant's letter of intent states that the townhomes would be constructed with two-car garages accessed from alleys behind the units. Submitted building elevations show that the townhomes are to be constructed of brick on the front and sides, with the rear being a combination of brick and siding.

ZONING HISTORY

The subject property was zoned RA-200 in 1970. In 1985, the property was part of a 489-acre site rezoned to R-100 pursuant to RZ-85-047. In 1994, the 6.05-acre property was part of a 1,958-acre mixed-use development known as Sugarloaf Farms, and was zoned R-75 pursuant to RZ-94-156. Staff notes that in June 2015, a request to annex and rezone the subject property was made to the City of Duluth for 38 townhomes at a density of 6.28 units per acre. The request was denied when a motion to approve failed before the City Council.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a no-access easement along the line of double frontage lots abutting upon a major thoroughfare for residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Section 610-20.3 of the Unified Development Ordinance requires screening of dumpsters and loading/unloading facilities.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance and section 210-100.

All open space areas/common areas shall meet the minimum road frontage and lot width requirements for a lot within the subdivision.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

A minimum of 50-foot landscape setback is required from the right-of-way of Sugarloaf Parkway. Parking, driveway, detention ponds, retaining walls, etc. to be located out of landscape setback.

Provide a 35-foot natural, undisturbed buffer adjacent to R-100 zoned property. Provide a 30-foot natural undisturbed buffer adjacent to the R-75 zoned property. (Unified Development Ordinance Chapter 610, Table 610.1 and Section 610-20.2).

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

The developer must obtain a Land Disturbance or Development Permit from the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Stormwater Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including stormwater detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Sugarloaf Parkway is a Principal Arterial and 60 feet of right-of-way is required from the centerline, with 75 feet required within 500 feet of a major intersection.

Commercial entrances shall be provided to the site per current development regulations.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The developer shall be limited to one curb cut.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 12-inch water main located approximately 208 feet southeast of parcel R7164 183 on the northwest right-of-way of Briergate Drive and a 24-inch water main located approximately 790 feet northwest of parcel R7164 183 on the right-of-way of Old Peachtree Road.

Due to the uncontrollable variables, the Department of Water Resources (DWR) makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or

extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located approximately 279 feet east of parcel R7164 183 on the right-of-way of Briergate Drive and an eight-inch sanitary sewer main located approximately 408 feet east of parcel R7164 183 on parcel R7199 004.

The subject development is located within the Beaver Ruin service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

- I. The applicant shall obtain a residential building permit for each townhouse and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.

For assistance, you may contact this office at 678.518.6000 Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

Fire Plan Review has no objections to the above rezoning requests, under the following conditions:

- I. Applicant submits civil drawings to Fire Plan Review for review and approval.
2. Applicant submits architectural drawings to Fire Plan Review for review and approval.

3. Upon completion of plan review approvals, applicant successfully achieves a satisfactory Fire field inspection, for issuance of a Certificate of Occupancy - Business Operation.

For assistance, you may contact this office at 678.518.6000, Monday through Friday, from the hours of 8:00 a.m. to 5:00 p.m.

DEPARTMENT ANALYSIS:

The subject 6.05-acre site is located on the north side of Sugarloaf Parkway south of its intersection with Old Peachtree Road. The applicant requests rezoning from R-75 to R-TH to develop 36 attached townhomes at a density of 5.95 units per acre. The site has been partially cleared in the center with scrub trees remaining around the periphery of the site, and was previously used as overflow parking for the TPC golf tournament held annually at the Sugarloaf Country Club located across Sugarloaf Parkway. Staff notes that when the subject site was rezoned to R-75 as part of Sugarloaf Farms, it was intended to be included as part of the adjacent single family subdivision (Stonebrier at Sugarloaf) to the southeast, but was instead left undeveloped.

The 2030 Unified Plan Future Development Map indicates that the subject property is located within an Existing/Emerging Suburban Character Area, policies of which encourage low to medium density single-family residential development. According to 2030 Unified Plan, the density limit for new residential development located within the vicinity of existing low density, single family subdivisions should not exceed a density of three units per acre. The proposed development of 5.95 units per acre exceeds this density. In addition, the proposed development could be considered incompatible with the established zoning and development pattern of the immediate area, which are primarily single family detached subdivision zonings with lower densities. Therefore, the requested townhome development could be considered inconsistent with 2030 Unified Plan policies.

The surrounding area is characterized primarily by single family residential subdivisions and lots. Stonebrier at Sugarloaf is adjacent to the southeast, zoned R-75 pursuant to RZ-94-156. The Sugarloaf County Club, zoned R-100 and R-75, is developed to the south across Sugarloaf Parkway. Adjacent to north in the City of Duluth, is property zoned PUD (Planned Unit Development) that remains undeveloped. Further north is the Sugarloaf Ridge single family detached subdivision, also zoned PUD in city of Duluth. Adjacent to the east is Hull Middle School, zoned R-100. It is staff's opinion that the proposed request for attached townhomes is not consistent with the existing single family detached character of the surrounding area.

In conclusion, staff is of the opinion that the request may be considered inconsistent with both the 2030 Unified Plan and with previous Board approvals for single family detached subdivisions in the surrounding area. Therefore, the Department of Planning and Development recommends **DENIAL** of this request.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided as a guide should the Board choose to approve the request.

Approval as R-TH for attached townhomes, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Townhomes and accessory uses and structures.
 - B. The minimum heated floor area per dwelling unit shall be 2,200 square feet.
 - C. Townhouse buildings shall be constructed of brick or stacked stone on all four sides.
 - D. All dwellings shall have at least a double-car garage, accessed from the rear of the unit.
 - E. Any recreational area for the subdivision must be located internally to the development and not adjacent to any property line, or as may be approved by the Director of Planning and Development.
2. To satisfy the following site development considerations:
 - A. Provide a minimum 30-foot wide landscaped buffer adjacent to all external property lines.
 - B. No direct lot access shall be allowed from Sugarloaf Parkway.
 - C. Maintain a 50-foot landscaped building setback along Sugarloaf Parkway. This setback may not include any driveway, parking or detention pond encroachments.
 - D. The Sugarloaf Parkway frontage and project entrance shall be landscaped by the developer and maintained by the Homeowner's Association. Entrance shall include a decorative masonry entrance feature. Landscape and entrance feature plans shall be subject to review and approval of the Director of Planning and Development.
 - E. All grassed areas shall be sodded.
 - F. Underground utilities shall be provided throughout the development.
 - G. Stormwater detention facilities shall be screened from view of adjoining properties and rights-of-way. Screening plans shall be subject to review and approval of the Director of Planning and Development.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

In light of adjacent and nearby R-100 and R-75 zoning and developments, an R-TH zoning and townhouse development may not be suitable at this location.

ADVERSE IMPACTS

Adverse impacts on neighboring properties could be anticipated from the introduction of an incompatible zoning classification, density and unit type.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

An increase in traffic, utilities usage, stormwater runoff, and the number of school-aged children could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within the Existing/Emerging Suburban Character Area, the policies of which do not support the requested R-TH zoning at this location. The requested townhome project may be out of character with existing R-100 and R-75 single family developments in the area, and inconsistent with the policies of the Unified Plan for infill development in this Character Area.

CONDITIONS AFFECTING ZONING

The lack of any multi-family or townhome zoning within this area suggests that R-TH zoning may be inappropriate for this location.

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 BURDENSOME 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

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

- (A) Yes. The subject property is located along the north side of Sugarloaf Parkway east of its intersection with Old Peachtree Road. The R-TH zoning classification would permit a suitable use for the area in light of the uses of nearby property. A townhome development would serve the demands of the market and maintain the residential character of the area.
- (B) No. This rezoning will enhance the area and will not adversely affect adjacent and nearby properties.
- (C) No. In light of the size, location, and layout of the subject property as well as market conditions, site-specific topography, and the surrounding property uses, the Applicant submits that the property does not have reasonable economic use as currently zoned.
- (D) No. The proposed development will not cause excessive use of existing streets, transportation facilities, utilities, or schools.
- (E) Yes. The proposed rezoning to an R-TH residential development is in conformance with the intent of the Land Use Plan. The Property is located in an Existing/Emerging Suburban character area.
- (F) Yes. The property's convenient location to commercial development along Peachtree Industrial Boulevard and Interstate 85 provides supporting grounds for development of the property in accordance with the application.

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Kenneth W. Stroud
R. Lee Tucker, Jr.
*Of Counsel

LETTER OF INTENT FOR REZONING APPLICATION
OF MAHAFFEY PICKENS TUCKER, LLP

Mahaffey Pickens Tucker, LLP (the "Applicant") submits this Letter of Intent and attached Rezoning Application for the purpose of rezoning to the R-TH zoning classification an approximately 6.055 acre tract (the "Property") situated along Sugarloaf Parkway east of its intersection with Old Peachtree Road. The Property is currently zoned R-75.

The Applicant proposes to develop a single-family residential community, including 36 attached residential townhomes. The proposed development would have a net density of approximately 5.945 units/acre, which is below the maximum allowed density of 8.0 units per acre prescribed for the R-TH zoning classification in the Gwinnett County Unified Development Ordinance (the "UDO"). The proposed single-family community would consist of homes at a size, quality, and price-point commensurate with homes in the surrounding area. The proposed townhomes would include double-car garages as well as other attractive architectural elements in line with a traditional "Brownstone" appearance as depicted on the building elevations submitted with the Application. The townhomes would be rear-entry with garages on the rear elevation and accessed by alleyways. The building materials would consist of brick, stone, or cement or shake siding. The proposed development would also contain approximately 0.91 acres of common space within the Property. The Applicant proposes to development the Property with a single, gated entrance off Sugarloaf Parkway. The proposed development would include attractive

Sugarloaf Office || 1550 North Brown Road, Suite 125, Lawrenceville, Georgia 30043
NorthPoint Office || 11175 Cicero Drive, Suite 100, Alpharetta, Georgia 30022
TELEPHONE 770 232 0000
FACSIMILE 678 518 6880
www.mptlawfirm.com

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landscaping at the gated entrance as well as an additional 25-foot landscaping buffer along the entire frontage of Sugarloaf Parkway, creating an attractive streetscape.

To the north and northeast, the subject Property is bordered by Hull Middle School, zoned R-100. Though the land that contains the middle school is zoned for lower-intensity residential uses, the actual use of the property as a large, public middle school is more akin to an office or institutional use. To the east is the Stonebrier at Sugarloaf subdivision and to the south across Sugarloaf Parkway is Sugarloaf Country Club, each zoned R-75. To the northwest, the subject Property is bordered by property within the City of Duluth zoned PUD. According to the City of Duluth Unified Development Code, the “intent of the PUD District is to ... accommodate relatively large scale, planned developments that allow a mix of uses, master planned single use developments, and higher residential densities than allowed in other zoning districts.” The proposed development would serve as a transitional use from the higher-intensity uses of the school and the PUD property in the City of Duluth to the lower-intensity uses to the east and south of the subject Property.

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 this Application.

Respectfully submitted this 2nd day of May, 2016.

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Lanham
Attorneys for Applicant

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JUSTIFICATION FOR REZONING APPLICATION

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 R-TH classification with as requested by the Applicant, and is not economically suitable for development under the present R-75 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

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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 R-TH 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 R-TH 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 2nd day of May, 2016.

Respectfully submitted,
MAHAFFEY PICKENS TUCKER, LLP


Shane M. Lanham
Attorneys for Applicant

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TOWNHOMES

SUGARLOAF PARKWAY

RZR '16012



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

TOWNHOMES
SUGARLOAF PARKWAY

DATE: 5.04.2016



REAR ELEVATION

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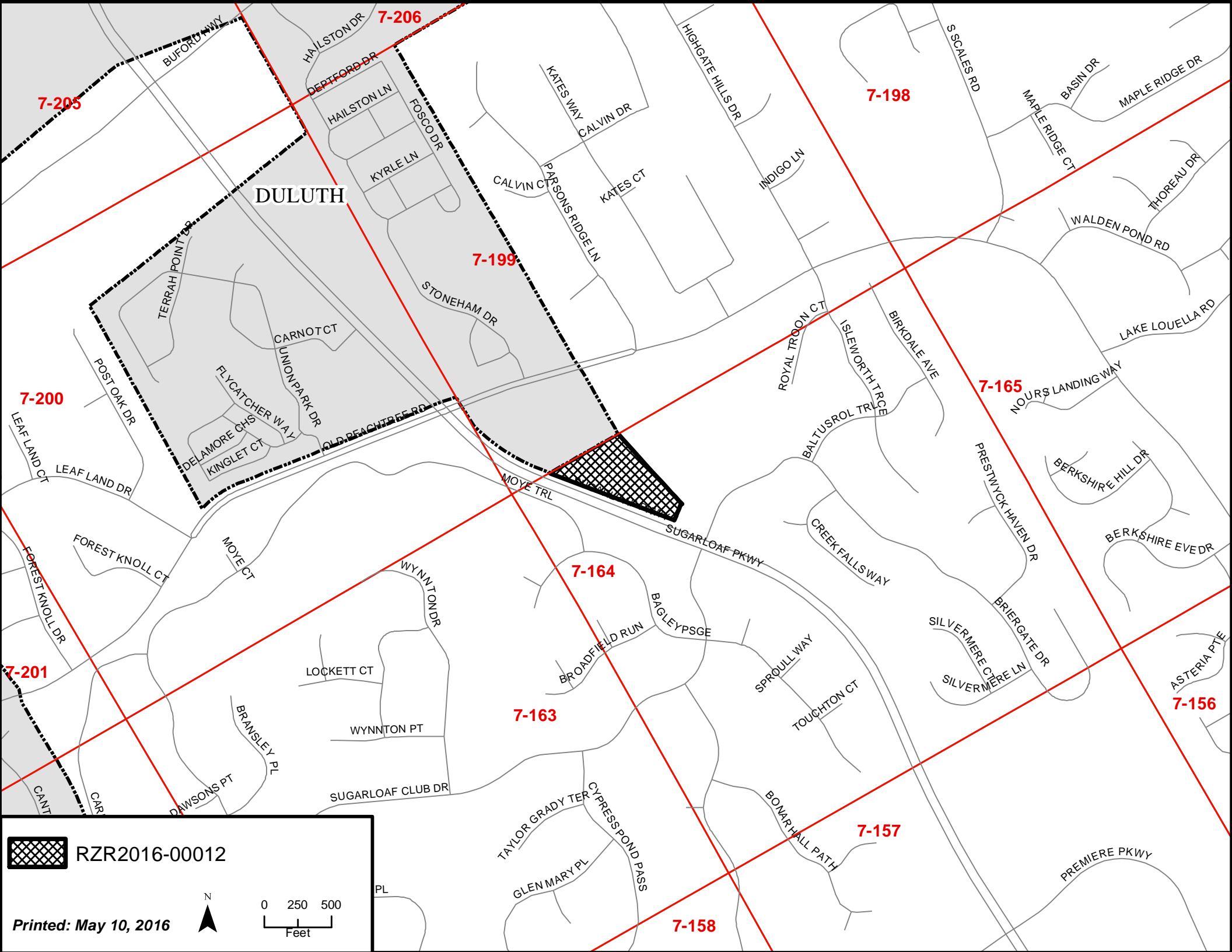
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RZR '16 012

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, July 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00012	Peachtree Ridge HS	3206	3,050	156	3222	3,050	172	3238	3,050	188	7
	Hull MS	1300	1,750	-450	1310	1,750	-440	1326	1,750	-424	5
	Parsons ES	774	700	74	769	700	69	777	700	77	10
RZR2016-00013	Parkview HS	3021	2,500	521	3082	2,500	582	3143	2,500	643	19
	Trickum MS	2073	1,775	298	2104	1,775	329	2136	1,775	361	14
	Knight ES	790	900	-110	812	900	-88	835	900	-65	27
RZR2016-00014	Grayson HS	2847	2,125	722	2927	2,125	802	3009	2,125	884	60
	Bay Creek MS	1111	1,150	-39	1148	1,150	-2	1186	1,150	36	43
	Trip ES	988	1,200	-212	1027	1,200	-173	1067	1,200	-133	84

Current projections do not include new developments



DULUTH

7-206

7-205

7-199

7-198

7-200

7-165


7-164

7-163

7-156

7-157

7-158

 RZR2016-00012



0 250 500
Feet


Printed: May 10, 2016



MOYE TRL

SUGARLOAF PKWY

SUGARLOAF PKWY

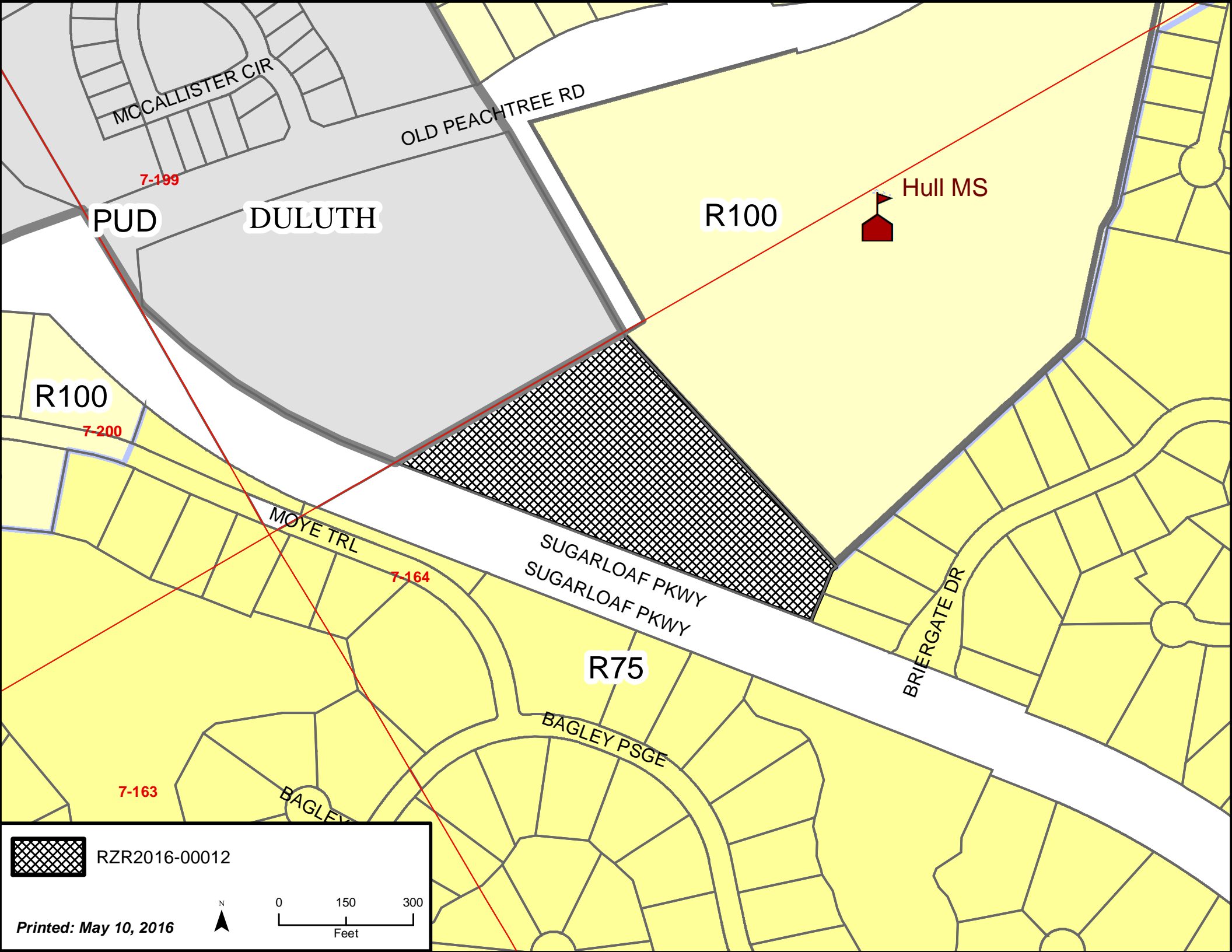


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N

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Feet



MOCALLISTER CIR

OLD PEACHTREE RD

PUD

DULUTH

R100

Hull MS

R100

7-200

MOYE TRL

7-164

SUGARLOAF PKWY
SUGARLOAF PKWY


R75

BRIERGATE DR

BAGLEY PSGE

7-163

BAGLEY




RZR2016-00012

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0 150 300

Feet

N



**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER	:RZR2016-00016
ZONING CHANGE	:C-2 TO R-TH
LOCATION	:2000 BLOCK OF HAMILTON CREEK PARKWAY
MAP NUMBER	:R3002 110
ACREAGE	:4.47 ACRES
UNITS	:35 UNITS
PROPOSED DEVELOPMENT	:TOWNHOMES (REDUCTION IN BUFFERS)
COMMISSION DISTRICT	:(3) HUNTER

FUTURE DEVELOPMENT MAP: **EXISTING / EMERGING SUBURBAN**

APPLICANT: EDGE CITY PROPERTIES, INC
4480 COMMERCE DRIVE, SUITE A
BUFORD, GA 30518

CONTACT: MITCH PEEVY PHONE: 770.614.6511

OWNER: HAMILTON CREEK PROPERTIES, LLC
5555 GLENRIDGE CONNECTOR, SUITE 1100
ATLANTA, GA. 30342

DEPARTMENT RECOMMENDATIONS: **DENIAL**

PROJECT DATA:

The applicant requests rezoning of a 4.47-acre parcel from C-2 (General Business District) to R-TH (Single Family Residence Townhouse District) to construct a 35-unit townhouse development. The property is located at the end of Hamilton Creek Parkway, a cul-de-sac street extending from Braselton Highway.

The development would consist of 35 townhomes on 4.47-acres, resulting in a density of 7.82 units per acre. The submitted architectural elevations reflect townhouse buildings with a combination of brick, stone, and fiber-cement shake siding on the fronts, with fiber-cement siding on the remaining balance of each building. The proposed townhomes would contain approximately 1,700 square-feet per unit, with a front-entry double-car garage.

The site includes park area located at a central point to the development. Access to the development would be provided through a cul-de-sac with two curb cuts onto Hamilton Creek Parkway. It is noted that the submitted site plan does not meet the required external or landscape setbacks or buffer requirements for the R-TH district. The standard building setbacks are 50-feet along Hamilton Creek Parkway and 40-feet adjacent to all other property lines. To accommodate the requested 35 units, the site plan reflects setbacks reduced to 20-feet along Hamilton Creek Road, 20-feet along the side (south) and rear (west) property lines and 10-feet along the east (north) property line. Additionally, the submitted site plan indicates a 20-foot

wide landscaped setback along Hamilton Creek Parkway in lieu of the required 50-foot landscape setback. Also shown on the plan is a 20-foot zoning buffer along the side (south) and rear (west) property lines adjacent to R-100 CLU zoning, a reduction from the standard 30-foot buffer width. The site plan indicates a stream located just beyond the southern property line requiring a 50-foot buffer and accompanying 25-foot impervious surface setback.

In order to meet the standards for the R-TH district, the site plan would need to be heavily revised which may result in a reduction in the total number of the units. To develop the property as proposed, numerous variances through the Zoning Board of Appeals would be required for exterior yard requirements and landscaping.

ZONING HISTORY:

In 1970, the property was zoned RA-200 (Agriculture-Residence District). The property was rezoned to C-2 in 2000, pursuant to RZ-00-119.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

A minimum of 50-foot building landscaped setback is required from the right-of-way of Hamilton Creek Parkway (UDO Section 210-100.6.15).

The required side and rear setback of 40-feet appears to not be met. The applicant must either revise the site plan, or seek a Variance from the Zoning Board of Appeals.

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Stormwater Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three-feet above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including stormwater detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

This project lies within an Activity Center/Corridor Overlay District, and is subject to all requirements set forth in Chapter 220 of the Unified Development Ordinance.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Hamilton Creek Parkway is a Local Street and 30-feet of right-of-way is required from the centerline.

Commercial entrances shall be provided to the site per current development regulations.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

As per the current Gwinnett County Unified Development Ordinance all dead end streets are required to end at a cul-de-sac.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 12-inch water main located on the northeast right-of-way of Hamilton Creek Parkway.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located on parcel 3-002-110.

The subject development is located within the Jim Moore Road service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject site is a 4.47-acre property located at the terminus of Hamilton Creek Parkway, just south of its intersection with Braselton Highway. The vacant site has been partially cleared and graded in the past.

The 2030 Unified Plan Future Development Map indicates this property lies within an Existing/ Emerging Suburban Character Area. Policies for this Character Area encourage consistency of both density and development type within a given area. The proposed townhomes would be the only residential development along Hamilton Creek Parkway, a local commercially-zoned street. Based on the character of surrounding commercial developments, the potential land use conflicts, and the intent of the 2030 Unified Plan to encourage compatible infill development, the requested townhomes may not be appropriate at this location.

The immediate area is characterized by segregated commercial and residential uses. To the south and west of the subject site is the Hamilton Mill Hometown golf course and recreation area which are accessed via Hamilton Mill Parkway. The adjacent Braselton Highway commercial corridor is anchored by the C-2 zoned Hamilton Mill Village shopping center and the Hamilton Mill at Duncan Creek commercial center. Adjacent and nearby residential developments consist of detached units at much lower densities than proposed for the subject site. The proposed townhome development would also be isolated from these other residential developments and may not be considered compatible comingling with the commercial activities in the immediate area. In the Department's opinion, the subject site is more suitable for future commercial, office or institutional use, and the requested rezoning to R-TH would be inappropriate.

In conclusion, the requested R-TH zoning may not be consistent with the policies of the 2030 Unified Plan for infill residential development in a commercial area, and may be in conflict with the zoning and development pattern of the immediate area which does not include attached housing. In addition, the property is considered by the Department to be too small for the development being proposed, requiring numerous reductions in development standards. Therefore, the Department recommends **DENIAL** of this request.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

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

Approval as R-TH for a townhouse development, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Attached townhouse dwellings and accessory uses at a maximum density of five units per acre.
 - B. Buildings shall be constructed of brick or stone on all sides (front, sides, and rear). Architectural elevations shall be submitted for review and approval of the Director of Planning and Development.
 - C. The minimum heated floor area per dwelling unit shall be at least 1,600 square-feet.
 - D. Homes shall include a minimum of five different facades to create a variety in the community and to not appear identical.
2. To satisfy the following site development considerations:
 - A. Revise the final site plan to meet the full landscaping, buffer, external setback, and internal yard requirements of the R-TH district.
 - B. The landscaped setbacks along Hamilton Creek Parkway shall include a decorative fence/wall and entrance monument. Landscaping, fence/wall and entrance monument design shall be subject to review and approval of the Director of Planning and Development prior to the issuance of a Development Permit.
 - C. All grassed areas shall be sodded.
 - D. All utilities shall be placed underground.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF ZONING

SUITABILITY OF USE

The proposed townhouse development may not be suitable at this location in light of the low-density, detached development that characterizes the residential uses in the immediate area.

ADVERSE IMPACTS

Adverse impacts on nearby residential properties may be anticipated by introducing attached, high-density housing with reduced development standards. The property is located within a commercial development that includes retail, office and institutional uses, and introduction of a residential use at this location could introduce potential land use conflicts.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACT ON PUBLIC FACILITIES

Anticipated impacts include increased traffic, stormwater runoff, utility system demand, and an increase in school age children.

CONFORMITY WITH POLICIES

The request may not be consistent with the recommendations of the 2030 Unified Plan, which encourage consistency of both density and development type within a given area. Additionally, the development standards being proposed represent a substantial reduction from the requirements of the R-TH district, and may result in a development which is not beneficial to the area.

CONDITIONS AFFECTING ZONING

In order to develop as proposed, many of the minimum standards of the R-TH district would need to be diminished, suggesting that the proposed development and zoning may be inappropriate for a parcel of this size, and at this location.

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PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
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In order to develop as proposed, many of the minimum standards of the R-TH district would need to be diminished, suggesting that the proposed development and zoning may be inappropriate for a parcel of this size, and at this location.

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 EXISTING/EMERGING SUBURBAN

(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, Edge City Properties, Inc., requests a rezoning from C-2 to R-TH for the purpose of developing a 35 lot townhome subdivision. The Property is a total of 4.475 acres and there is just no demand for commercial property at the end of a dead end road that has no visibility from the main highway. The subject property is located on Hamilton Creek Parkway and is found in the 3rd district, land lot 002 in Gwinnett County.

The site plan shows that there will be two entrances to the proposed project at the end of the existing street. The minimum heated area for the dwellings will be 1,700 square feet with a maximum height for the proposed dwellings 35'. The front façade of all dwellings will consist of a mixture of brick, stone, or fiber cement shake and siding with the remainder of the home the same or fiber cement siding. The homes will feature a traditional architecture style and will all have a two car garage. The price range for the units will start in the low \$200,000 and go up to the mid \$200,000 range. The gross density is 7.82 units to the acre and the applicant is proposing to provide 76,800 square feet of common open space with the majority being 2 park areas in the center of the property. The HOA will also maintain all of the lawns, open space as well as the entry feature. This property is adjacent to a multi-tenant office building and provides excellent walkability to the retail shops and dining in the immediate area. Finally, the applicant is requesting a buffer reduction adjacent to the golf course from 30 feet to 20 feet. The area is heavily wooded with no homes abutting that area. The applicant also understands that variances will be needed from the Zoning Board of Appeals for the setbacks due to the unique size and dimensions of this property.

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RZR '16016

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, August 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00015	Brookwood HS	3481	2,575	906	3516	2,575	941	3504	2,575	929	11
	Five Forks MS	1078	1,150	-72	1094	1,150	-56	1105	1,150	-45	8
	Gwin Oaks ES	1033	875	158	1043	875	168	1054	875	179	15
RZR2016-00016	Mill Creek HS	3819	2,800	1,019	3682	2,800	882	3594	2,800	794	7
	Osborne MS	1680	1,575	105	1697	1,575	122	1714	1,575	139	5
	Puckett's Mill ES	891	1,200	-309	880	1,200	-320	871	1,200	-329	10
CIC2016-00019	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	34
CIC2016-00020	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	25
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	48

Current projections do not include new developments



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**24' Wide Town Home Series
Front Elevation**

05.31.16

RZR '16016



The drawings presented are illustrative of character and design intent only, and are subject to change based upon final design considerations (i.e., applicable codes, structural, and MEP design requirements, and plan / floor plan changes, etc.)
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Left Elevation

Right Elevation



Rear Elevation



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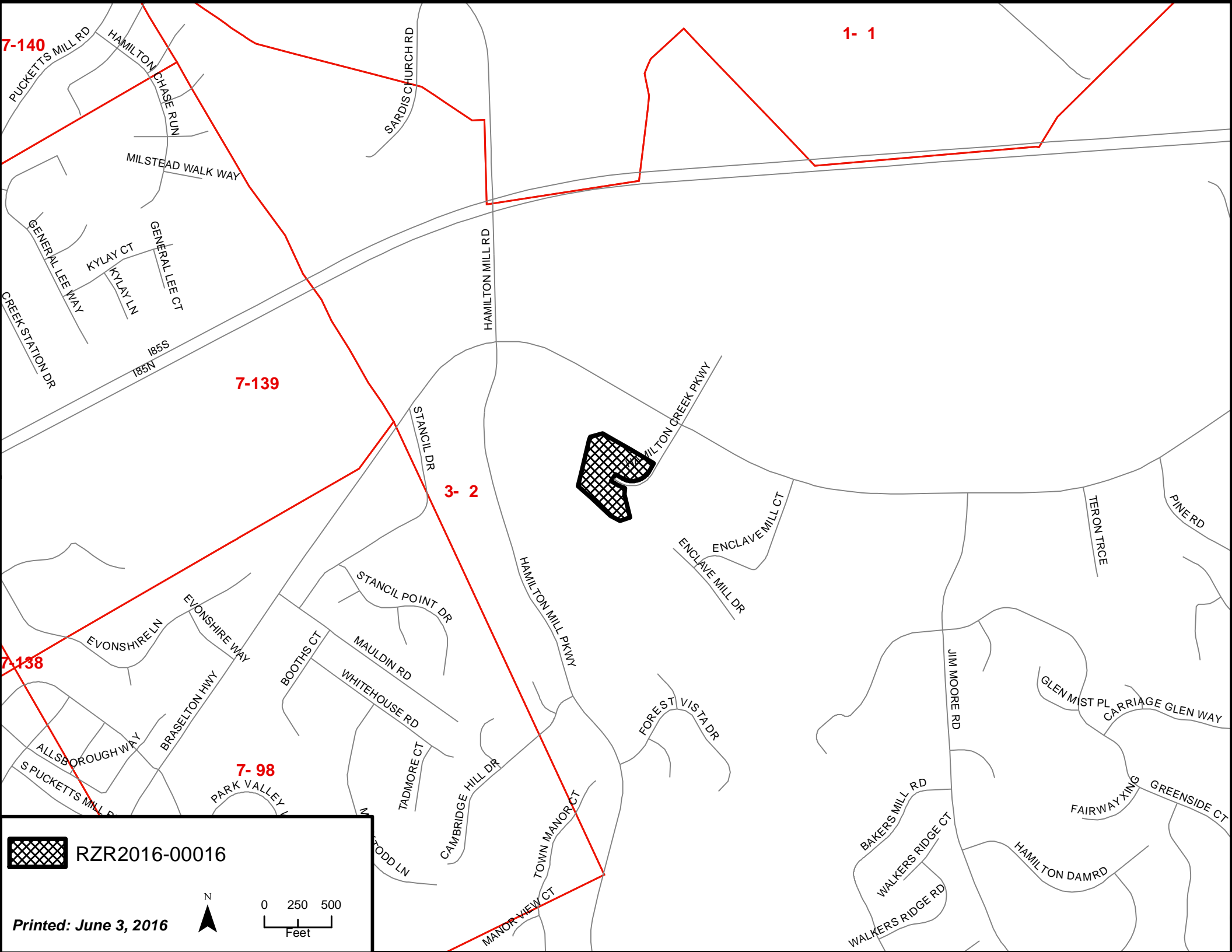
24' Wide Town Home Series


05.31.16

RZR '16016



The drawings presented are illustrative of character and design intent only, and are subject to change based upon final design considerations (i.e., applicable codes, structural, and MEP design requirements, unit plan / floor plan changes, etc.)
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 RZR2016-00016

* SEWER IS CONNECTED ON SITE AT ROUND ABOUT MANHOLE
* STORM WATER IS DETAINED AT REGIONAL DETENTION POND


SIGNATURE OF AUTHORIZED REPRESENTATIVE

RZR '16 016






HAMILTON CREEK PKWY


 RZR2016-00016

Printed: June 3, 2016

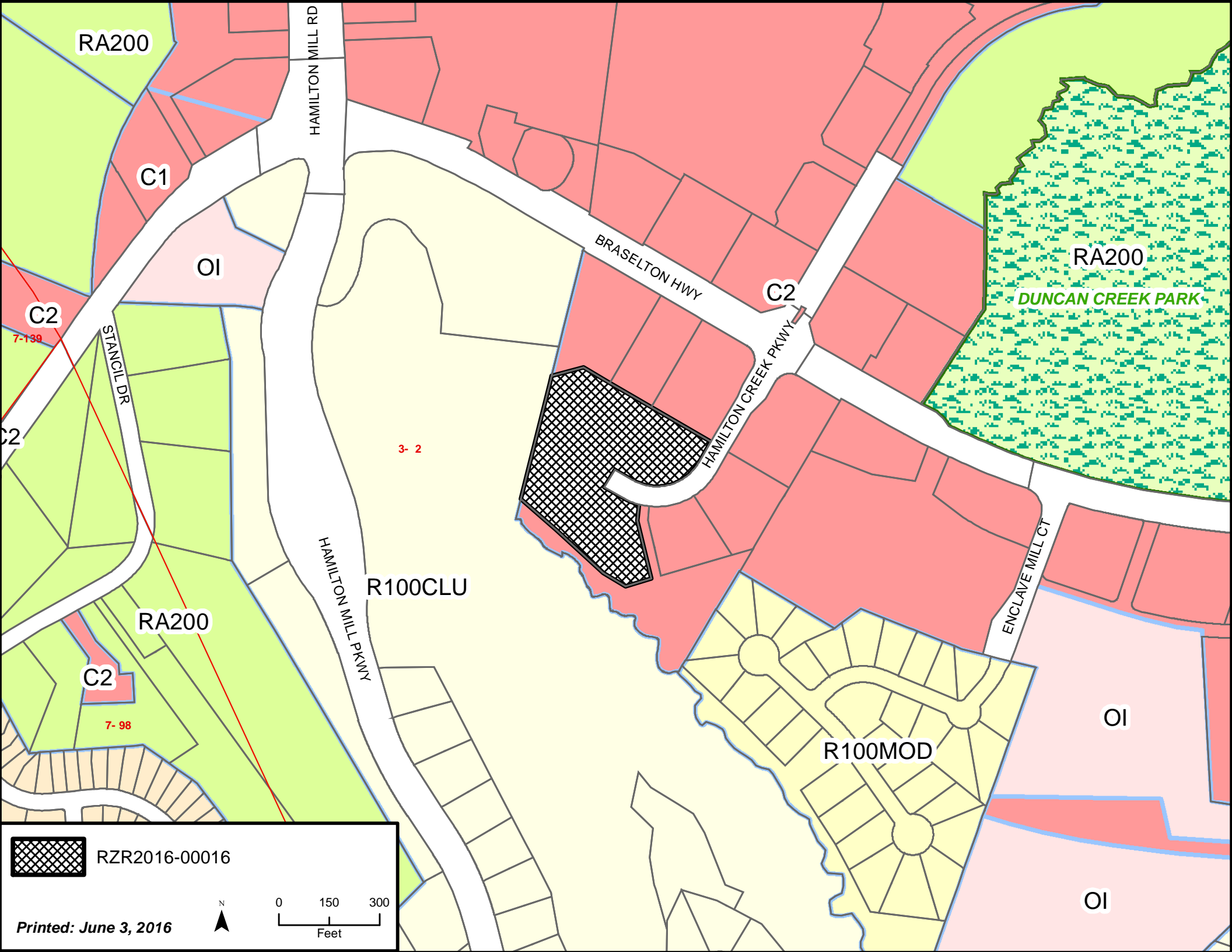
N



0 25 50



Feet



RA200

C1

OI

C2

7-139

STANCIL DR

C2

3- 2

HAMILTON MILL PKWY

R100CLU

RA200

C2

7- 98

BRASELTON HWY

C2

HAMILTON CREEK PKWY

RA200

DUNCAN CREEK PARK

ENCLAVE MILL CT

OI

R100MOD

OI



RZR2016-00016



0 150 300
Feet

Printed: June 3, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
CHANGE IN CONDITIONS ANALYSES**

CASE NUMBER :**CIC2016-00019**
ZONING :R-ZT
LOCATION :2900 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBERS :R7143 004 & 005
ACREAGE :44.86 ACRES
PROPOSAL :REVISE SITE PLAN AND ARCHITECTURAL STANDARDS
COMMISSION DISTRICT :(4) HEARD

CASE NUMBER :**CIC2016-00020**
ZONING :R-60
LOCATION :2900 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBERS :R7143 004 & 005
ACREAGE :14.78 ACRES
PROPOSAL :REVISE SITE PLAN AND ARCHITECTURAL STANDARDS
COMMISSION DISTRICT :(4) HEARD

FUTURE DEVELOPMENT MAP: **EXISTING / EMERGING SUBURBAN**

APPLICANT: CMH PARKS INC. D/B/A CHAFIN BUILDERS
1550 N. BROWN ROAD, SUITE 125
LAWRENCEVILLE GA. 30043

CONTACT: SHANE LANHAM PHONE: 770.232.0000

OWNER: CMH PARKS INC. D/B/A CHAFIN BUILDERS
1550 N. BROWN ROAD, SUITE 125
LAWRENCEVILLE GA. 30043

DEPARTMENT RECOMMENDATION: **DENIAL**

CHANGE IN CONDITIONS SUMMARY:

The applicant seeks approval of two Change-in-Conditions requests to develop a 178-lot single-family subdivision on the north side of Gravel Springs Road, east of Mall of Georgia Boulevard. The site is located within the GA Highway 124/324/Hamilton Mill Overlay District. Most of the property is undeveloped pasture and woodlands with several small streams. A single-family residence and several accessory buildings are located near the Gravel Springs Road frontage.

The subject properties contain a total of 59.64 acres, of which 44.86 acres are zoned R-ZT pursuant to CIC2015-00008 and the remaining 14.78 acres are zoned R-60 pursuant to RZR2015-00007. Currently approved for a total of 215 lots on 67 acres at density of 3.21 units per acre, the applicant seeks to revise the site plan to reduce the number of lots to 178 resulting in a new density calculation of 2.99 units per acre. Additionally, the applicant proposes to increase minimum lot widths at the front building line from 40 feet to 47 feet and from 60

feet to 62 feet. Finally, the applicant requests to reduce the percentage of units required to be constructed with four-sided brick or stacked stone. 162 of the approved 215 units are currently subject to this requirement, under the applicant's proposal, only 102 of the proposed reduced total of 178 units would continue to be subject to said architectural standard.

To accomplish these site and building modifications, two conditions of CIC2015-00008 and RZR2015-00007 are proposed to be revised. Each is briefly described below.

Change #1:

Condition I.C. governs the style and exterior treatment of the homes, and currently reads as follows:

I.C: Homes shall be craftsman style on the front façade. Seventy-five percent (75%) of the homes (which shall include the homes adjacent to and along the common property lines of homes in Hedgerows Subdivision on Walking Horse Trail and Walkers Glen Lane) shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e. chimneys, roof gables, bay windows, dormers, etc.) may be of the same or of stucco, shake shingle, wood or fiber-cement type siding. The remaining twenty-five percent (25%) of homes shall have side and rear elevations of same or of fiber-cement-type siding, with brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.

The applicant proposes to amend condition I.C. to require only 57% of all homes to be constructed with four-sides of brick or stacked stone, with the remaining 43% of all homes to have front facades of either brick, stacked stone, fiber-cement shake or siding, or combinations thereof, and the side and rear elevations to be of the same materials with a brick or stacked stone water table.

Change #2:

Condition I.E. references a site plan for the R-ZT portion of the development and currently reads as follows:

I.E: For the R-ZT portion of the development, the property shall be developed in general accordance with the site plan prepared by Ridgeline Land Planning, Inc. dated September 19, 2015, and presented at the Board of Commissioners Hearing November 17, 2015, which includes: (1) a section of lots a minimum of 60 feet wide adjacent to Hedgerows Subdivision (Walking Horse Trail and Walkers Glen Lane), containing approximately 78 lots and (2) a section of lots a minimum of 40 feet wide in the northwest portion of the property, containing approximately 97 lots.

The applicant proposes to amend the condition to reference the new site plan submitted with these applications which reduces the total number of lots from 215 to 178 and increases the minimum lot widths from 60 feet to 62 feet for 102 lots and from 40 feet to 47 feet for the remaining 76 lots.

Additional Information:

Condition 3.C. of both approved cases requires an amenity area based on the original approved site plan. No amenity area is shown on the proposed site plan, but the Department of Planning and Development recommends this condition remain.

ZONING HISTORY:

CIC2016-00019: The property was zoned RA-200 in 1970. The subject property was originally a part of the planned 194-acre Villages at Ivy Creek project approved in 2007. The tract was rezoned to R-ZT (Single-family Residence District) pursuant to RZR-06-056 for a single-family subdivision. In November 2015, a Change in Conditions was approved on the site to revise or delete seven zoning conditions of RZR-06-056 pursuant to CIC2015-00008.

CIC2016-00020: The property was zoned RA-200 in 1970. The subject property was originally a part of the planned 194-acre Villages at Ivy Creek project approved in 2007. A portion of the tract was rezoned to R-TH pursuant to RZM-06-010 for attached townhomes at a density of six units per acre, while the balance of the parent parcel remained RA-200. In November 2015, the entire tract was rezoned to R-60 for 40 lots pursuant to RZR2015-00007.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

No comment.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Gravel Springs Road is a State Route (S.R. 324) and Georgia D.O.T. right-of-way requirements govern.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 16-inch water main located on the southwest right-of-way of Gravel Springs Road.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system.

Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located on parcel R7143 005.

The subject development is located within the Ivy Creek service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The applicant seeks approval of two Change-in-Conditions requests in order to develop a 178-lot single-family subdivision on the north side of Gravel Springs Road, east of Mall of Georgia Boulevard. The subject properties contain a total of 59.64 acres, of which 44.86 acres are zoned R-ZT pursuant to CIC2015-00008 and the remaining 14.78 acres are zoned R-60 pursuant to RZR2015-00007.

The 2030 Unified Plan Future Development Map identifies the project as being located within the Existing/Emerging Suburban Character Area. Low and medium density residential subdivisions are encouraged within this Character Area; therefore, the density portion of this proposal may be considered consistent with the 2030 Unified Plan. However, the request to revise the architectural treatment for a number of the proposed units may not be consistent with the previous Board of Commissioners' action on the site, which was the result of significant public input from adjacent and nearby residents, property owners and other interested parties.

The area surrounding the subject site is zoned for a variety of attached and detached residential uses at varying densities, along with numerous commercially-zoned tracts fronting Gravel Springs Road (primarily within the city limits of Buford). Adjacent to the east is the Hedgerows subdivision, zoned R-100 Modified pursuant to RZ-99-160. To the southeast are undeveloped properties zoned R-TH, RA-200 and R-75 Modified. Properties across Gravel Springs Road to the south are zoned C-2 in the city of Buford and are primarily undeveloped. Adjacent to the west is The Townes of Avondale, a townhome development zoned R-TH pursuant to RZM-05-034. To the north are properties zoned RA-200 along with several low density subdivisions along Kilgore Road. Given the variety of residential zoning districts and densities in the area, the proposed change in the site plan (condition I.E.), with fewer lots and increases in the minimum lot widths, could be suitable for the subject site. However, condition I.C. for architectural treatment was established with substantial input from the neighboring residents and property owners, and the requested reduction in architectural standards is not supported for change by the Department.

In conclusion, based on the facts that not all of the proposed changes are consistent with the 2030 Unified Plan or previous Board action on the subject site after considerable neighbor input, planning staff recommends **DENIAL** of these requests.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided as a guide should the Board choose to approve these requests.

Approval as R-ZT (CIC2016-00019) for the northern tract, and R-60 (CIC2016-00020) for the southern tract, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Single-family detached dwellings and accessory uses and structures.
 - B. The minimum heated floor area per dwelling unit shall be 2,200 square feet for single story homes and 2,400 square feet for two-story homes.
 - C. Homes shall be craftsman style on the front façade. Seventy-five percent (75%) of the homes (which shall include the homes adjacent to and along the common property lines of homes in Hedgerows Subdivision on Walking Horse Trail and Walkers Glen Lane), shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e., chimneys, roof gables, bay windows, dormers, etc.) may be of the same or of stucco, shake shingle, wood or fiber-cement type siding. The remaining 25 percent of homes shall have side and rear elevations of same or of fiber-cement-type siding, with brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.
 - D. All dwellings shall have double-car garages.
 - E. For the R-ZT portion of the development, the property shall be developed in general accordance with the site plan prepared by ~~Ridgeline Land Planning~~ **Primus Engineering**, Inc. dated ~~September 19, 2015~~ **June 3, 2016**, and ~~presented at the Board of Commissioners Hearing November 17, 2015~~, which includes: (1) a section of lots a minimum of ~~60~~ **62** feet wide adjacent to Hedgerows Subdivision (Walking Horse Trail and Walkers Glen Lane), containing approximately ~~78~~ **98** lots and (2) a section of lots a minimum of ~~40~~ **47** feet wide in the northwest portion of the property, containing approximately ~~97~~ **80** lots.
2. To satisfy the following site development considerations:
 - A. Provide a 50-foot wide buffer along the common property line with the Hedgerows subdivision (Walkers Glen Lane and Walking Horse Trail). Buffer shall be undisturbed except for additional landscaping only where sparsely vegetated, said additional landscaping shall be planted from the property line to the buffer line, to consist of a mixture of an undulating berm of Thuga Green Giants designed to blend with the

natural landscape and being two staggered rows planted six feet on-center, and shall be six to eight feet tall at the time of planting with a two-year warranty.

- B. Natural vegetation shall remain on the property until the issuance of a development permit.
 - C. All grassed areas shall be sodded.
 - D. Provide underground utilities throughout the development.
 - E. Final architectural, landscaping and site plans shall be subject to review and approval of the Director of Planning and Development.
 - F. All grassed areas on dwelling lots shall be sodded. All other disturbed land shall be sodded, hydro-seeded and strawed or mulched.
3. To abide by the following requirements, dedications, and improvements:
- A. If required, dedicate at no cost to Gwinnett County all necessary right-of-way and easements for the future construction of a greenway path/trail through the property in accordance with the Gwinnett County Open Space and Greenway Master Plan. Right-of-way/easement width and location shall be subject to review and approval of the Gwinnett County Department of Community Services. All dedications will be located outside of the designated stream bank setbacks.
 - B. All residences shall be bound by a declaration of covenants, easements and restrictions which is recorded in the real estate records of Gwinnett County and which will automatically make each homeowner a member of the mandatory homeowners association (which shall be incorporated as a Georgia not-for-profit corporation). The homeowners association shall own, control and maintain all amenity areas, clubhouse open space and/or common areas located within the development and shall assess and collect compulsory annual, monthly or quarterly dues in an amount sufficient to provide for the ongoing maintenance, insurance, taxes, etc., of all landscaping, entranceways and common areas. Said homeowners association shall have lien rights in the event that compulsory dues are not paid.
 - C. The subdivision shall include an amenity area containing at a minimum, a junior Olympic size pool, playground, cabana/bath house and mail kiosk, aesthetically compatible with homes in the subdivision. The amenities shall be constructed once 25 percent of the homes in the subdivision have been sold to residents.
 - D. The subdivision entrance on Gravel Springs Road shall include a stone/brick monument divided entrance with a raised berm of six to eight feet high, with a three-to-one slope and decorative fencing. There shall be a 100-foot setback for the first two corner lots. The entrance shall be landscaped with ornamental shrubs, flowers and trees. The entrance, landscape and signage plans shall be subject to review and approval by the Director of Planning and Development.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

In light of the existing zoning conditions being established through the public hearing process with significant input from adjoining and nearby residents, the proposed change in conditions to reduce the architectural standards could be considered unsuitable.

ADVERSE IMPACTS

Potential adverse impacts on adjacent or nearby properties could be anticipated from lessening architectural requirements.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

A small reduction in impacts from traffic, utilities usage, stormwater runoff, and the number of school-aged children could be anticipated from the proposed reduced lot count.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within an Existing/Emerging Suburban Character Area. The proposed condition modifications could be considered inconsistent with policies established by the Board through its previous zoning actions on the site.

CONDITIONS AFFECTING ZONING

The proposed reduction in architectural standards may be inconsistent with the intent of the original Board approvals for this specific residential development. Certain zoning conditions were established through the public hearing process with significant input from the surrounding community.

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

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

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

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

Please see attached

- (B) WHETHER A PROPOSED CHANGE IN CONDITIONS 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 CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

Please see attached

- (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:

Please see attached

- (E) WHETHER THE PROPOSED CHANGE IN CONDITIONS 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 CHANGE IN CONDITIONS:

Please see attached

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

- (A) The subject property is surrounded by residential developments. The proposed development of a single family residential subdivision will permit a use that is suitable in view of the use and development of adjacent and nearby properties.
- (B) No. The proposed development will not adversely affect the existing use or usability of adjacent or nearby property. Rather, the proposed development would be consistent with the adjacent and nearby property and provide an enhancement to the area.
- (C) No. In light of market conditions the property has no reasonable economic use as currently zoned. The Applicant's requested use as a single family residential development under the modified conditions will permit a more suitable and appropriate development allowing for the "highest and best use" for the property.
- (D) The proposed development is located in an area with public water and sewer availability and convenient access to major roadways. It will not cause an excessive use of the local fire department, police protection, or solid waste collection/disposal services provided by the County. Further, the rezoning will not cause excessive use of existing streets, transportation facilities, utilities, or schools.
- (E) Yes. The proposed rezoning is in conformance with the Gwinnett County 2030 Unified Plan in that it provides single family residences within an Existing/Emerging Suburban Character Area.
- (F) Yes, the existing zonings of adjacent and nearby properties and the proximity of the subject property to the Mall of Georgia and Interstate 85 give additional supporting grounds for the approval of the requested change in conditions.

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Steven A. Pickens
Andrew D. Stancil
R. Lee Tucker, Jr.
*Of Counsel

LETTER OF INTENT FOR CHANGE IN CONDITIONS
APPLICATION OF MAHAFFEY PICKENS TUCKER, LLP

Mahaffey Pickens Tucker, LLP submits the attached Change in Conditions Applications (the “Applications”) on behalf of CMH Parks, Inc., doing business as Chafin Builders, (“the Applicant”) for the purpose of modifying existing conditions of zoning on an approximately 59.64+/- acre tract of land located near the intersection of Gravel Springs Road and Mall of Georgia Boulevard (the “Property”). Current conditions which restrict the development of the Property are the result of two separate land use applications submitted in 2015. CIC2015-00008 governs the 44.86 acre portion of the Property zoned R-ZT (the “R-ZT Portion”) and RZR2015-00007 governs the 14.78 acre portion of the Property zoned R-60 (the “R-60 Portion”). Though there are two underlying zoning cases, the R-ZT Portion and the R-60 Portion comprise a single development.

The previously proposed development, which was approved pursuant to case numbers CIC2015-00008 and RZR2015-00007 (together the “Resolutions”), included 218 single-family homes at a density of 3.66 units per acre. Under the approved plan, the R-ZT Portion was proposed to include 178 lots and the R-60 Portion to include 40 lots. The Resolutions contained, among others, conditions requiring a site plan-specific development and certain building materials on the exteriors of the homes. The Applicant is requesting to modify certain existing conditions as follows:

CIC '16 019

CIC2015-00008 & RZR2015-00007

- **Current Condition 1(C):** Homes shall be craftsman style on the front façade. Seventy-five percent (75%) of the homes (which shall include the homes adjacent to and along the common property lines of homes in Hedgerows Subdivision on Walking Horse Trail and Walkers Glen Lane), shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e., chimneys, roof gables, bay windows, dormers, etc.) may be of the same or of stucco, shake shingle, wood or fiber cement type siding. The remaining twenty-five percent (25%) of homes shall have side and rear elevations of same or of fiber cement-type siding, with brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.

The Applicant is proposing to modify Condition 1(C) of the Resolutions to read as follows:

- **Proposed Condition 1(C):** Homes shall be craftsman style on the front façade. The Site Plan submitted with the Applications was prepared by Primus Engineering, Inc. and is dated June 3, 2016, and reflects (1) a section of lots a minimum of 62 feet wide (the "62' Lots") containing approximately 102 lots (66 lots within the R-ZT Portion including all lots adjacent to the Hedgerows Subdivision and 36 lots in the R-60 Portion) and (2) a section of lots a minimum of 47 feet wide (the "47' Lots") in the northwest portion of the property containing approximately 76 lots. Homes on the 62' Lots shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e., chimneys, roof gables, bay windows, dormers, etc.) may be of the same materials or of stucco, shake shingle, wood or fiber cement

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type siding. Homes on the 47' Lots shall have front facades consisting either of brick, stacked stone, shake, or fiber cement siding, or combinations thereof, and the side and rear elevations shall be of the same materials with a brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.

CIC2015-00008 & RZR2015-00007

- **Current Condition 1(E):** For the R-ZT portion of the development, the property shall be developed in general accordance with the site plan prepared by Ridgeline Land Planning, Inc. dated September 19, 2015 and presented at the Board of Commissioners Hearing November 17, 2015, which includes: (1) a section of lots a minimum of 60 feet wide adjacent to Hedgerows Subdivision (Walking Horse Trail and Walkers Glen Lane), containing approximately 78 lots and (2) a section of lots a minimum of 40 feet wide in the northwest portion of the property containing approximately 97 lots.

The Applicant is proposing to modify Condition 1(E) of the Resolutions to read as follows:

- **Proposed Condition 1(E):** The property shall be developed in general accordance with the site plan prepared by Primus Engineering, Inc. dated June 3, 2016 and submitted to the Gwinnett County Department of Planning and Development on June 3, 2016 which includes: (1) a section of approximately 102 lots a minimum of 62 feet wide (66 of which are located within the R-ZT Portion and 36 of which are located within the R-60 Portion) and (2) a section of lots a minimum of 47 feet wide in the northwest portion of the property containing approximately 76 lots.

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The Applicant is proposing to reduce the total number of lots from 218, under CIC2015-00008 and RZR2015-00007, to 178. By reducing the total number of lots by forty, the Applicant can reduce the density of the proposed development from 3.66 units per acre, as is currently allowed, to 2.98 units per acre. This will reduce the impact of the proposed development on schools, streets, and other infrastructure. Additionally, by reducing the total number of lots, the Applicant can also increase the size of lots in the proposed development, which currently provides two lot sizes: 60 feet wide and 40 feet wide. The Applicant is proposing to increase the former 60-foot lots to 62 feet wide and the former 40-foot lots to 47 feet wide. Maintaining the current exterior building materials requirement for homes near or adjacent to the property line common to the Hedgerows Subdivision will preserve the aesthetic of the proposed development as viewed from Walking Horse Trail and Walkers Glen Lane. The proposed development is generally not otherwise visible as it sits significantly back off of Gravel Springs Road. The Resolutions also contain a requirement for a 50 foot enhanced buffer along the common property line with Hedgerows Subdivision, further screening the proposed development from view.

The Applicant and its representatives welcome the opportunity to meet with the 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 Change in Conditions Applications filed herewith. The Applicant respectfully requests your approval of these Applications.

Respectfully submitted this 3rd day of June, 2016.

MAHAFFEY PICKENS TUCKER, LLP

CIC '16019


Shane M. Lanham
Attorneys for Applicant

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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>
Charlotte J. Nash, Chairman	<u>YES</u>
Jace Brooks, District 1	<u>YES</u>
Lynette Howard, District 2	<u>YES</u>
Tommy Hunter, District 3	<u>ABSENT</u>
John Heard, District 4	<u>YES</u>

On motion of COMM. HEARD, 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 R-ZT to R-ZT by MAHAFFEY, PICKENS, TUCKER, LLP for a CHANGE IN CONDITIONS OF ZONING on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

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

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on NOVEMBER 17, 2015 and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners on this, the 17th day of NOVEMBER 2015, that the aforesaid application to amend the Official Zoning Map from R-ZT to R-ZT (CHANGE IN CONDITIONS) is hereby **APPROVED** subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Single family detached dwellings and accessory uses and structures.
 - B. The minimum heated floor area per dwelling unit shall be 2,200 square feet for single story homes and 2,400 square feet for two-story homes.
 - C. Homes shall be craftsman style on the front façade. Seventy-five percent (75%) of the homes (which shall include the homes adjacent to and along the common property lines of homes in Hedgerows Subdivision on Walking Horse Trail and Walkers Glen Lane), shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e. chimneys, roof gables, bay windows, dormers, etc.) may be of the same or of stucco, shake shingle, wood or fiber cement type siding. The remaining twenty-five percent (25%) of homes shall have side and rear elevations of same or of fiber cement-type siding, with brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.
 - D. All dwellings shall have double-car garages.
 - E. For the R-ZT portion of the development, the property shall be developed in general accordance with the site plan prepared by Ridgeline Land Planning, Inc. dated September 19, 2015, and presented at the Board of Commissioners Hearing November 17, 2015, which includes: (1) a section of lots a minimum of 60 feet wide adjacent to Hedgerows Subdivision (Walking Horse Trail and Walkers Glen Lane), containing approximately 78 lots and (2) a section of lots a minimum of 40 feet wide in the northwest portion of the property, containing approximately 97 lots.

2. To satisfy the following site development considerations:
 - A. Provide a fifty foot (50') wide buffer along the common property line with the Hedgerows Subdivision (Walkers Glen Lane and Walking Horse Trail). Buffer shall be undisturbed except for additional landscaping only where sparsely vegetated, said additional landscaping shall be planted from the property line to the buffer line, to consist of a mixture of an undulating berm of Thuga Green Giants designed to blend with the natural landscape and being two staggered rows planted 6 feet on-center, and shall be 6 to 8 feet tall at the time of planting with a two year warranty.
 - B. Natural vegetation shall remain on the property until the issuance of a development permit.
 - C. All grassed areas shall be sodded.
 - D. Provide underground utilities throughout the development.
 - E. Final architectural landscaping and site plans shall be subject to review and approval of the Director of Planning and Development.
 - F. All grassed areas on dwelling lots shall be sodded. All other disturbed land shall be sodded, hydro-seeded and strawed or mulched.
3. To abide by the following requirements, dedications, and improvements:
 - A. If required, dedicate at no cost to Gwinnett County all necessary right-of-way and easements for the future construction of a greenway path/trail through the property in accordance with the Gwinnett County Open Space and Greenway Master Plan. Right-of-way/easement width and location shall be subject to review and approval of the Gwinnett Department of Community Services. All dedications will be located outside of the designated stream bank setbacks.
 - B. All residences shall be bound by a declaration of covenants, easements and restrictions which is recorded in the real estate records of Gwinnett County and which will automatically make each homeowner a member of the mandatory homeowners association (which shall be incorporated as a Georgia not-for-profit corporation). The homeowners association shall own, control and maintain all amenity areas, clubhouse open space and/or common areas located within the development and shall assess and collect compulsory annual, monthly or quarterly dues in an amount sufficient to provide for the ongoing maintenance, insurance, taxes, etc. of all landscaping, entranceways and common areas. Said homeowners association shall have lien rights in the event that compulsory dues are not paid.

- C. The subdivision shall include an amenity area containing at a minimum, a junior Olympic size pool, playground, cabana/bath house and mail kiosk, aesthetically compatible with homes in the subdivision. The amenities shall be constructed once 25 percent of the homes in the subdivision have been sold to residents.
- D. The subdivision entrance on Gravel Springs Road shall include a stone/brick monument divided entrance with a raised berm 6 to 8 feet high, with a 3:1 slope and decorative fencing. There shall be a 100-foot setback for the first two corner lots. The entrance shall be landscaped with ornamental shrubs, flowers and trees. The entrance, landscape and signage plans shall be subject to review and approval by the Director of Planning and Development.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: Charlotte J. Nash
Charlotte J. Nash, Chairman

Date Signed: 12/3/15

ATTEST:

Diane Kemp
County Clerk/Deputy County Clerk



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>
Charlotte J. Nash, Chairman	<u>YES</u>
Jace Brooks, District 1	<u>YES</u>
Lynette Howard, District 2	<u>YES</u>
Tommy Hunter, District 3	<u>ABSENT</u>
John Heard, District 4	<u>YES</u>

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

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from RA-200 & R-TH to R-60 by MAHAFFEY PICKENS TUCKER, LLP for the proposed use of a SINGLE-FAMILY SUBDIVISION on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

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

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on NOVEMBER 17, 2015 and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners on this, the 17th day of NOVEMBER 2015, that the aforesaid application to amend the Official Zoning Map from RA-200 & R-TH to R-60 is hereby **APPROVED** with the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Single family detached dwellings and accessory uses and structures.
 - B. The minimum heated floor area per dwelling unit shall be 2,200 square feet for single story homes and 2,400 square feet for two-story homes.
 - C. Homes shall be craftsman style on the front façade. Seventy-five percent (75%) of the homes (which shall include the homes adjacent to and along the common property lines of homes in Hedgerows Subdivision on Walking Horse Trail and Walkers Glen Lane), shall be constructed with side and rear elevations of brick and/or stacked stone on four sides. Minor treatments (i.e. chimneys, roof gables, bay windows, dormers, etc.) may be of the same or of stucco, shake shingle, wood or fiber cement type siding. The remaining twenty-five percent (25%) of homes shall have side and rear elevations of same or of fiber cement-type siding, with brick or stacked stone water table. Elevations must be submitted and approved by the Director of Planning and Development to insure keeping with the spirit intended.
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2. To satisfy the following site development considerations:
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 - C. All grassed areas shall be sodded.
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 - F. All grassed areas on dwelling lots shall be sodded. All other disturbed land shall be sodded, hydro-seeded and strawed or mulched.
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- C. The subdivision shall include an amenity area containing at a minimum, a junior Olympic size pool, playground, cabana/bath house and mail kiosk, aesthetically compatible with homes in the subdivision. The amenities shall be constructed once 25 percent of the homes in the subdivision have been sold to residents.
- D. The subdivision entrance on Gravel Springs Road shall include a stone/brick monument divided entrance with a raised berm 6 to 8 feet high, with a 3:1 slope and decorative fencing. There shall be a 100-foot setback for the first two corner lots. The entrance shall be landscaped with ornamental shrubs, flowers and trees. The entrance, landscape and signage plans shall be subject to review and approval by the Director of Planning and Development.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: Charlotte J. Nash
Charlotte J. Nash, Chairman

Date Signed: 12/3/15

ATTEST:

Diane Kemp
County Clerk/Deputy County Clerk



Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, August 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00015	Brookwood HS	3481	2,575	906	3516	2,575	941	3504	2,575	929	11
	Five Forks MS	1078	1,150	-72	1094	1,150	-56	1105	1,150	-45	8
	Gwin Oaks ES	1033	875	158	1043	875	168	1054	875	179	15
RZR2016-00016	Mill Creek HS	3819	2,800	1,019	3682	2,800	882	3594	2,800	794	7
	Osborne MS	1680	1,575	105	1697	1,575	122	1714	1,575	139	5
	Puckett's Mill ES	891	1,200	-309	880	1,200	-320	871	1,200	-329	10
CIC2016-00019	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	34
CIC2016-00020	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	25
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	48

Current projections do not include new developments



FRONT ELEVATION "A"



LEFT ELEVATION

FRAMER NOTES:

1. ALL RAFTER TAILS TO BE 4" ON ENDS. FASCIA NOT TO HANG DOWN MORE THAN 1/2" (TYPICAL).
2. INSTALL PLYWOOD CLIPS.
3. ALL LONG GABLES TO BE T-WALL BRACED AND TIED FOR STABILITY (TYP.).
4. PITCH ALL RAFTERS OFF 3 TOP PLATES.
5. HOLD ALL WINDOWS UP AT HEADER HEIGHT. FRAME ALL ALUMINUM WINDOW ROUGH OPENINGS 2" WIDER AND 2" TALLER THAN WINDOW SIZE. FRAME ALL WOOD WINDOW ROUGH OPENINGS 4" TALLER AND 2" WIDER PLUS 2" FOR EACH MULL.
6. ALL EYE BROWS TO BE FRAMED LEVEL.
7. ALL RIDGES TO BE SAME MATERIAL SIZE AS RAFTERS, TYP.
8. 2x4's INSIDE AND OUTSIDE BARGE RAFTERS. BARGE RAFTERS NEED TO BE SUPPORTED BACK INTO RAFTERS AND NOTCHED 1 1/2".
9. 1x4 WOOD TRIM w/ BACKBAND IS ADDED TO ALL FRONT WINDOWS BY WINDOW MANUFACTURER.

NOTE: ROOF BRACING

PURLINE ON ROOF BRACING SHOULD MATCH RAFTER SIZE (i.e. 2x6/2x8 ETC. w/ 2x4 STRONG BACK. KNEEWALL BRACING SHOULD BE DOUBLE 2x4's, DOUBLE 2x6's, ETC. KNEEWALL BRACING WHERE IT TOUCHES PURLINE MUST BE CLEAN OUT AT TOP, HEEL AND PURLINE. ALL BRACING 45° D.C. (TYP.).

RIDGE BRACING SHOULD BE 8'-0" O.C.
ROOF BRACING SHOULD BE 4'-0" O.C.

DOUBLE 2x4's IN WALL UNDER ROOF BRACING.

REVISIONS		
NO.	DATE	
1	7/6/13	
2	7/16/13	
3	7/25/13	

SCALE: 1/8" = 1'-0"
PLOT DATE: 1/25/2013

WINDERMERE "A"
FRONT & LEFT ELEVATION

CHAFIN COMMUNITIES
3000 BELLE WOOD CT. SUITE A
BOCA RATON, FL 33433-0044
781.333.0044

The Residential Design Studio, Inc.
4444 S. Highway 1, Suite 202
Palm Beach, FL 33480
(407) 804-0134
residentialdesignstudio.net

SHEET NO.
1
CONSTRUCTION DOCUMENTS

CIC '16019

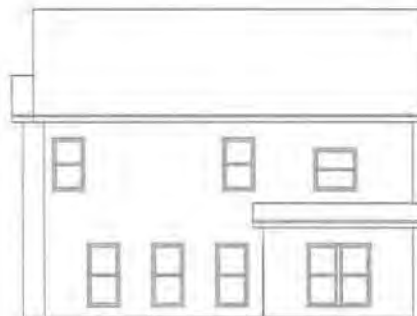
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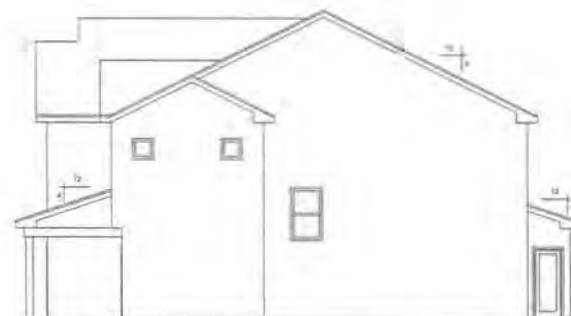
Planning & Development



LEFT ELEVATION
1/8"-----1'-0"

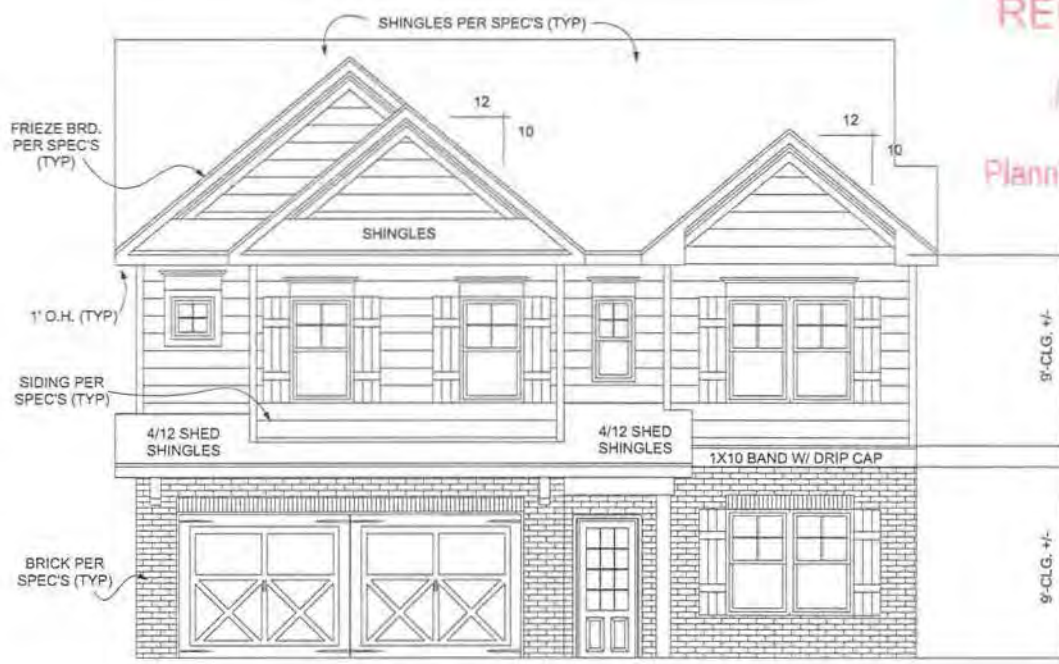


REAR ELEVATION
1/8"-----1'-0"



RIGHT ELEVATION
1/8"-----1'-0"

CIC '16019



FRONT ELEVATION
1/4"-----1'-0"

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JUN 03 2016

Planning & Development

THE CONNER II
ELEVATION B

DWG. BY:
PWL/SAM

DATE:
11-6-15

SHEET:

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REV.

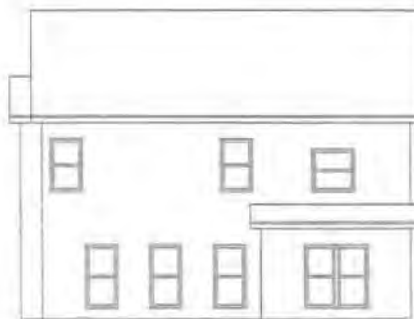
DATE

ALL PLANS HAVE BEEN
REVIEWED BY
WE PLAN HOMES, LLC.

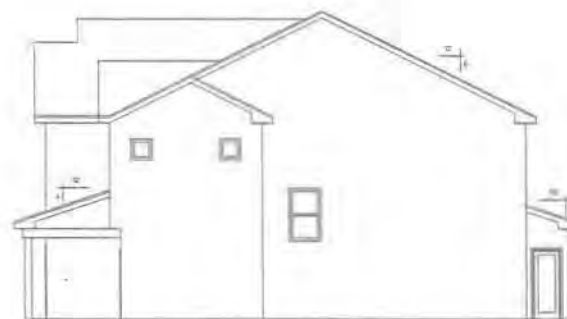
WE PLAN
HOMES, LLC.
TEL: 703-333-1111
WWW.WEPLANHOMES.COM



LEFT ELEVATION
1/8"-----1'-0"

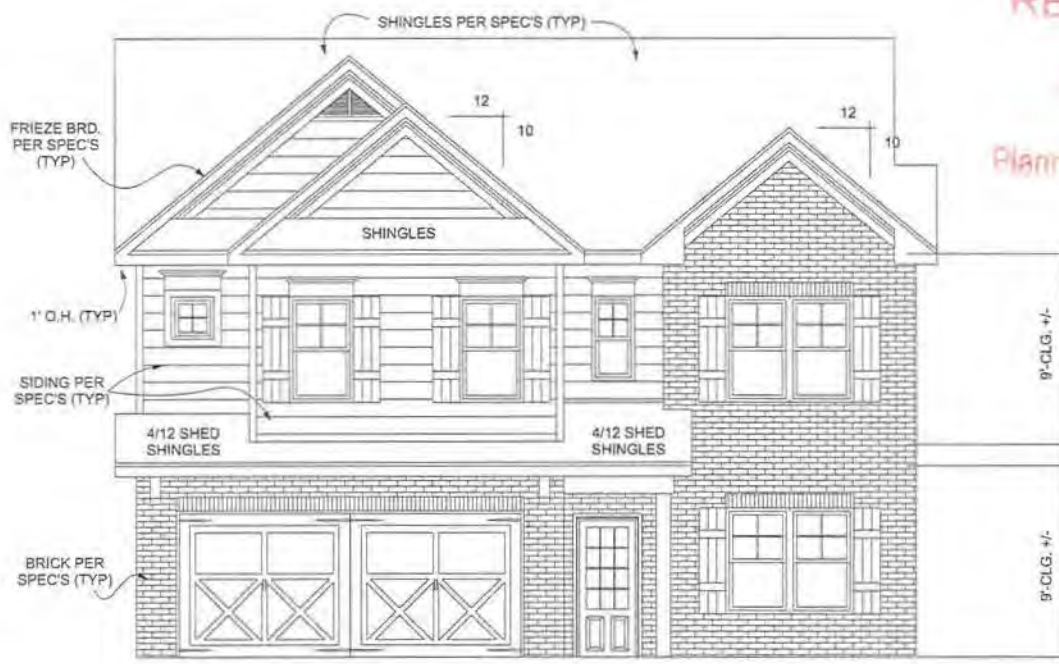


REAR ELEVATION
1/8"-----1'-0"



RIGHT ELEVATION
1/8"-----1'-0"

CIC '16019



FRONT ELEVATION
1/4"-----1'-0"

RECEIVED BY

JUN 03 2015

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THE CONNER II
ELEVATION D

DWG. BY:
PWL/SAM

DATE:
11-6-15

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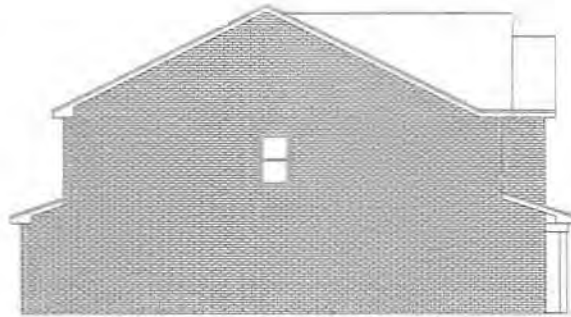
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DATE

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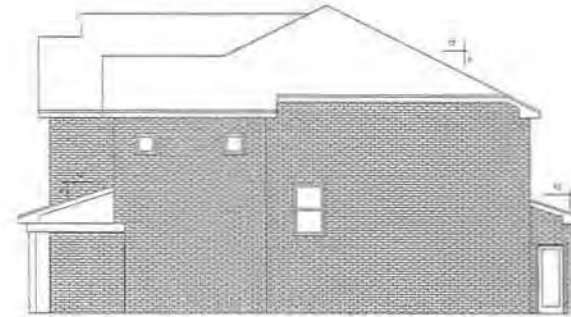
WE PLAN
HOMES, LLC.
WWW.WEPLANHOMES.COM



LEFT ELEVATION
1/8"-----1'-0"

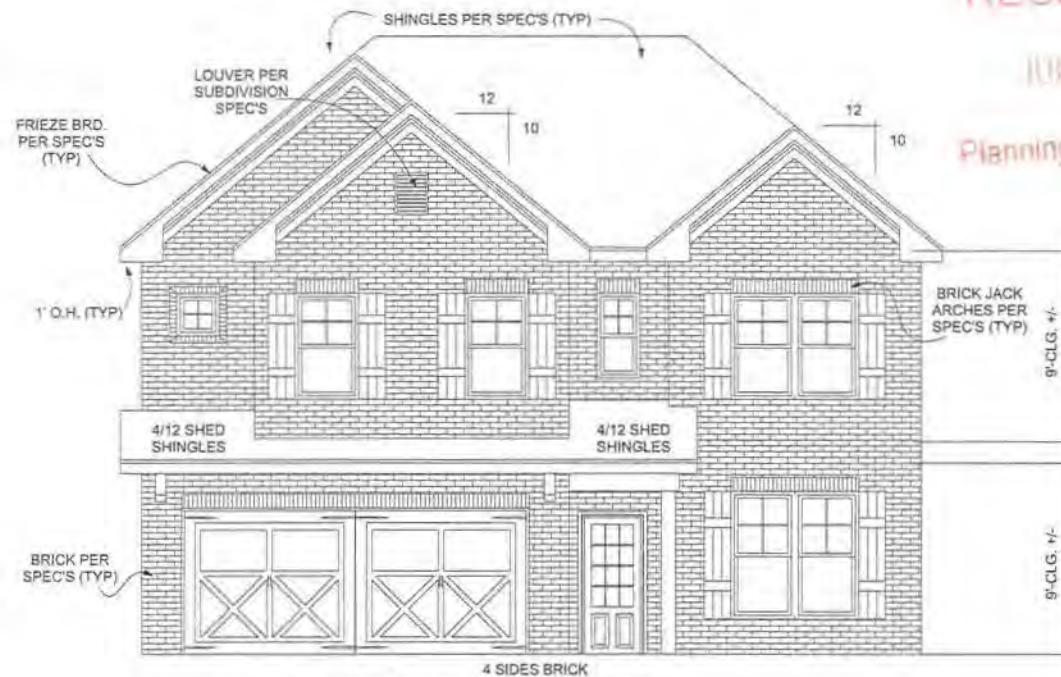


REAR ELEVATION
1/8"-----1'-0"



RIGHT ELEVATION
1/8"-----1'-0"

CIC 16019



FRONT ELEVATION
1/4"-----1'-0"

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JUN 03 2015

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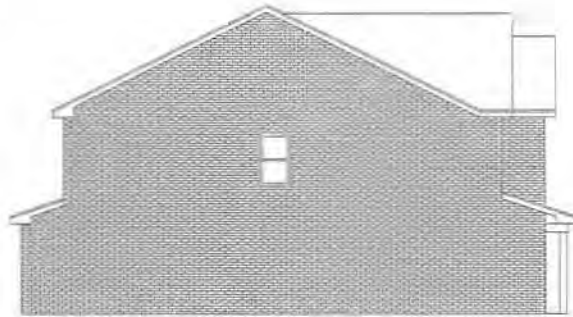
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ELEVATION F

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PWL/SAM

DATE:
11-6-15

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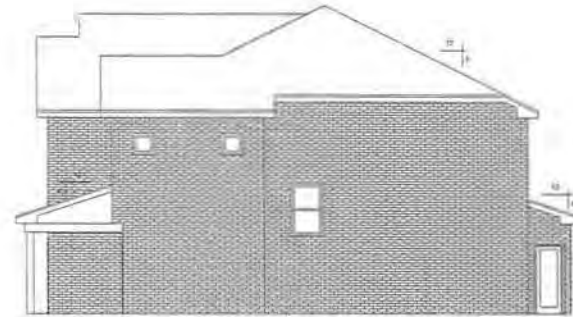
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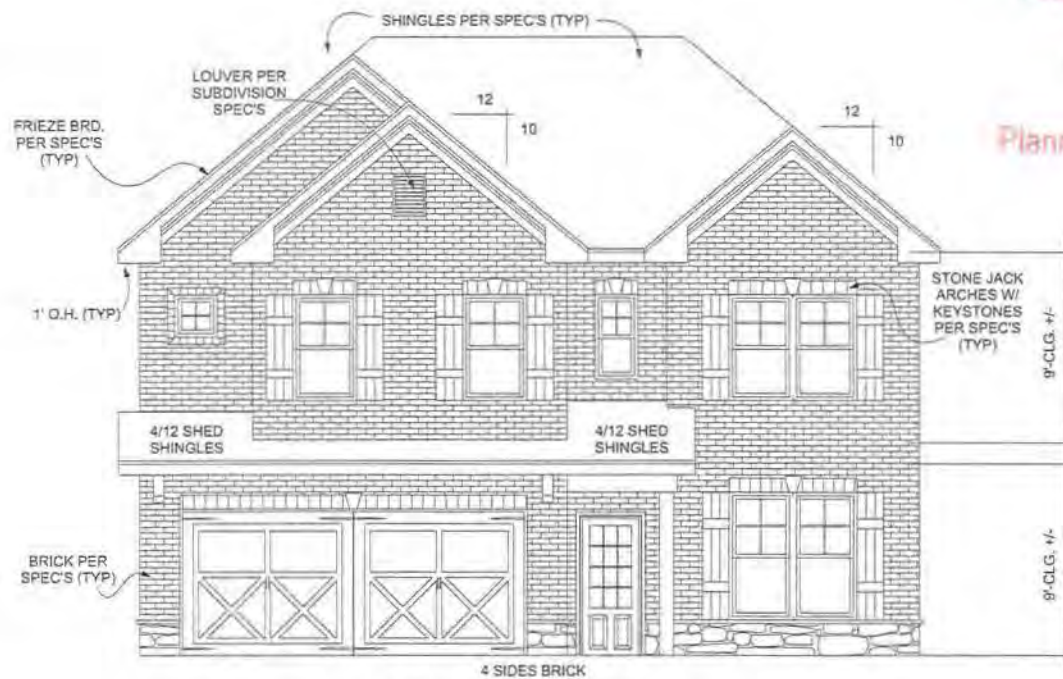
LEFT ELEVATION
1/8"-----1'-0"



REAR ELEVATION
1/8"-----1'-0"



RIGHT ELEVATION
1/8"-----1'-0"



FRONT ELEVATION
1/4"-----1'-0"

CIC '16019

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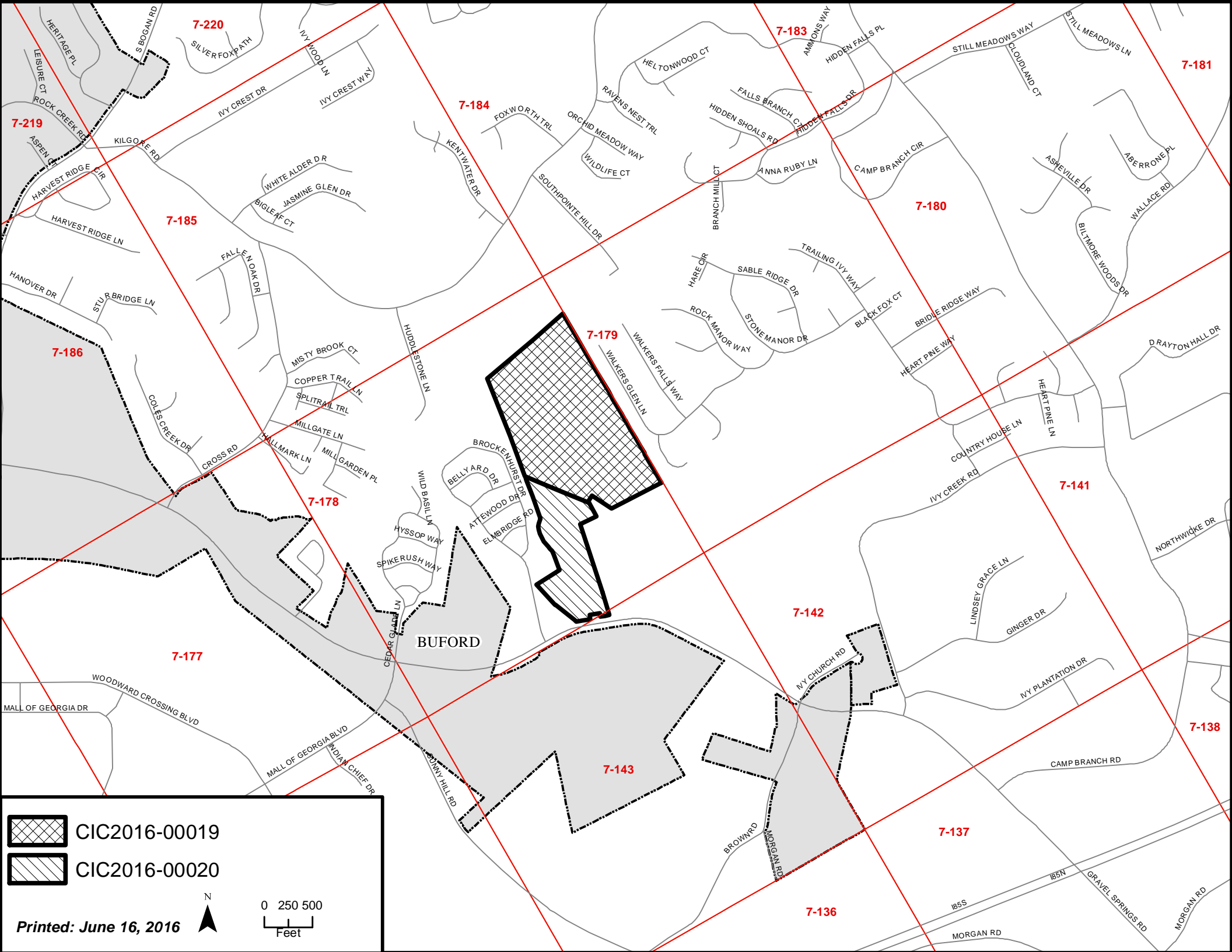
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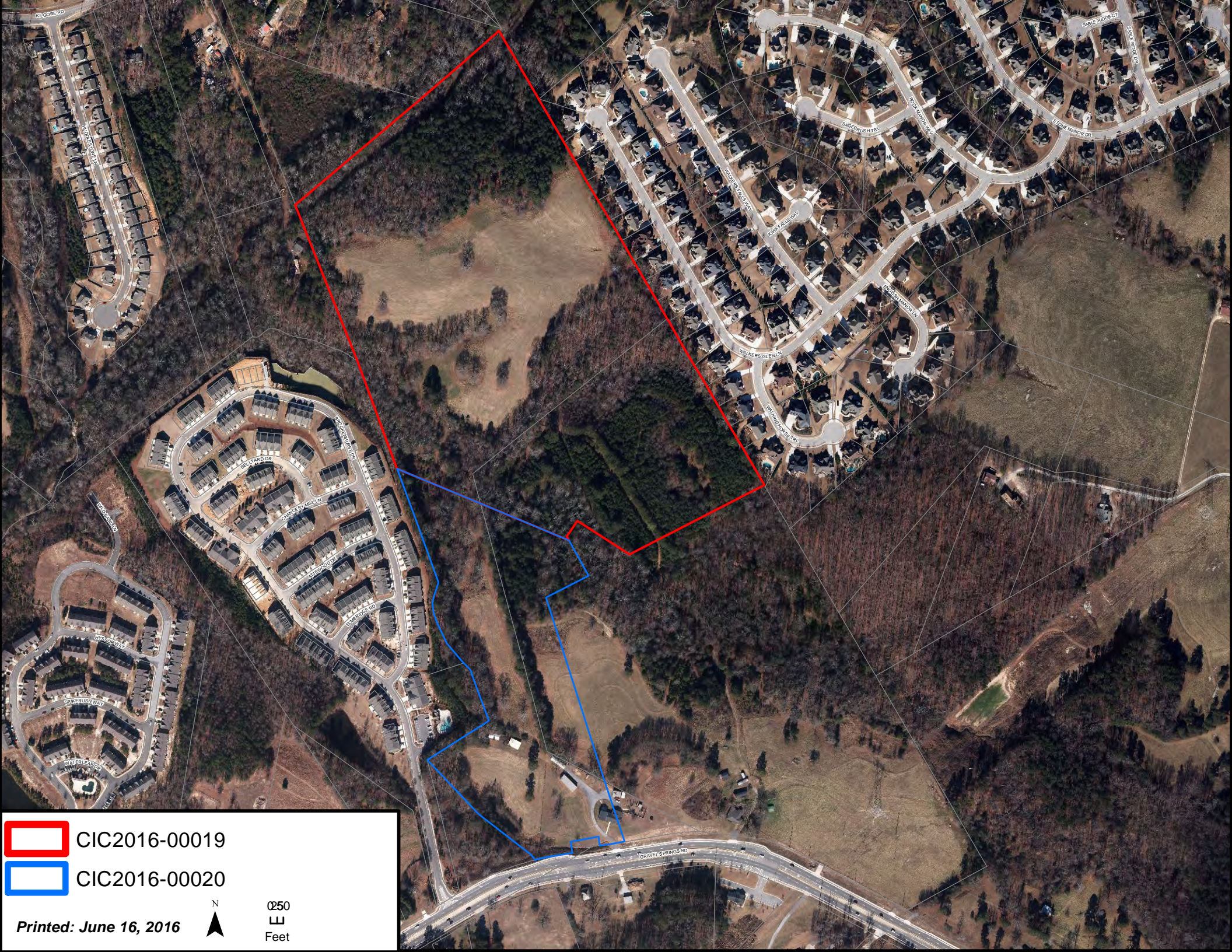
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-  CIC2016-00020



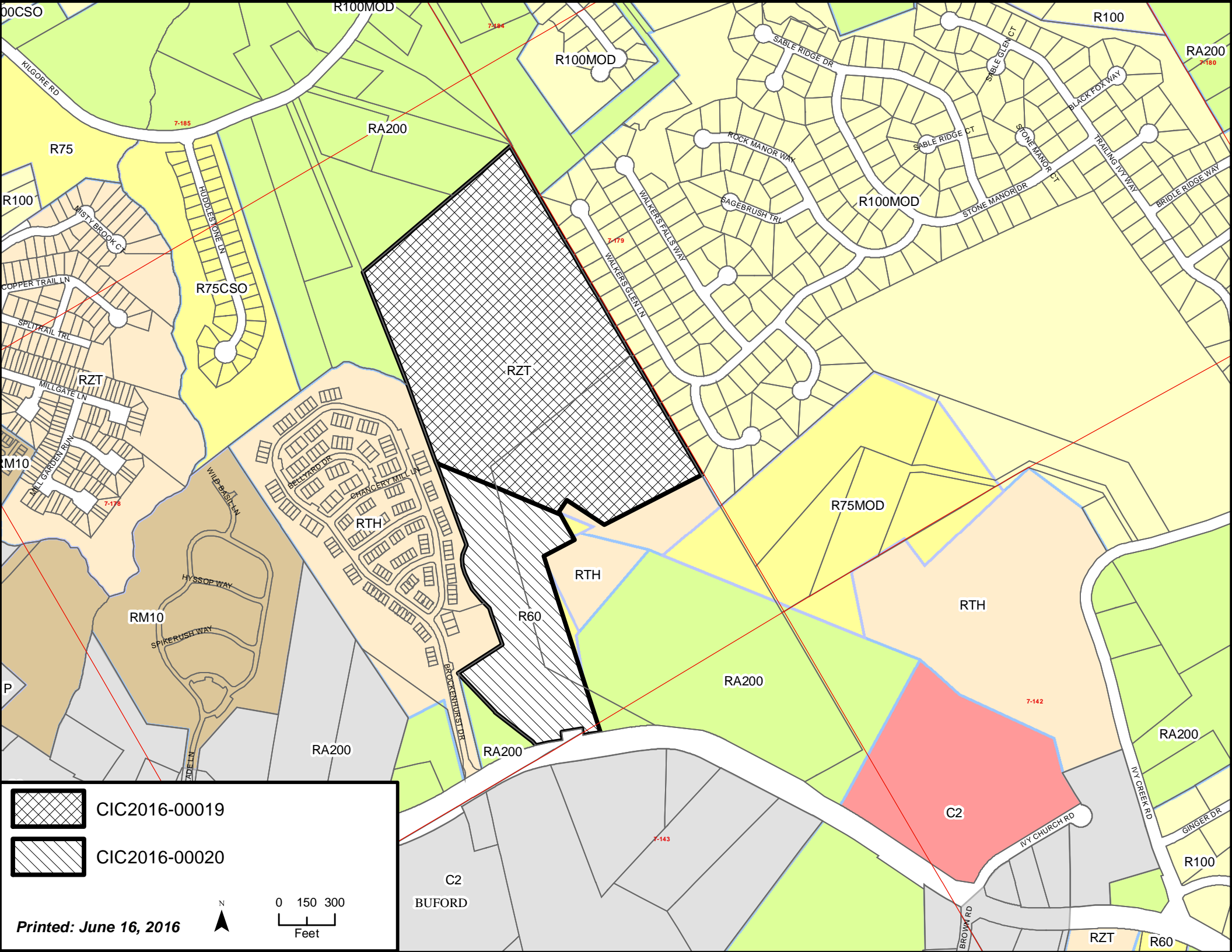
 CIC2016-00019

 CIC2016-00020

Printed: June 16, 2016

N

0 250
Feet



Printed: June 16, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER :**RZC2016-00017**
ZONING CHANGE :RA-200 TO C-2
LOCATION :2800 BLOCK OF GRAVEL SPRINGS ROAD
MAP NUMBER :R7143 010
ACREAGE :7.0 ACRES
SQUARE FEET :150,000 SQUARE FEET
PROPOSED DEVELOPMENT :CONGREGATE PERSONAL CARE HOME
(REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION: **APPROVAL WITH CONDITIONS AS O-I
WITH A SPECIAL USE PERMIT**

CASE NUMBER :**RZR2016-00018**
ZONING CHANGE :RA-200 TO R-60
LOCATION :2800 BLOCK OF GRAVEL SPRINGS ROAD
:2300 BLOCK OF BROWN ROAD
MAP NUMBER :R7143 010
ACREAGE :76.12 ACRES
UNITS :118 UNITS
PROPOSED DEVELOPMENT :SINGLE-FAMILY SUBDIVISION
COMMISSION DISTRICT :(4) HEARD
DEPARTMENT RECOMMENDATION: **APPROVAL WITH CONDITIONS AS R-SR**

FUTURE DEVELOPMENT MAP: **EXISTING / EMERGING SUBURBAN**

APPLICANT: SATILLA CAPITAL PARTNERS
C/O ANDERSON, TATE, & CARR, PC
1960 SATELLITE BOULEVARD, SUITE 400
DULUTH, GA 30097

CONTACT: MARIAN ADEIMY PHONE: 678.518.6855

OWNER: ACM SATILLA LN V, L.L.C.
1718 PEACHTREE STREET, NW
SUITE 276
ATLANTA, GA 30318

PROJECT DATA:

The applicant is requesting rezoning of two tracts of land located on the south side of Gravel Springs Road, west of Interstate 85, and extending to Brown Road. Both properties are presently zoned RA-200 (Agriculture-Residence District), and are undeveloped and heavily-wooded.

The first tract is a seven-acre parcel along the Gravel Springs Road frontage. On this tract, pursuant to RZC2016-00017, the applicant requests C-2 (General Business District) zoning for a Congregate Personal Care Home for approximately 125 units (150,000 square feet) within a maximum three-story building. The proposed gross and net residential density is 17.86 dwelling units per acre, as there are no utility easements or floodplain areas on the subject site. Access to the project is proposed from a new residential street located on property adjacent to the west, under consideration for R-60 zoning pursuant to RZR2016-00018. Staff notes that a 75-foot wide buffer is required adjacent to both RA-200 and R-60 zoning. The site plan indicates a 50-foot buffer along the side and rear property lines; therefore, a reduction in buffers would be necessary. A total of 50 parking spaces are shown on the site plan, meeting standard parking requirements. A stormwater detention facility is planned for the southern end of the property. The subject site is located within the GA Highway 124/324/Hamilton Mill Overlay District and the project would have to abide by the requirements of the Overlay.

The second tract contains 76.12 acres and extends southward from Gravel Springs Road to Brown Road and the Sugarloaf Parkway Extension. Pursuant to RZR2016-00018, the applicant requests R-60 (Single-Family Residence District) zoning for 118 lots at a density of 1.55 units per acre. Three access points are proposed to the site, two from Brown Road and one from Gravel Springs Road, to be shared with property adjacent to the east, under consideration for C-2 zoning pursuant to RZC2016-00017. According to the letter of intent, the applicant states that the 118 units will be a minimum of 2,000 square feet with senior-targeted floor plans and two-car garages. The site plan indicates a recreation area on the new street, partially located on property within the city limits of Buford. Two stormwater detention areas are shown on the site plan, as well as 40.4 acres of open space/common area. Most of that common area (32.2 acres) is located in the southwest portion of the subject site, where several streams appear to be located.

ZONING HISTORY:

The subject properties have been zoned RA-200 since 1970. A request to rezone a portion of the site to M-2 (Heavy Industry District) for a rock quarry was denied in 1973, pursuant to RZ-89-73.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a ten-foot wide landscape strip adjacent to all street rights-of-way for non-residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a no-access easement along the line of double frontage lots abutting upon a major thoroughfare for residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Section 610-20.3 of the Unified Development Ordinance requires screening of dumpsters and loading/unloading facilities.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Project access and required improvements along State routes or U.S. Highways (i.e., number and design of driveways, deceleration lanes, median breaks, etc.) will be subject to review and approval of the Georgia Department of Transportation. (Section 900-90.3F of the Unified Development Ordinance).

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets.

A minimum 50-foot building setback is required from the right-of-way of Gravel Springs Road for commercial tracts. A 40-foot building setback adjacent to exterior streets for residential tracts is required (Section 210-60.5C of the Unified Development Ordinance).

Provide a 75-foot natural, undisturbed buffer adjacent to residentially zoned properties (Unified Development Ordinance Chapter 610, Table 610.1 and Section 610-20.2).

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application, if development plans will be submitted in phases (Section 340-20.2A of the Unified Development Ordinance).

The developer must submit detailed site development plans, including a landscape and tree preservation/replacement plan, for review and approval of the Development Division prior to any construction.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Storm Water Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Section 700-40.1B of the Unified Development Ordinance requires that the lowest floor including the basement, of all non-residential building be constructed at an elevation of at least one foot above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including storm water detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

This project lies within an Activity Center/Corridor Overlay District, and is subject to all requirements set forth in Chapter 220 of the Unified Development Ordinance.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION (D.O.T.) COMMENTS:

Gravel Springs Road is a State Route and Georgia D.O.T. right-of-way requirements govern.

Brown Road is a Local Street and 30 feet of right-of-way is required from the centerline.

Commercial entrances shall be provided to the site per current development regulations.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The project entrance shall align with opposing roads or driveways in accordance with the Gwinnett County Unified Development Ordinance.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

Project must comply with Gwinnett County D.O.T. Criteria and Guidelines for left turn lanes.

Prior to the issuance of a Development Permit, the applicant shall provide a traffic impact study for the intersection of Brown Road and Ivy Church Road with Gravel Springs Road. It will be the developer's responsibility to upgrade the existing substandard Brown Road to the minimum 24-foot edge of pavement to edge of pavement roadway with drainage ditches or curb and gutter from the southernmost driveway to the intersection of Gravel Springs Road. All additional right-of-way required for roadway improvements shall be required by the developer at no expense to the County.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 16-inch water main located on the southwestern right-of-way of Gravel Springs Road and an eight-inch water main located on the southeastern right-of-way of Brown Road.

Due to the uncontrollable variables, the Department of Water Resources (DWR) makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located approximately 1,745 feet north of parcel R7143 010 on the right-of-way of Brockenhurst Drive.

The subject development is located within the Ivy Creek service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

1. The applicant shall submit civil site drawings to Building Plan Review for review and approval.
2. The applicant shall submit architectural, structural, mechanical, electrical and plumbing drawings for each building for review and approval by Building Plan Review.
3. Each building shall comply with the height and area limitations of Table 503 and the fire resistive and horizontal separation requirements of Tables 601 and 602 of the 2012 International Building Code with Georgia state amendments based on occupancy group classification, type of construction, and location of each building from property lines and other buildings.
4. Architectural design of the proposed building shall incorporate the requirements of the Gwinnett County Unified Development Ordinance, Architectural Design Standards, Category 3.
5. Upon completion of plan review approvals, the applicant shall obtain a building permit for each building and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.

For assistance, you may contact this office at 678.518.6000 Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The applicant is requesting rezoning on two tracts of land located on the south side of Gravel Springs Road, west of Interstate 85. Both tracts are presently undeveloped and heavily-wooded.

The 2030 Unified Plan Future Development Map indicates these properties lie within an Existing/Emerging Suburban Character Area. Policies for this Character Area encourage consistency of both development type and density within a given area. Although there is commercial zoning across Gravel Springs Road, staff notes the subject C-2 zoning request (RZC2016-00017) could be accommodated with O-I (Office-Institutional District) zoning and a Special Use Permit for a personal care home. In addition, the R-60 zoning request (RZR2016-00018) could be developed with R-SR (Senior Oriented Residence District) zoning based on the targeted senior homeowner as stated by the applicant. Given the zoning pattern of the area, character of surrounding developments, and the intent of the 2030 Unified Plan to encourage compatible infill development, and if approved with these less intense alternative zoning districts, the proposed development may be appropriate at this location.

The surrounding unincorporated area is primarily residential in character and includes single-family subdivision developments as well as residences on large acreage tracts. Surrounding properties in the city limits of Buford are predominately in commercial zoning, but remain largely undeveloped. Adjacent to the west are properties located within the city limits of Buford, zoned for commercial uses along the Gravel Springs Road frontage. To the east are additional properties within the city limits of Buford, also zoned commercial along Gravel Springs Road and residential to the south. To the east is an undeveloped R-ZT zoned property pursuant to RZR2006-00041. The area further to the south, east and west consist of homes on acreage and tracts of land located in the city limits of Buford. To the north across Gravel Springs Road are parcels of various sizes and zoning classifications proposed to be developed as the Villages at Ivy Creek multi-use project consisting of single-family homes, townhomes, and commercial/retail buildings. The requested rezonings for a personal care home and a senior-targeted single family subdivision could be compatible with the zoning and development pattern of the area, if approved as O-I and R-SR, respectively.

In conclusion, a personal care home and a senior-targeted single family subdivision could be suitable given the existing and anticipated land uses in the area; however, the requested C-2 and R-60 zoning may not be considered consistent with policies of the 2030 Unified Plan and could adversely affect the established single-family subdivision developments along Gravel Springs. Therefore, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS AS O-I WITH A SPECIAL USE PERMIT (RZC2016-00017)** and **APPROVAL WITH CONDITIONS AS R-SR (RZR2016-00018)** as more suitable alternatives.

RZC2016-00017

**PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS**

Approval as O-I (Office-Institutional District) with a Special Use Permit for a Congregate Personal Care Home, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Professional office and institutional uses, which may include a Congregate Personal Care Home as a special use. The personal care home may contain a maximum of 125 units.
 - B. Buildings shall be finished with architectural treatments of glass, brick and/or stacked stone on all sides (stucco may only be used as an accent material). Final building elevations shall be submitted for review by the Director of Planning and Development.
 - C. Abide by all requirements of UDO Section 220-30 (Activity Center/Corridor Overlay District). This condition shall not preclude a variance application.
 - D. The personal care home facility grounds shall include common gardens, patios, gazebos, benches, pools and pocket parks.
2. To abide by the following site development considerations:
 - A. Provide 10-foot wide landscape strips adjacent to all rights-of-way.
 - B. Provide a 50-foot wide landscaped buffer adjacent to the side and rear property lines.
 - C. Natural vegetation shall remain on the property until the issuance of a development permit.
 - D. Ground signage shall be limited to one monument-type sign, and shall be subject to review and approval by the Director of Planning & Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the cabinet shall be fully surrounded by the same materials. Ground sign shall be externally-illuminated and shall not exceed 6 feet in height.
 - E. Wall signage shall not exceed the requirements of the Gwinnett County Sign Ordinance, and shall only utilize neutral (non-white earthtone) background colors for the sign cabinet.

- F. Window signage (signs displayed on the interior or exterior of the business storefront windows) shall be prohibited, except for open/closed signs or signs required by county, state or federal law. Flashing or blinking signs and exposed neon or LED signs shall be prohibited. Exposed or visible lighting strips mounted on the building or around window frames shall be prohibited.
- G. Dumpsters or trash compactors shall be screened by a 100% opaque brick or stacked stone wall with an opaque metal gate enclosure. Hours of dumpster pick-up shall be limited to between 7:00 am and 7:00 pm.
- H. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to shine directly into adjacent properties or rights-of-way.
- I. Billboards or oversized signs shall be prohibited.
- J. Outdoor storage shall be prohibited.
- K. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. Yard and/or bandit signs, sign-walkers and sign-twirlers shall be prohibited.
- L. The property owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.

RZR2016-00018

**PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS**

Approval as R-SR (Senior Oriented Residence District) for a senior-oriented subdivision, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Single-family detached dwellings and accessory uses and structures, not to exceed 118 lots. The minimum lot area shall be 7,200 square feet and the minimum lot width shall be 60 feet.
 - B. The development shall be restricted to occupancy by residents aged 55 years or older.
 - C. The homeowner's association shall be responsible for maintenance of all common areas/facilities, street frontage landscaping, and lawn and ornamental planting maintenance on individual lots. The homeowner's association shall be responsible for exterior maintenance of individual residences to include, at a minimum, painting of the exteriors on a rotation not to exceed six years.
 - D. The minimum heated floor area per dwelling unit shall be 2,000 square feet.
 - E. Homes shall be constructed with architectural treatments of primarily brick or stone on the front, with minor treatments of low or no-maintenance siding materials. The balance of the sides and rear shall be of brick, stone or fiber-cement siding with a minimum three-foot high water table of brick or stone. A full cornice return at gable height shall be installed with fiber-cement shake siding in the gable area.
 - F. All dwellings shall have a minimum two-car garage.
2. To satisfy the following site development considerations:
 - A. Natural vegetation shall remain on the property until the issuance of a development permit.
 - B. All utilities shall be placed underground.
 - C. Detention pond(s) shall be fenced with a black vinyl-coated chain link fence a minimum of four feet in height, and shall be fully screened from view of adjacent residences with a double staggered row of evergreens.
 - D. A recreational area consisting of a minimum of two tennis courts, a swimming pool and a clubhouse shall be provided on the subject property or on property adjacent to the site, located within the city limits of Buford.

- E. Prior to the issuance of a Development Permit, the applicant shall provide a traffic impact study for the intersection of Brown Road and Ivy Church Road with Gravel Springs Road. It will be the developer's responsibility to upgrade the existing substandard Brown Road to the minimum 24-foot edge of pavement to edge of pavement roadway with drainage ditches or curb and gutter from the southernmost driveway to the intersection of Gravel Springs Road. All additional right-of-way required for roadway improvements shall be required by the developer at no expense to the County.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING THE EXERCISE OF ZONING

SUITABILITY OF USES

If properly zoned and conditioned, a retirement community and a single-family detached senior housing development could be suitable for the subject properties.

ADVERSE IMPACTS

With the recommended conditions, minimal adverse impacts on surrounding properties could be anticipated.

REASONABLE ECONOMIC USE AS ZONED

The properties may have a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

Impacts in the form of increased utility demand, traffic and storm water runoff could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates that the site is located in an Existing/Emerging Character Area. If properly conditioned and limited in density, the proposed use could be consistent with the 2030 Unified Plan which encourages expanded housing opportunities for seniors.

CONDITIONS AFFECTING ZONING

Staff's recommendations for O-I zoning and a Special Use Permit for the personal care home and R-SR zoning for the single-family detached subdivision could be viewed as more suitable, less intense zonings for the properties.

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:

Attached.

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

Attached.

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

Attached.

- (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:

Attached.

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

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:

Attached.

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EXHIBIT "B"

**SATILLA – BROWN AND GRAVEL SPRINGS ROAD
APPLICANT'S RESPONSES IN SUPPORT OF REZONING**

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

Yes. The proposed residential and senior-targeted development is consistent with the nearby residential uses, and provides an appropriate transition between the subject property and I-85 as well as the future Sugarloaf Parkway extension. The proposed residential uses will support the nearby Mall of Georgia, and are consistent with the 2030 Unified Plan.

- B) WHETHER THE REQUESTED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. A majority of the subject property was also previously zoned R-TH, R-ZT and R-60, consistent with the requested use, and these zoning requests are compatible with the existing uses and usability of the adjacent and nearby property.

- C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the existing rural zoning, conditions and restrictions, the subject property does not have reasonable economic use as currently zoned, and has remained vacant and undeveloped.

- D) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. This property is located in an area with public water and sewer availability, and direct access to two major thoroughfares and the interstate. The property owners previously invested over \$450,000 to connect sewer to the subject property, which required them to bore under I-85. The development is consistent with the Unified Plan and prior precedent, which supports similar residential development in this mostly residential corridor. The proposed community will not cause excessive use of existing streets, transportation facilities or utilities.

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- E) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. 2030 Unified Plan identifies the subject property as an appropriate location for Emerging/Existing and similar residential and commercial uses, especially along the I-85 corridor, and the proposed development will confirm with the existing and nearby residential uses, many of which are more intense than the proposed development.

- F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS.

Yes. The requested rezoning is absolutely necessary to enable the Applicant to develop the property so as to allow for a feasible economic use based on the property's location to the I-85 interchange; due to the proposed interchange improvement and Sugarloaf extension adjacent to the subject property; due to its proximity to the Mall of Georgia; and given the existing and future land uses in the area.

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June 30, 2016

VIA HAND DELIVERY AND E-MAIL

Gwinnett County
Department of Planning and Development
Attn: Kathy Holland, Development Director
446 West Crogan Street
Lawrenceville, GA 30046-2440

RE: Letter of Intent in Support of Rezoning for Satilla Capital Partners (the "Applicant") and ACM Satilla LN V, LLC (the 'Property Owner') for the property located at: Parcel ID No. R7143-010, R7143 034, R7136-010 and R6127 063, located near the corner of Brown Rd. and Gravel Springs Rd., also known as 2368 Brown Rd. (the "Subject Property")

Dear Ms. Holland and Planning Department:

On behalf of the Applicant and Property Owner, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., hereby submit this Letter in Support of the related Applications for Rezoning. The Applicant hereby submits three applications for rezoning the Subject Property from RA-200 to R-60, R-TH, and C-2 (for a senior retirement or personal congregate care). The Applicant and Property Owner are working closing with carefully selected builders in order to create three consistent, quality residential and senior-targeted developments.

I. Background

The Applicant seeks to create quality, residential and senior developments, consistent with the existing communities in the area. The Subject Property is zoned RA-200 as part of the remaining rural zoning district that once encompassed much of the Mall of Georgia and Gravel Springs property. In the last twenty (20) years, the area has seen commercial and residential growth around the Mall and along the I-85 corridor. Nearby property is also similarly zoned for more intense commercial, multi-family, R-ZT and R-60 uses.

Much of the Subject Property is surrounded by and lies immediately adjacent to I-85, Highway 324 and the future Sugarloaf Parkway extension. In 2020, a new interchange with I-85 will be completed at Highway 324/Gravel Springs Road which will allow for increased accessibility. Accordingly, the Subject Property will provide

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appropriate, transitional senior and residential uses, while having access to major highways.

The proposed combination of uses for these three separate developments will result in an area where seniors can age in place, while remaining in close proximity to the Mall, I-85, hospitals, and nearby activity centers.

II. Requests for Rezoning

The proposed development will include single-family, townhomes, senior-targeted homes, and senior retirement or personal congregate care. The three developments include over 58 acres of natural open space, approximately 50% of the overall property.

The C-2, senior retirement or personal congregate care development will be a maximum of three (3) stories with approximately 125 units, and is intended to support seniors who are seeking to downsize and simplify their lifestyle, for those who wish to live near family members, and may also include nursing and memory care.

Single-family homes are expected be a minimum of 2,000 square feet with senior-targeted floor-plans and options. Townhomes will be 22 to 26 ft. wide, with a minimum of 1,500 sq.

Over 50% of the overall property will remain and be preserved as natural, open space for future trail and park options. In addition, the single-family and townhome communities will include a pool, cabana and tennis courts as amenities. All residential homes and townhomes will have a two-car garage, and will be built with quality materials with mixed-architectural elevations. A master association and covenants will be formed to govern and enforce covenants, and to maintain all common areas, landscaping, and amenities.

The proposed zoning and site plan is entirely consistent with similarly, developed, residential communities in the immediate area, many of which are zoned C-2, RM-10, R-TH, R-60 or RZT. As outlined in the 2030 Unified Plan and Future Development Map, the Subject Property and surrounding areas are designated as *Existing/Emerging Suburban and Regional Mixed Use*, consistently found to be appropriate for senior and residential communities. Quality homes and senior development will help raise property values and support the nearby commercial development. Finally, with the addition of the new interchange at I-85, substantial commercial development is expected to occur on properties that neighbor the Subject Property.

Given their proximity and location to I-85, the proposed uses are less intense than the multi-family, commercial and industrial uses which are nearby and arguably appropriate for this Property. Additionally, the proposed developments will result in a

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quality mixture of uses, while providing an appropriate transitional zoning and buffer between I-85, the future Sugarloaf Parkway extension, and nearby residential uses. Finally, the site was designed in order to work with the existing land, open space and topography, while and minimizing any potential impact on neighboring properties.

III. Constitutional Objections

The portions of the Gwinnett County Unified Development Ordinance, as amended, (the "UDO") which classify or condition the Subject Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are and would be 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 UDO, as applied to the Subject Property, which restricts its use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Property 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, Paragraphs I and 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 and Property Owner any economically viable use of the Property while not substantially advancing legitimate state interests.

The Subject Property is presently suitable for development subject only to the approval of the requested rezoning, as requested and amended by the Applicant, and is not economically suitable for development under its present 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/or variances 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, Paragraphs I and 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 approve the Applicant's and Property Owner's requested rezoning request and related variances, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Subject 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.

Any zoning designation, condition, or variance related to the Subject Property subject to conditions which are different from the requested variances and 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 Property Owner's utilization of the Subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

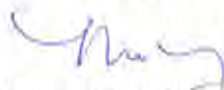
IV. Conclusion

The Applicant respectfully requests that the Gwinnett County Board of Commissioners, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, with conditions agreeable to the Applicant, in order to allow for a viable, quality and economic use.

The Applicant and its representatives welcome the opportunity to meet with the Gwinnett County Board of Commissioners, Planning Commissioners, community members, and staff to answer any questions.

Respectfully submitted this 30th day of June, 2016.

ANDERSEN, TATE & CARR, PC



Marian C. Adeimy
Attorney for Applicant/Property Owner

Enclosures:
Rezoning Application and exhibits
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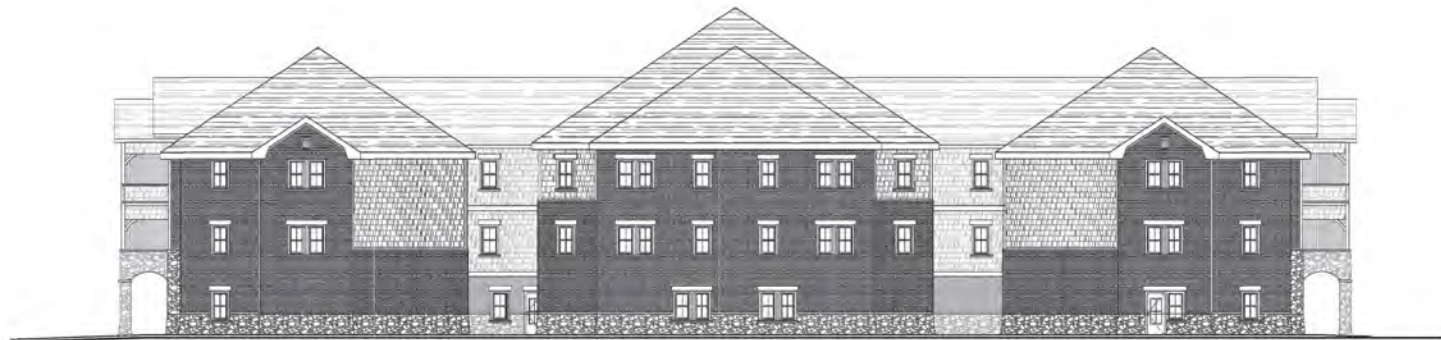
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North Building Elevation



East Building Elevation



South Building Elevation

Scale: 3/32" = 1'-0"
 10' 0' 5' 10' 20'





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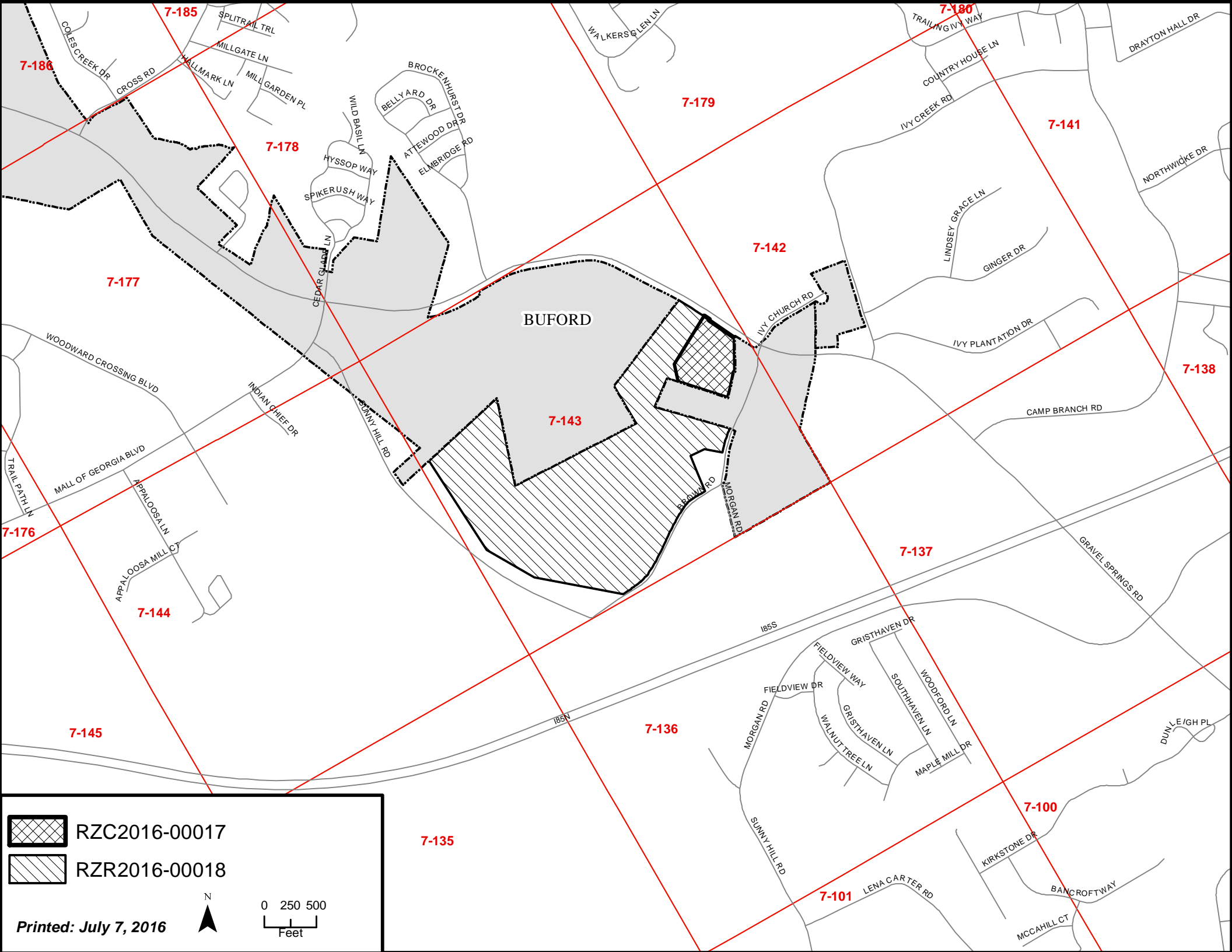
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RZR '16018

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, September 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00018	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	19
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	14
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	27
RZM2016-00004	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	36
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	26
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	51
RZR2016-00017	Dacula HS	2103	2,550	-447	2166	2,550	-384	2231	2,550	-319	2
	Dacula MS	1616	1,900	-284	1644	1,900	-256	1693	1,900	-207	2
	Mulberry ES	714	975	-261	743	975	-232	772	975	-203	3
Current projections do not include new developments											



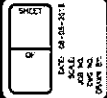
-  RZC2016-00017
-  RZR2016-00018




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Printed: July 7, 2016







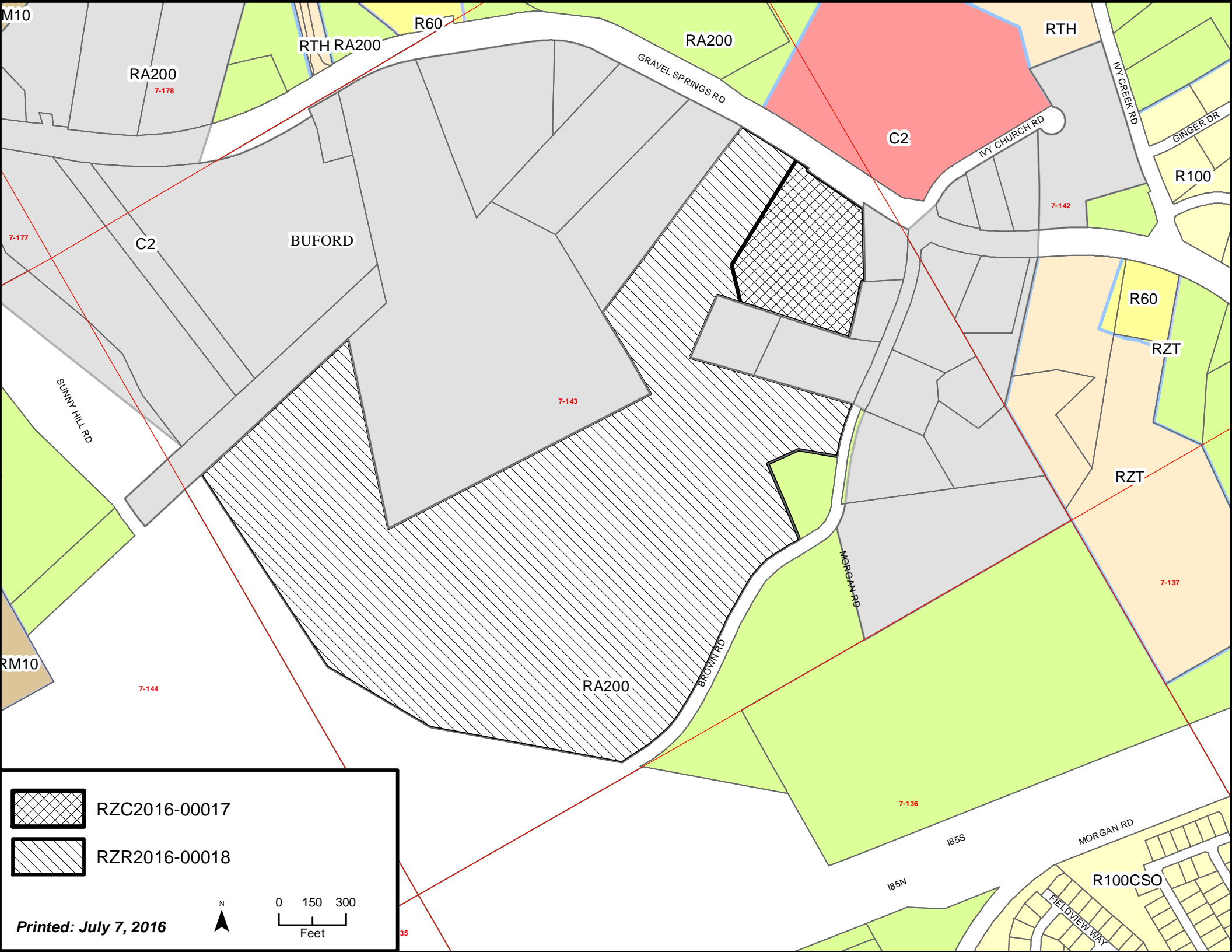
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 RZR2016-00018

Printed: July 6, 2016

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**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER :**RZM2016-00004**
ZONING CHANGE :RA-200 TO R-TH
LOCATION :2700 BLOCK OF BROWN ROAD
MAP NUMBER :R7136 010
ACREAGE :35.29 ACRES
UNITS :190 UNITS
PROPOSED DEVELOPMENT :TOWNHOMES (REDUCTION IN BUFFERS)
COMMISSION DISTRICT :(4) HEARD

FUTURE DEVELOPMENT MAP :**EXISTING / EMERGING SUBURBAN**

APPLICANT: SATILLA CAPITAL PARTNERS
C/O ANDERSON, TATE, & CARR, PC
1960 SATELLITE BOULEVARD, SUITE 400
DULUTH, GA 30097

CONTACT: MARIAN ADEIMY PHONE: 678.518.6855

OWNER: ACM SATILLA LN V, LLC
1718 PEACHTREE STREET, NW
SUITE 276
ATLANTA, GA 30318

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant is requesting rezoning on a 35.29-acre tract of land located west of Gravel Springs Road and south of Brown Road. The site's southern property line runs along Interstate 85. Currently developed with one single-family residence, the subject property is zoned RA-200 (Agriculture-Residence District). The applicant requests R-TH zoning (Single-Family Residence Townhouse District) for 190 attached units at a density of 5.38 units per acre. According to the applicant's letter of intent, the homes are proposed to be a minimum of 1,500 square feet and contain two-car garages. The submitted architectural elevation appears to show brick treatments on the front and sides, with both brick and residential siding on the rear.

Access to the project is proposed from adjacent property to the east zoned R-ZT (Single-Family Residence District) pursuant to RZR-06-041. Staff notes that a 40-foot wide buffer is required adjacent to RA-200 zoning. The site plan indicates a 40-foot building setback without the 5-foot improvement setback; therefore, a reduction in buffers would be necessary. A stormwater detention facility is shown in the southeastern corner of the site.

ZONING HISTORY:

The subject property has been zoned RA-200 since 1970.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a no-access easement along the line of double frontage lots abutting upon a major thoroughfare for residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Section 610-20.3 of the Unified Development Ordinance requires screening of dumpsters and loading/unloading facilities.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance.

Access must be provided through a dedicated county public right-of-way.

If the project is accessed to Morgan Road, a substandard street, project access improvements shall be required (Section 900-20.2D of the Unified Development Ordinance).

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

Internal roads if private shall be designed to public road standards (50-foot access easements).

A minimum of 50-foot landscape setback is required along exterior street frontages. As per Unified Development Ordinance section 210-100.6.15.

Provide a 40-foot natural, undisturbed buffer adjacent to RA-200 zoned property. (Unified Development Ordinance Chapter 610, Table 610.1 and Section 610-20.2).

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

Section 210-100.6A.8 of the Unified Development Ordinance requires a 20-foot grassed or landscaped strip between all buildings and interior driveway/streets.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit a concept plan for review and approval of the Development Division prior to submittal and acceptance of a development permit application.

The developer must submit a preliminary plat (construction plans), including a grading plan, tree plan, and road/sewer profiles for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Storm Water Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1A of the Unified Development Ordinance requires that the lowest floor, including the basement, of all residential building be constructed at an elevation of at least three feet above the 100-year floodplain.

Note that all recreation areas, open space and/or common areas (including storm water detention facility lots) located within the development shall be controlled by a mandatory Property Owner's Association (to include reported bylaws) with responsibility for maintenance, insurance, and taxes for open space areas.

This project lies within an Activity Center/Corridor Overlay District, and is subject to all requirements set forth in Chapter 220 of the Unified Development Ordinance.

The United States Postal Service may require a centralized mail delivery kiosk for this proposed development, replacing individual mail boxes. Mail delivery kiosk must be located outside of right-of-way access easement (if private street). Location and access must be approved by Gwinnett County D.O.T.

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All stormwater best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION (D.O.T.) COMMENTS:

Brown Road is a Local Street and 30 feet of right-of-way is required from the centerline.

Commercial entrances shall be provided to the site per current development regulations.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

The project entrance shall align with opposing roads or driveways in accordance with the Gwinnett County Unified Development Ordinance.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

Project must comply with Gwinnett County D.O.T. Criteria and Guidelines for left turn lanes.

Reserve all right-of-way and easements for the future expansion of Sugarloaf Parkway Extension.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of an eight-inch water main located on the southeastern right-of-way of Brown Road.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located approximately 541 feet south of parcel R7136 010 on the right-of-way of Gristhaven Drive. The sanitary sewer line would be under I-85.

The subject development is located within the Ivy Creek service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The applicant is requesting rezoning on a 35.29-acre tract of land located southwest of Gravel Springs Road and south of Brown Road, with frontage along I-85. Currently developed with one single-family residence, the subject property is zoned RA-200 (Agriculture-Residence District). The applicant requests R-TH zoning (Single-Family Residence Townhouse District) for 190 attached units at a gross and net density of 5.38 units per acre.

The 2030 Unified Plan Future Development Map indicates the property is located within an Existing/Emerging Suburban Character Area. Policies for this Character Area encourage single-family residential uses at a density of 3 units per acre or less. This request (for 5.38 units per acre) could be considered inconsistent with the Unified Plan policies. In addition, the adjacent property to the north and east was rezoned from RA-200 to R-ZT for a single-family detached subdivision pursuant to RZR-06-041 in 2006. Access to the subject tract is proposed through the R-ZT development; therefore if approved, staff recommends similar conditions to those the Board approved for the R-ZT zoning in order to be more consistent with past Board zoning action.

The surrounding area is primarily residential in character and includes single-family subdivision developments as well as residences on large acreage tracts. Adjacent to the west and north are properties zoned RA-200. To the north is property located within the city limits of Buford, zoned for residential uses. To the east is an undeveloped R-ZT zoned property pursuant to

RZR2006-00041, which would provide access to the subject property. Parcels fronting along Gravel Springs Road are typically zoned low density residential in the County, or commercial zoning within the city limits of Buford. Further north, across Gravel Springs Road, are undeveloped parcels of various sizes and zoning classifications rezoned in 2006 to be developed as the Villages at Ivy Creek multi-use project, consisting primarily of residential uses with a neighborhood serving commercial area. The requested rezoning for a townhome development could be considered inconsistent with the existing and proposed residential development pattern of the area and could set a precedent for future higher density requests. The property's access through a subdivision of detached homes may also be inappropriate and introduce potential land use conflicts.

In conclusion, the proposed rezoning to R-TH for 190 townhomes at a density of 5.38 units per acre could be incompatible with the development in the area, and inconsistent with Board policy and zoning decisions in the immediate vicinity. Therefore, the Department of Planning and Development recommends **DENIAL** of this request.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

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

Approval as R-TH for a townhouse development, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Attached townhouse dwellings and accessory uses not to exceed 190 units for a maximum density of 5.38 units per acre.
 - B. Buildings shall be constructed of brick or stacked stone on three sides, with minor treatments (i.e. gables, bay windows, chimneys) of fiber-cement shake or siding. The rear shall be the same or of fiber-cement shake or siding with a minimum 3-foot brick or stone water table. Architectural elevations shall be submitted for review and approval by the Director of Planning and Development.
 - C. The minimum heated floor area per dwelling unit shall be 2,400 square feet.
 - D. All units shall have at least a double-car garage.
 - E. Units located along the periphery of the site may have street-facing garages. All other units shall provide sole access via alleys and shall have rear-entry garages.
 - F. A mandatory homeowners association shall be incorporated which provides for building and grounds maintenance, repair, insurance and working capital. Said association must also include declarations and by laws including rules and regulations which shall at minimum regulate and control the following:
 1. Exterior home maintenance to include roofing and painting.
 2. All grounds and common area maintenance, including detention facilities.
 3. Exterior fence maintenance to include the requirement that any graffiti shall be repaired and repainted within 72 hours.
 4. Restrictions on single-family residential use only of units. No more than ten percent of the total units may be leased by individual owners at any time.

2. To satisfy the following site development considerations:
 - A. Provide a 40-foot wide undisturbed buffer adjacent to single-family residentially-zoned properties.
 - B. All grassed areas shall be sodded.
 - C. All utilities shall be placed underground.
 - D. Natural vegetation shall remain on the property until the issuance of a development permit.
 - E. A pocket park shall be provided within the development to include at a minimum a gazebo and permanent benches.
3. To abide by the following requirements, dedications and improvements:
 - A. Reserve all necessary right-of-way and easements for the future Sugarloaf Parkway Extension.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF ZONING

SUITABILITY OF USE

In light of the adjoining and nearby RA-200 and R-100 zoning and low-density, detached developments that characterize the residential uses in the immediate area, an R-TH rezoning and townhouse use may not be suitable at this location.

ADVERSE IMPACTS

Adverse impacts on neighboring properties could be anticipated from the introduction of an incompatible zoning classification, density and unit type. Adverse impacts on nearby residential properties may be anticipated by introducing attached, high-density housing with access through a planned single-family detached neighborhood.

REASONABLE ECONOMIC USE AS ZONED

The property may have a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

An increase in traffic, utilities usage, storm water runoff, and the number of school-aged children could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within the Existing/Emerging Suburban Character Area, the policies of which do not support the requested R-TH zoning at a density of 5.38 units per acre at this location and which encourage consistency of both density and development type within a given area. The requested R-TH may be out of character with existing and proposed RA-200 and R-100 single-family developments in the area.

CONDITIONS AFFECTING ZONING

The lack of any multi-family townhome zoning on this side of Gravel Springs Road suggests that R-TH zoning may be inappropriate for this location.

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:

Attached.

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

Attached.

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

Attached.

- (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:

Attached.

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

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:

Attached.

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EXHIBIT "B"

SATILLA – BROWN AND GRAVEL SPRINGS ROAD APPLICANT'S RESPONSES IN SUPPORT OF REZONING

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

Yes. The proposed residential and senior-targeted development is consistent with the nearby residential uses, and provides an appropriate transition between the subject property and I-85 as well as the future Sugarloaf Parkway extension. The proposed residential uses will support the nearby Mall of Georgia, and are consistent with the 2030 Unified Plan.

- B) WHETHER THE REQUESTED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. A majority of the subject property was also previously zoned R-TH, R-ZT and R-60, consistent with the requested use, and these zoning requests are compatible with the existing uses and usability of the adjacent and nearby property.

- C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the existing rural zoning, conditions and restrictions, the subject property does not have reasonable economic use as currently zoned, and has remained vacant and undeveloped.

- D) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. This property is located in an area with public water and sewer availability, and direct access to two major thoroughfares and the interstate. The property owners previously invested over \$450,000 to connect sewer to the subject property, which required them to bore under I-85. The development is consistent with the Unified Plan and prior precedent, which supports similar residential development in this mostly residential corridor. The proposed community will not cause excessive use of existing streets, transportation facilities or utilities.

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- E) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. 2030 Unified Plan identifies the subject property as an appropriate location for Emerging/Existing and similar residential and commercial uses, especially along the I-85 corridor, and the proposed development will confirm with the existing and nearby residential uses, many of which are more intense than the proposed development.

- F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS.

Yes. The requested rezoning is absolutely necessary to enable the Applicant to develop the property so as to allow for a feasible economic use based on the property's location to the I-85 interchange; due to the proposed interchange improvement and Sugarloaf extension adjacent to the subject property; due to its proximity to the Mall of Georgia; and given the existing and future land uses in the area.

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Direct Fax: (770) 236-9702
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July 1, 2016

VIA HAND DELIVERY AND E-MAIL

Gwinnett County
Department of Planning and Development
Attn: Kathy Holland, Development Director
446 West Crogan Street
Lawrenceville, GA 30046-2440

RE: Letter of Intent in Support of Rezoning for Satilla Capital Partners (the "Applicant") and ACM Satilla LN V, LLC (the "Property Owner") for the property located near the corner of Brown Rd. and Gravel Springs Rd. (the "Subject Property")

Dear Ms. Holland and Planning Department:

On behalf of the Applicant and Property Owner, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., hereby submit this Letter in Support of the related Applications for Rezoning. The Applicant hereby submits three applications for rezoning the Subject Property from RA-200 to R-TH, to allow for 190 quality professional and senior-targeted townhomes.

I. Background

The Applicant seeks to create quality, residential development consistent with the existing communities in the area. The Subject Property is zoned RA-200 as part of the remaining rural zoning district that once encompassed much of the Mall of Georgia and Gravel Springs property. In the last twenty (20) years, the area has seen commercial and residential growth around the Mall and along the I-85 corridor. Nearby property is also similarly zoned for more intense commercial, multi-family, R-ZT and R-60 uses.

Much of the Subject Property is surrounded by and lies immediately adjacent to I-85, Highway 324 and the future Sugarloaf Parkway extension. In 2020, a new interchange with I-85 will be completed at Highway 324/Gravel Springs Road which will allow for increased accessibility. Accordingly, the Subject Property will provide appropriate, transitional senior and residential uses, while having access to major highways.

The proposed combination of uses for these three separate developments will result in an area where seniors can age in place, while remaining in close proximity to the Mall, I-85, hospitals, and nearby activity centers.

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II. Rezoning

The proposed development will include 190 townhomes, with amenities and open space to account for approximately 50% of the overall property. Townhomes are expected to be 22 to 26 ft. wide, with a minimum of 1,500 sq. ft. All residential homes will have a two-car garage, and will be built with quality materials with alternating architectural elevations.

A large portion of the overall property will remain and be preserved as natural, open space for future trail and park options. In addition, the single-family and townhome communities will include a pool, cabana and tennis courts as amenities. A master association and covenants will be formed to govern and enforce covenants, and to maintain all common areas, landscaping, and amenities.

The proposed zoning and site plan is entirely consistent with similarly, developed, residential communities in the immediate area, many of which are zoned C-2, RM-10, R-TH, R-60 or RZT. As outlined in the 2030 Unified Plan and Future Development Map, the Subject Property and surrounding areas are designated as *Existing/Emerging Suburban and Regional Mixed Use*, consistently found to be appropriate for senior and residential communities. Quality homes and senior development will help raise property values and support the nearby commercial development. Finally, with the addition of the new interchange at I-85, substantial commercial development is expected to occur on properties that neighbor the Subject Property.

Given their proximity and location to I-85, the proposed uses are less intense than the multi-family, commercial and industrial uses which are nearby and arguably appropriate for this Property. Additionally, the proposed development will result in a quality mixture of uses, while providing an appropriate transitional zoning and buffer between I-85, the future Sugarloaf Parkway extension, and nearby residential uses. Finally, the site was designed in order to work with the existing land, open space and topography, while and minimizing any potential impact on neighboring properties.

III. Constitutional Objections

The portions of the Gwinnett County Unified Development Ordinance, as amended, (the "UDO") which classify or condition the Subject Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are and would be 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.

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The application of the UDO, as applied to the Subject Property, which restricts its use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Property 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, Paragraphs I and 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 and Property Owner any economically viable use of the Property while not substantially advancing legitimate state interests.

The Subject Property is presently suitable for development subject only to the approval of the requested rezoning, as requested and amended by the Applicant, and is not economically suitable for development under its present 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/or variances 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, Paragraphs I and 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 approve the Applicant's and Property Owner's requested rezoning request and related variances, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Subject 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.

Any zoning designation, condition, or variance related to the Subject Property subject to conditions which are different from the requested variances and 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 Property Owner's utilization of the Subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

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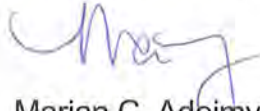
IV. Conclusion

The Applicant respectfully requests that the Gwinnett County Board of Commissioners, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, with conditions agreeable to the Applicant, in order to allow for a viable, quality and economic use.

The Applicant and its representatives welcome the opportunity to meet with the Gwinnett County Board of Commissioners, Planning Commissioners, community members, and staff to answer any questions.

Respectfully submitted this 1st day of July, 2016.

ANDERSEN, TATE & CARR, PC



Marian C. Adeimy
Attorney for Applicant/Property Owner

Enclosures:
Rezoning Application and exhibits

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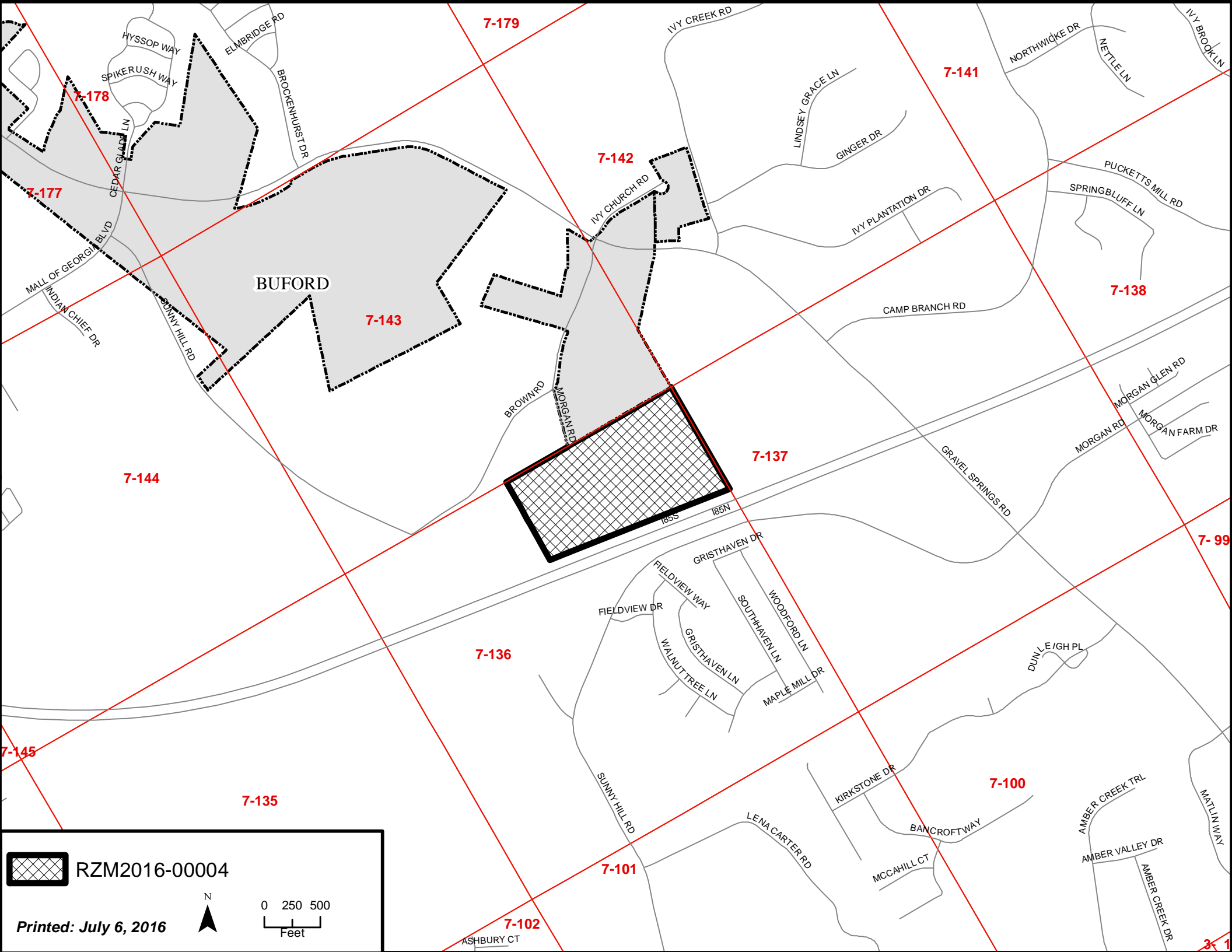
Planning & Development

RZM '16004



Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, September 2016


Case #	Schools	Current Projections									Proposed Zoning
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		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00018	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	19
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	14
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	27
RZM2016-00004	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	36
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	26
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	51
RZR2016-00017	Dacula HS	2103	2,550	-447	2166	2,550	-384	2231	2,550	-319	2
	Dacula MS	1616	1,900	-284	1644	1,900	-256	1693	1,900	-207	2
	Mulberry ES	714	975	-261	743	975	-232	772	975	-203	3
Current projections do not include new developments											



Printed: July 6, 2016



0 250 500
Feet

 RZM2016-00004



BROWN RD

MORGAN RD

155

155N

MORGAN RD

GRISTHAVEN DR

WOODFORD LN

SOUTHAVEN LN

FIELDVIEW WAY

WALNUT TREE LN



RZM2016-00004



Printed: July 6, 2016

02550
Feet

C2

BUFORD

7-142

RZT

GRAVEL SPRINGS RD

7-143

MORGAN RD

BROWN RD

RA200

7-137

I85N

MORGAN RD

I85S

7-136

R100CSO

GRISTHAVEN DR

WALNUT TREE LN

FIELDVIEW WAY

SOUTHAVEN LN

WOODFORD LN



RZM2016-00004



0 150 300
Feet

Printed: July 7, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER :**RZR2016-00017**
ZONING CHANGE :RA-200 TO R-100
LOCATION :900 BLOCK OF AUBURN ROAD
MAP NUMBER :R2001 019
ACREAGE :3.67 ACRES
UNITS :7 UNITS
PROPOSED DEVELOPMENT :SINGLE-FAMILY SUBDIVISION
COMMISSION DISTRICT :(3) HUNTER

FUTURE DEVELOPMENT MAP: **EXISTING/EMERGING SUBURBAN**

APPLICANT: RINGO ABERNATHY, INC.
174 DACULA ROAD
DACULA GA 30019

CONTACT: GUY ABERNATHY PHONE: 770.231.9013

OWNER: DANIEL N. MEDREA
951 AUBURN ROAD
DACULA GA 30019

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant requests the rezoning of a 3.67-acre property from RA-200 (Agriculture-Residence District) to R-100 (Single-Family Residence District), for development of a seven lot single-family residential subdivision. At present, the subject property is mostly wooded and contains one residential structure. The existing home would be demolished to allow for the proposed subdivision. The subject property is located on the south side of Auburn Road at 951 Auburn Road, east of its intersection with Mulberry Bay Drive.

The proposed density is 1.91 units per acre, with a minimum lot size of 15,000-square feet (0.344-acre). The Unified Development Ordinance requires all lots in Gwinnett County to have at least 40-feet of road frontage for properties in the R-100 zoning district, with a minimum lot width of 100 feet. Due to the size and configuration of the subject property, Variances regarding road frontage, setbacks and required lot width would be necessary for the proposed lots. In order to provide access to each of the new properties, an access easement along the eastern property (side) line is proposed. Each property is proposed to have one 1,400-square foot single-family residential structure with driveway access extending from the 20-foot wide access easement. No architectural information was provided.

To provide the necessary sanitary service, a 20-foot easement is shown along the western (side) property line, within a 40-foot wide construction easement. The new sewer line is proposed to extend from an existing sewer located west of the subject property, across the rear of the residential properties located off Mulberry Bay Drive within the developed Mulberry Springs Subdivision. There are no flood hazard areas, streams or wetlands on the property.

ZONING HISTORY:

The subject property has been zoned RA-200 since 1970.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property does not contain areas, streams, and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish, and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

A minimum 50-foot building setback is required from the right-of-way of Auburn Road.

Provide a 40-foot minimum road frontage. Provide a 100-foot lot width at the building setback (Unified Development Ordinance Chapter 230-10 and Section 230-70).

An exemption plat must be submitted for review and approval by the Development Division.

STORMWATER REVIEW SECTION COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Auburn Road is a State Route and Georgia Department of Transportation right-of-way requirements govern.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 12-inch water main located on the northwestern right-of-way of Auburn Road.

Due to the uncontrollable variables, the Department of Water Resources (DWR) makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located approximately 151 feet west of parcel R2001 019 on the right-of-way of Mulberry Bay Drive.

The subject development is located within the Hog Mountain service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore, this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject 3.67-acre property is located on the south side of Auburn Road, just east of Mulberry Bay Drive. The site currently contains a single-family home and heavily wooded areas. The proposed project involves rezoning the property from RA-200 to R-100 for a seven-lot subdivision served by an access easement extending from Auburn Road.

The 2030 Unified Plan Future Development Map indicates the property is located within an Existing/Emerging Suburban Character Area. Policies for this Character Area encourage residential in-fill developments with densities and character compatible with existing single-family developments. In the Department's opinion, the proposed layout of the property with seven individual lots does not provide the necessary space, property size or access to Auburn Road to match surrounding developments. All other subdivisions in the immediate area provide County roadways that meet the standards for public streets. As proposed, the subdivision may not meet the intent of these policies.

The surrounding area is characterized by low density single-family residences located in subdivisions and single-family residences on large lots. To the west of the property is an R-100 Modified subdivision identified as Mulberry Springs Subdivision. To the east is a single-family house on a lot zoned RA-200. To the east and south are single-family houses in the Bradford Manor Subdivision zoned R-100. Across Auburn Road to the north are single-family homes on lots zoned RA-200. Although the proposed zoning of R-100 may be consistent with the low-density residential character of the area, the proposed lots are stacked perpendicular to Auburn Road, and numerous variance requests are needed, including for the access, the orientation of the new residences, and reduction of required setbacks. As such, the existing shape, orientation and size of the subject property may not be conducive to subdivision development.

In conclusion, the rezoning and subdivision of the property as proposed may not be considered consistent with policies of the 2030 Unified Plan and could adversely affect neighboring single-family subdivisions and individual parcel developments along Auburn Road through the introduction of new lots that require numerous variances to warrant development approval compliant with the R-100 zoning district. Therefore, staff recommends **DENIAL** of this petition.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided as a guide should the Board choose to approve the request.

Approval as R-100 for a Single Family Subdivision, subject to the following enumerated conditions:

I. To restrict the use of the property as follows:

- A. Single-family dwellings and accessory uses and structures.
- B. The maximum number of lots shall be four.
- C. The minimum heated floor area per dwelling unit shall be 2,200 square feet.
- D. Homes shall be constructed with three sides of brick and/or stacked stone. The balance of the home may be the same or of fiber-cement shake or siding with a three-foot brick or stacked stone water table.
- E. All dwellings shall have at least a double-car garage.

2. To satisfy the following site development considerations:

- A. The access easement design and location shall be subject to the review and approval of the Director of Planning and Development.
- B. Natural vegetation shall be preserved or landscaping shall be provided along all exterior property lines of the project, and outside of any required sewer and/or access easements. Final landscape plan shall be subject to review and approval of the Director of Planning & Development.
- C. All grassed areas on dwelling lots shall be sodded.
- D. Natural vegetation shall remain on each lot until the issuance of a building permit for said lot.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

Due to the narrow configuration of the property, the rezoning and development as proposed may not be suitable at this location as the necessary access is insufficient and results in numerous variances in order to develop each of the new lots.

ADVERSE IMPACTS

Adverse impacts on neighboring properties could be anticipated from the introduction of an incompatible property access, density and lot orientation standard.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

An increase in traffic, utilities usage, stormwater runoff, and the number of school-aged children could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within the Existing/Emerging Suburban Character Area. The proposed development may be out of character with existing homes and subdivisions in the area, and inconsistent with the policies of the Unified Plan for infill development due to an inability to provide adequate access to each new lot while needing numerous variances to develop each lot.

CONDITIONS AFFECTING ZONING

There are subdivisions along Auburn Road, in close proximity to the subject property, that have been rezoned R-100 that provide appropriate access to each lot without the need for numerous variance requests.

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:

YES - ADJACENT PROPERTIES R-100 MOD - REQUEST IS R-100

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

NO

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

MARGINALLY - RA 200 REQUIRES 1 AC MIN LOT

- (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:

NO

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

YES

- (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:

FITS WITH OTHER REZONINGS APPROVED IN THE AREA.

RECEIVED BY

JUN 30 2016

RINGO/ABERNATHY & ASSOCIATES

June 28, 2016

Gwinnett County Planning and Development Department
75 Langley Drive
Lawrenceville, GA 30045

Attn: Jeff West

RE: Rezoning Request –
951 Auburn Road
Property Owner: Daniel Medrea
Parcel: 2-001-019

To Whom it May Concern;

Our Client, Mr. Medrea, is seeking to rezone his property from RA-200 to R-100.

Property Info:

The subject property is 3.67 acres zoned RA-200, located on the southern side of S.R. 324, A.K.A. Auburn Road, in northeastern Gwinnett County (Auburn area). The property is surrounded mostly by subdivisions having a R-100 Modified zoning, and one parcel on the northwest side having a RA-200 zoning.

Project Info

The owner of the property, Mr. Medrea, is interested in rezoning the property to R-100 in order to subdivide his property into seven lots. The intent for this property is to subdivide for single family residential, although the property will not support a subdivision with internal streets. Due to the shape (see below), the owner realizes that once rezoned, the desired plan will require variances to be requested for zero lot frontages along streets and zero lot widths at building lines due to lots being internal and not fronting on a street. The site will be using a 20' wide access easement, which is shown on the rezoning plan, to accommodate a common driveway for all seven lots. Note, the lots all meet size and width requirements for a R-100 lot.

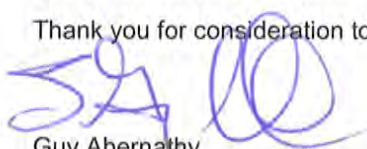
Official Request:

The request is to rezone parcel 2-001-019 from RA-200 to R-100.

Reason / Justification for the Requests:

The majority of the surrounding property is currently zoned R-100 Modified and, the property size is approximately 225' wide x 700' deep, making fronting the lots onto Auburn Road not feasible and, the small size of property cannot sustain the cost of full development of a street.

Thank you for consideration to allow Mr. Medrea to rezone his property to R-100.


Guy Abernathy
Ringo Abernathy & Associates
(770-231-9013)
-- on behalf of client of Daniel Medrea

RECEIVED BY

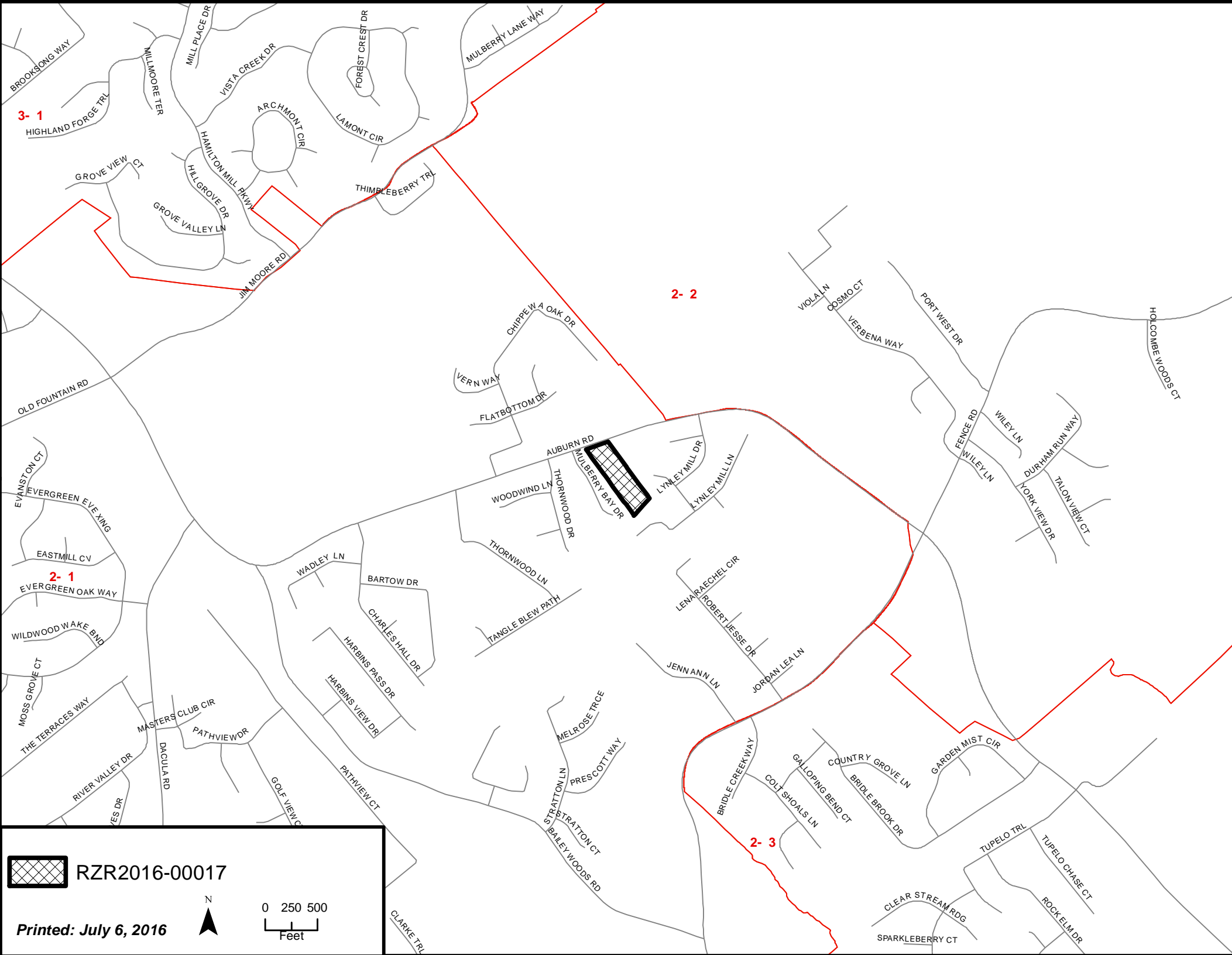
JUN 30 2016

..... Planning & Development

RZR '16017

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, September 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00018	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	19
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	14
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	27
RZM2016-00004	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	36
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	26
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	51
RZR2016-00017	Dacula HS	2103	2,550	-447	2166	2,550	-384	2231	2,550	-319	2
	Dacula MS	1616	1,900	-284	1644	1,900	-256	1693	1,900	-207	2
	Mulberry ES	714	975	-261	743	975	-232	772	975	-203	3
Current projections do not include new developments											




- LEGEND:**
- 1/2" = 1'00"
 - 1/4" = 1'00"
 - 1/8" = 1'00"
 - 1/16" = 1'00"
 - 1/32" = 1'00"
 - 1/64" = 1'00"
 - 1/128" = 1'00"
 - 1/256" = 1'00"
 - 1/512" = 1'00"
 - 1/1024" = 1'00"
 - 1/2048" = 1'00"
 - 1/4096" = 1'00"
 - 1/8192" = 1'00"
 - 1/16384" = 1'00"
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AUBURN RD

MULBERRY BAY DR


ELISHA MILL CT




RZR2016-00017

Printed: July 6, 2016

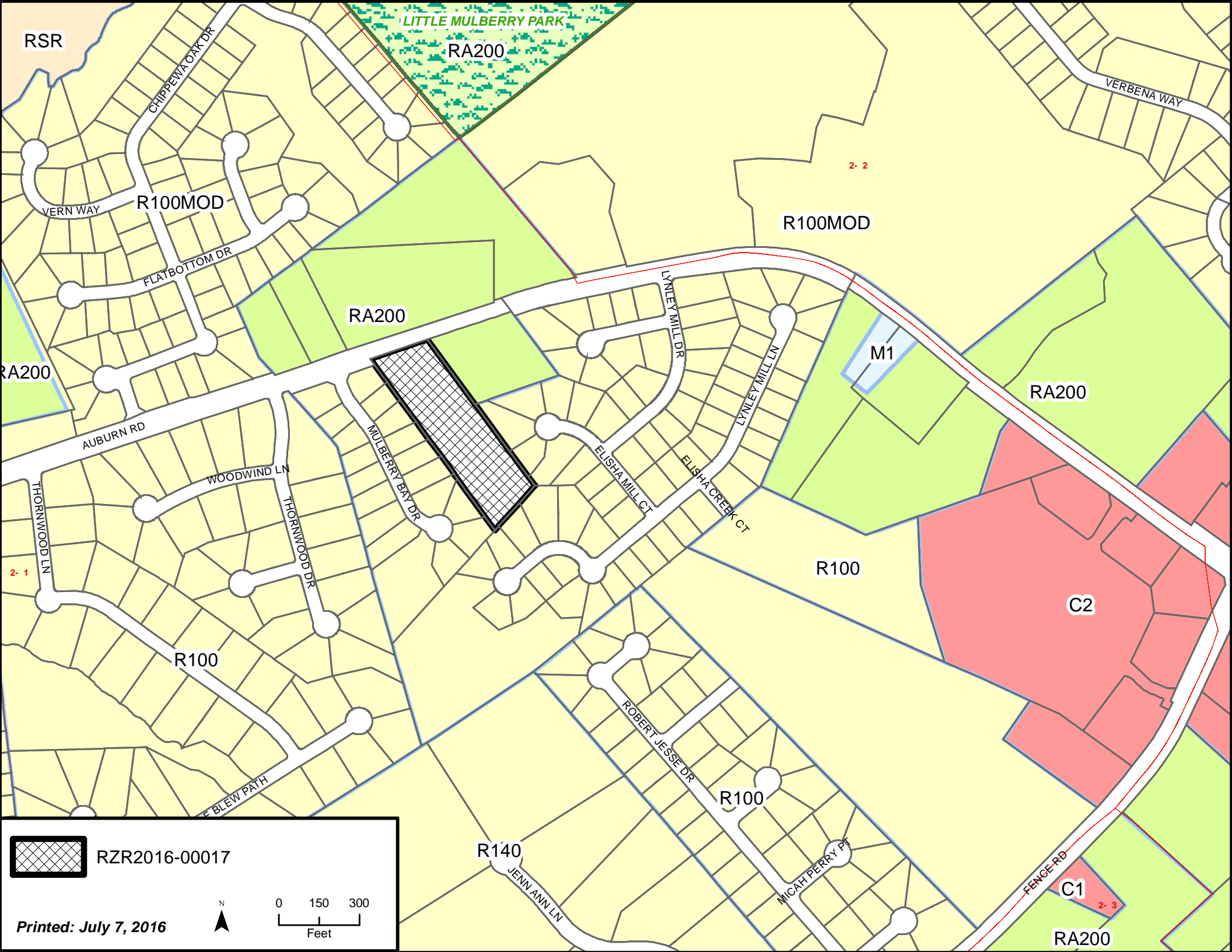
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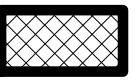
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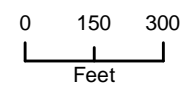
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RA200



RZR2016-00017

Printed: July 7, 2016



**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER	: RZR2016-00019
ZONING CHANGE	:R-100 TO RA-200
LOCATION	:4100 BLOCK OF BEAVER ROAD
MAP NUMBER	:R5096 028
ACREAGE	:26.21 ACRES
PROPOSED DEVELOPMENT	:EQUESTRIAN FACILITY
COMMISSION DISTRICT	:(3) HUNTER

FUTURE DEVELOPMENT MAP: RURAL ESTATE AREAS

APPLICANT: AARON YOUNG
4150 BEAVER ROAD
LOGANVILLE, GA 30052

CONTACT: FIELDING D. ALDERMAN PHONE: 770.862.4133

OWNER: LUC R. MBAH A MOUTE
4150 BEAVER ROAD
LOGANVILLE, GA 30052

DEPARTMENT RECOMMENDATION: APPROVAL WITH CONDITIONS

PROJECT DATA:

The applicant is requesting to rezone a 26.21-acre parcel from R-100 (Single-Family Residence District) to RA-200 (Agriculture-Residence District) to allow a commercial equestrian facility. The subject property is located on the east side of Beaver Road, just northwest of its intersection with Virgil Moon Road. The property consists primarily of pasture land, with a pond located toward the center of property.

The site includes an unoccupied, 3,932 square foot two-story single-family dwelling, a 3,784 square foot barn/arena, and a 21,000 square foot stable/barn, horse riding ring, and several other outbuildings. The site is accessed through a gated, asphalt driveway extending approximately 1,200 feet from Beaver Road before reaching the dwelling, barn, and other related structures.

The existing facilities were originally constructed for private use by the property owner, and are now proposed for limited commercial use including riding lessons, boarding, training, breeding and providing equine assisted therapy for post-war veterans and others with disabilities.

ZONING HISTORY:

In 1970, the subject property was zoned RA-200 (Agriculture Residence District). The property was rezoned to R-100 (Single Family Residence District) in 1973, pursuant to an area-wide zoning map revision.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The Georgia Department of Community Affairs and Department of Natural Resources have mandated that Significant Groundwater Recharge Areas be identified and that minimum lot sizes for septic tanks be increased in these resource areas. Please contact the Gwinnett County Board of Health for septic system information and/or Gwinnett Department of Public Utilities regarding availability of sanitary sewer for this site.

WETLANDS INVENTORY:

The subject property does not contain areas, streams, and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish, and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

Stables, corrals, riding rings, and other similar facilities shall be located no closer than 100 feet to any property line (Section 230-130.3U of the Unified Development Ordinance).

STORMWATER REVIEW SECTION COMMENTS:

The property appears to contain stream buffers and floodplain. The proposed conceptual plan may require revision to show the appropriate stream buffer area. All storm water best management practices will be applicable upon development permit issuance.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Beaver Road is a Minor Collector and 30 feet of right-of-way is required from the centerline.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of an eight-inch water main located on the southwestern right-of-way of Beaver Road.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located +/- 120 feet south of parcel 5-096-028 on parcel 4-246-102.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject property is located on the east side of Beaver Road, near its intersection with Virgil Moon Road. The site is developed with a single-family dwelling, numerous outbuildings, a small lake, and a large pasture. A single driveway provides access to Beaver Road.

The 2030 Unified Plan Future Development Map indicates that the property lies within a Rural Estate Character Area. Policies for this character area promote large estate properties, agricultural activities, and equestrian uses. As such, the requested rezoning to RA-200 for an equestrian facility could be consistent with policies of the Unified Plan.

The surrounding area is a mix of large acreage properties and single-family subdivisions in R-100 and R-100 CSO zoning. Surrounding the property are large acreage tracts developed with single-family homes, zoned R-100. A few low-density residential subdivisions also exist in the immediate area, including Beaverton Estates, Crooked Creek Crossing, Savannah Ridge, Twin Oaks Manor and Webb Meadows. Given the surrounding pastureland, wooded areas and homes on acreage, the requested equestrian training facility could be compatible with the rural and residential uses in the immediate area, and could be appropriate at this location.

In conclusion, the requested rezoning could be considered consistent with the Unified Plan and the rural/residential nature of the surrounding area. Therefore, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS**.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Approval as RA-200 for an Equestrian Facility, subject to the following enumerated conditions:

1. Limited to use as a residence and equestrian facility. Commercial use shall be limited to horse boarding, breeding, training, riding stables, riding lessons and equine assisted therapy. The equestrian facility shall not be used for shows, rodeos, livestock sales or auctions, or public events.
2. No signage other than street number and address shall be permitted.
3. Provide or maintain a minimum 100-foot setback for all equestrian related buildings and facilities adjacent to all property lines. Animal quarters shall include any structure which is used to shelter, care for, house, exercise, train, exhibit, display or show any animals, including but not limited to corrals, stables, barns, pens, coops, chicken houses, and other similar animal quarters. This term shall not include fenced pasture land or paddocks for grazing.
4. The riding ring may have lights with cut-off luminaries that shield all lighting from adjacent residential properties. Lights shall be turned off at 9:00 p.m.
4. The use of a public address system shall be prohibited.
8. Obtain necessary permits from the Development Division and make all required building and site improvements prior to the issuance of a Business License or Certificate of Occupancy.
11. Utility vehicles and equipment, including trailers, tractors, and other similar equipment, shall be parked within a building or to the rear of the residence on a hard or gravel surface a minimum of 25 feet from any property line.
12. The applicant shall prepare and submit an animal waste management plan to the Department of Planning and Development for review by the appropriate agencies.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING THE EXERCISE OF ZONING

SUITABILITY OF USE

The proposed use could be suitable in view of the rural/residential character of the area which includes pasture land and numerous acreage tracts developed with single-family homes.

ADVERSE IMPACTS

With the recommended conditions, any adverse impacts from the proposed riding ring and stables upon adjacent and nearby properties could be reduced.

REASONABLE ECONOMIC USE AS ZONED

The subject property has a reasonable economic use as zoned.

IMPACT ON PUBLIC FACILITIES

A minimal increase in impacts on public facilities in the form of traffic and utility demand could be expected from the proposed use.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates that the property lies within a Rural Estate Character Area. Policies for this character area could support the requested rezoning and equestrian activity.

CONDITIONS AFFECTING ZONING

The rural/residential character of the area lends some supporting grounds for approval of this request. Several properties along Beaver Road are in excess of three acres and have pastures that would allow for the keeping of livestock.

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:

YES

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

NO

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

NO

- (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:

NO

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

YES

- (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:

THERE ARE EXISTING CONDITIONS SUPPORTING
GROUND FOR APPROVAL

RECEIVED BY

10/11/2016

LETTER OF INTENT

To: Gwinnett County Planning Commission (District Three)
Chuck Warbington – Chairman
Tommy Hunter – Commissioner
Todd Hargrave – Planning Engineer

From: Fielding D. Alderman & Sonia Moretti – Consultants/Realtors

Subject: Rezoning Application: 4150 Beaver Road, Loganville, GA 30052

This Application is for the Rezoning of the subject property 4150 Beaver Road ("Property"). The Property is identified by Parcel I.D. R5096 028 and is a 26.21 acre tract currently zoned R100.

Rezoning Application is requesting down-zoning of Property to it's original zoning of RA200. Property Owner desires to operate a business that boards, trains and breeds horses, and provides riding lessons and therapy for the Wounded Warriors Program, Autism Programs, and other "special needs" individuals utilizing retired gentle horses to assist and enhance therapy. It is understood that operating this business requires the down-zoning to RA200.

Application is not intended to request any newly "proposed" structures or changes to any of the existing structures, buffers or parking spaces. Current structures, as shown on Survey/Site Plan include:

- One Two-story Frame House – 28 Feet to peak
- One One-story Frame Structure w/Basement – 24 Feet to peak
- One Metal Horse Stable/Barn – 16 Feet to peak
- One Metal Horse Arena/Barn – 30 Feet to peak
- One Barn – 18 Feet to peak
- One Shed – 14 Feet to peak
- Three Feed Sheds – 10 Feet to peak each

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RZR '16019

JUL 01 2016

Planning & Development

SUMMARY

In summary, the requested rezoning to RA200 is to allow owner to operate a business that provides boarding, breeding and training of horses, riding lessons and horse assisted therapy for special needs individuals. There are no plans for any public events or additions of any outdoor lighting. Self-imposed limitations are to include a limit of no more than 4 riding lesson pupils at any one time and no more than a total of 20 total horses being boarded on the property.

Currently, the Property is home to half a dozen privately owned horses. All farm operations are central to the 26 plus acres and there is a more than adequate existing buffer between operations and all surrounding neighboring properties. Buffer consists of mature trees, lake, double layer fencing and privacy fence separating adjacent subdivision. There is an active onsite manure management plan that is designed to be eco-friendly and a non-nuisance to neighbors. The area is home to many existing farms, ranches and large acre tracts.

Historically, the Property has been used as a privately owned horse and cattle farm. It was originally zoned RA200, but in the 70's was part of an area blanket rezoning to R100. There have been no known complaints from neighboring property owners. The area has long been home to farms and ranches and considered to be farm friendly.

For more specific details, please see the following business plan.

Application Fee check of \$2,000 is submitted with this Rezoning Request Package. Please direct any questions to Owner's Consultants:

Fielding D. Alderman	770.862.4133	fdalderman@bellsouth.net
Sonia Moretti	404.617.3279	moretti_legal@yahoo.com

Respectfully submitted this day of July 1, 2016.

Fielding D. Alderman

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Sonia Moretti

JUL 01 2016

Planning & Development

RZR '16019

Our business plan here at Lucky 12 Equine could be broken into two categories of long term and short term goals. Our initial plan is to open as a small lesson and boarding facility with an emphasis on keeping a small close knit family atmosphere. The services we plan to offer at opening are as follows.

- Horseback Riding Lessons

- We will offer lessons for all ages and experience levels from toddlers to seniors; and from completely green beginners to other trainers looking to hone their skills in a specific area of their riding. Lessons will be organized through a personalized lesson plan that will address the individual needs of each rider and allow them to grow in the discipline of their choice. We will offer both private and small group lessons though the group lessons will be limited to three riders at most to make sure that all students are able to get the attention they deserve. Most lessons will be scheduled for one hour though some may go over and some may go short to make sure that goals set for that day are met, and that lessons end on a good note for both student and horse. Students in our lesson program can expect to not only learn the theory and fundamentals of riding; but also care of the horse, identification and maintenance of tack, basic veterinary first aid and nutrition, and how to handle the horse safely from the ground. We will also offer the service of taking clients to horse shows and competitions and provide coaching at the event. The goal of our lesson program will be to introduce people to the joys of equestrian sports as well as to be safe and respect these animals, and to have fun while doing so.

- Boarding

-We will offer boarding and training services to a small number of clients with stall or pasture board available. The boarding services will include everyday care and feeding of the horse, administration of medicines and supplements, cleaning of the stall if the horse is kept inside the barn, daily turnout weather permitting, and support for the client (communication with vets and farriers etc.). We will offer packages that will include training and exercising of the horses as well as discounted lessons for the client.

- Training

-The head trainer Chessie Kopyscianki's training theory is as follows.

When training Chessie starts with patient and detailed ground work earning respect while isolating and strengthening the muscles of the horse, teaching transitions of gaits, and getting work off of the rear, and self-carriage. She believes relaxation is a key focus in the training processes. Her style is not to intimidate or force a horse into anything. The goal is to let the horse mentally understand what is being asked and work the horse within its ability toward full potential. Without relaxation this is not possible, stress and aggression are counterproductive. As the horse moves further in training it will begin to have quicker responses being able to respond to cues and utilizing its self properly. Her specialty is speed events but no matter the discipline her goal is to produce athletic, responsive, and safe horses. Horses that will reach their full potential toward any discipline, whether they are seasoned speed event horses, reining, or pleasure horses that just need tuning up. Chessie is especially passionate of training horses in the startup phase needing work from the ground up, she offers these services as well. She encourages all horse owners to come and view the progress of their horse and take lessons along with the training process.

JUL 01 2016

RZR '16019

- Equine Assisted Therapy

-We will after our initial opening begin to offer equine assisted therapy or EAT services. EAT consists of using horse to assist in the therapeutic healing process in humans for physical, emotional, and mental afflictions. Horses have long been known to possess an unexplainable ability to heal and communicate in a way that other humans sometimes simply can't. They can provide this through a number of ways whether it is helping a child with autism begin to come out of his or her shell, helping a victim of abuse feel confident and in control again, or even helping a veteran find purpose and peace again. We plan to work in partnership with local support groups to find people who could potentially benefit from these services. We will also organize fundraisers to help pay for these services because it is our personal belief that anyone who could potentially be helped by EAT deserves the opportunity to be healed by these animals.

- Breeding

-We will be overseeing a small scale private breeding program with the long term purpose of sales and providing our own potential training and show horses. We have already developed a personal relationship with the Theriogenology staff at the University of Georgia Veterinary Teaching Hospital and will continue to work with them in the future with the impregnating of our mares to the care of our foals, as well as the collection and sale of frozen semen from our stallions.

Our long term goals for Lucky 12 Equine is to become established and respected in the local community as well as in the world wide Equestrian community, allowing us to turn our focus more from providing lessons and basic boarding to becoming much more competitive on a national and international level and develop a small team of young riders and horses to travel and compete with. More emphasis will likely be put on our breeding program as well at this time after our program and stallions have established a reputation for producing quality and excellence in our foals. We also will be continuing with our Equine Assisted Therapy program and continue to reach out to the community through this as well as other outreach programs and events.

To summarize our goals in as few words as possible, We would like to establish a small yet elite program that emphasizes safety and learning as well as fun while introducing children and adults to equine world, while also providing a facility for local equestrians to continue to grow as riders and as horsemen and horsewomen.

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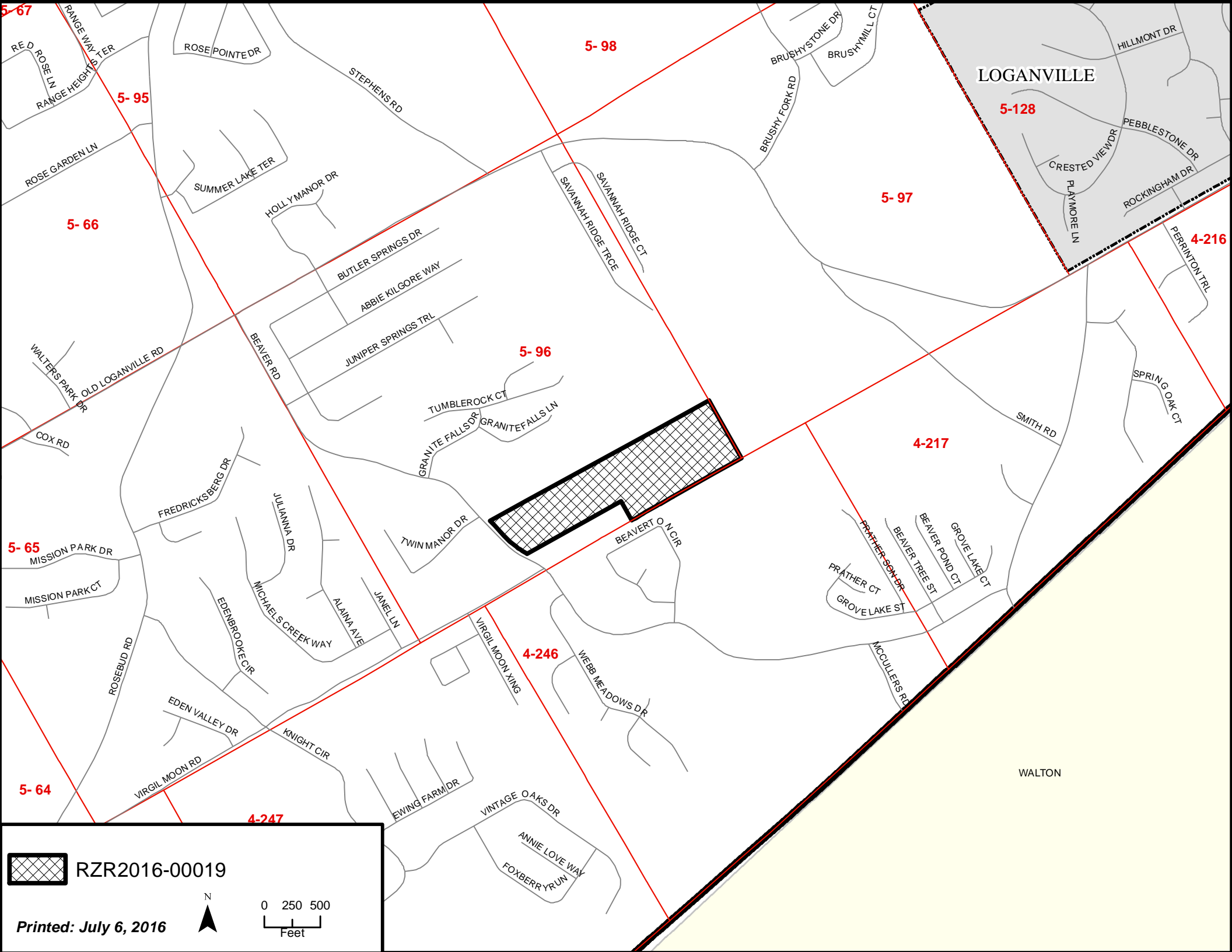
JUL 11 2016

Planning & Development

RZR '16 019

Residential Rezoning Impact on Local Schools
Prepared for Gwinnett County, September 2016

Case #	Schools	Current Projections									Proposed Zoning
		2016-17			2017-18			2018-19			Approximate additional Student Projections from Proposed Developments
		Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	Forecast	Capacity	Over/Under	
RZR2016-00018	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	19
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	14
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	27
RZM2016-00004	Mountain View HS	2356	2,300	56	2470	2,300	170	2550	2,300	250	36
	Twin Rivers MS	2034	2,150	-116	2065	2,150	-85	2095	2,150	-55	26
	Patrick ES	792	1,025	-233	816	1,025	-209	840	1,025	-185	51
RZR2016-00017	Dacula HS	2103	2,550	-447	2166	2,550	-384	2231	2,550	-319	2
	Dacula MS	1616	1,900	-284	1644	1,900	-256	1693	1,900	-207	2
	Mulberry ES	714	975	-261	743	975	-232	772	975	-203	3
Current projections do not include new developments											



RZR2016-00019



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Printed: July 6, 2016

LEGEND

8"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
10"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
12"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
14"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
16"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
18"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
20"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
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70"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
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98"	IRON PIN FOUND	CMR	CONCRETE MONUMENT (FOUND)
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GENERAL NOTES

1. INFORMATION REGARDING THE PROPERTY RECORDS, E.G., CHARACTER, AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO GUARANTEE OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED BY THE USER AT HIS OWN RISK. THE USER SHALL BE RESPONSIBLE FOR THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES. THE USER SHALL BE RESPONSIBLE FOR THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES. THE USER SHALL BE RESPONSIBLE FOR THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES.
2. RIGHT-OF-WAY ARE BASED ON THE SURVEY OF THE PROPERTY RECORDS OF THE PROPERTY. THE USER SHALL BE RESPONSIBLE FOR THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES.
3. ALL MATTERS PERTAINING TO THIS ARE DESCRIBED.
4. BY THESE ENDORSEMENTS OF A CERTAIN RECORD.
5. BE ADVISED THAT THE PROPERTY RECORDS ARE BASED ON THE SURVEY OF THE PROPERTY RECORDS OF THE PROPERTY. THE USER SHALL BE RESPONSIBLE FOR THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES.
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GRAPHIC SCALE
1" = 100'
1 cm = 100 m

SOLAR LAND SURVEYING COMPANY

P.O. BOX 72393 ATLANTA, GEORGIA 31139-0933
TELEPHONE (770) 794-9030 FAX (770) 794-9052

DATE 02/05/2015
SCALE 1" = 100'
DRAWN BY J. H. HARRIS
CHECKED BY J. H. HARRIS

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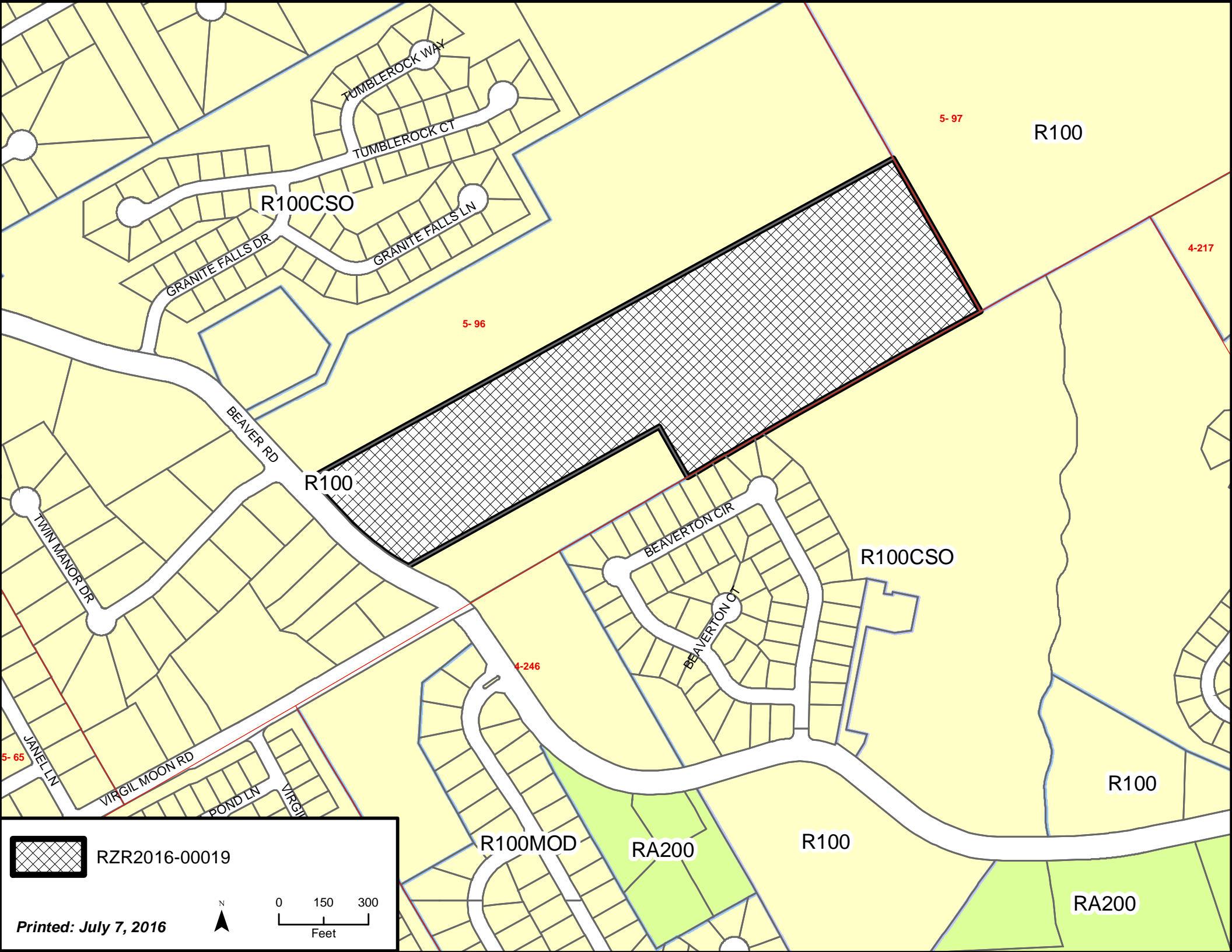


RZR2016-00019



Printed: July 6, 2016

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TUMBLEROCK WAY
TUMBLEROCK CT

R100CSO

GRANITE FALLS DR

GRANITE FALLS LN

5- 96

5- 97

R100

4-217

BEAVER RD

R100

TWIN MANOR DR

BEAVERTON CIR

R100CSO

BEAVERTON CT

4-246

JANEL LN

VIRGIL MOON RD

POND LN

VIRGIL

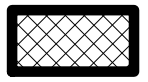
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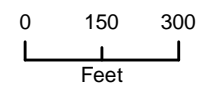
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RZR2016-00019



Printed: July 7, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
CHANGE IN CONDITIONS ANALYSIS**

CASE NUMBER :CIC2016-00021
ZONING :C-2
LOCATION :3400 BLOCK OF OLD NORCROSS ROAD
:3300 BLOCK OF MCDANIEL ROAD
MAP NUMBER :R6232 150
ACREAGE :5.05 ACRES
SQUARE FEET :23,388 SQUARE FEET
PROPOSAL :CHANGE IN CONDITIONS
COMMISSION DISTRICT :(I) BROOKS

FUTURE DEVELOPMENT MAP: **EXISTING / EMERGING SUBURBAN**

APPLICANT: HENNESSY RANGE ROVER & JAGUAR
C/O MILL CREEK CONSULTING
4480 COMMERCE DRIVE, SUITE A
BUFORD, GA 30518

CONTACT: MITCH PEEVY PHONE: 770.614.6511

OWNER: HENNESSY CADILLAC, INC.
3040 PIEDMONT ROAD NE
ATLANTA, GA 30305

DEPARTMENT RECOMMENDATION: **APPROVAL WITH CONDITIONS**

CHANGE IN CONDITIONS SUMMARY:

The applicant seeks approval of a Change-in-Conditions (CIC) request to remodel an existing automobile sales and service establishment located on the northeast corner of the intersection of Old Norcross Road and McDaniel Road. The 5.05-acre subject property is located within a C-2 (General Business District) zoning district and is currently utilized as a Range Rover dealership with a 20,026-square foot sales office and automobile service building.

In May 1998, the property was included in the approval of a Special Use Permit (SUP-98-064) for automobile sales or service. As a condition of approval, Condition F reads:

F. Buildings shall be finished with architectural treatments of glass and/or brick, stone, stucco, or other masonry finish. Alternate type exterior may be allowed after plans are reviewed and approved by the Director of Planning and Development.

In February 2016, the applicant contacted the County's Building Division about architectural modifications to the proposed building. The applicant is requesting to use metal panels on the exterior, along with a 3,362-square foot addition to the building. Per the current condition allowing alternate exteriors be reviewed and approved by the Director, the department denied

an initial request for use of the metal panels. The Department provided comments that the request could be administratively approved with modifications to the submitted design. These comments requested that a six foot average water table of brick, stone or stucco be provided with corrugated metal panels above. Corrugated metal panels may be used as an accent material only. In lieu of making those modifications, the applicant seeks this Change-in-Condition request.

GROUNDWATER RECHARGE AREA:

The subject property is not located within an identified Significant Groundwater Recharge Area.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

No comment.

STORMWATER REVIEW SECTION COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Old Norcross Road is a Major Arterial and 50 feet of right-of-way is required from the centerline, with 60 feet required within 500 feet of a major intersection.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 12-inch water main located on the northeastern right-of-way of Old Norcross Road and a 12-inch water main located on the northwestern right-of-way of McDaniel Road.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located approximately 21 feet west of parcel R6232 150 on the McDaniel Road right-of-way.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

1. The applicant shall submit architectural, structural, mechanical, electrical and plumbing drawings for any proposed interior tenant space modifications or exterior modifications for review and approval by Building Plan Review.
2. Upon completion of plan review approvals, the applicant shall obtain a building permit for any proposed modification/renovation work and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The applicant seeks approval of a Change-in-Conditions request to allow for an alternative architectural treatment of the building exterior as part of a remodel of the automobile dealership. Located on the north side of Old Norcross Road, west of its intersection with Satellite Boulevard, the subject property is 5.05-acres in size and within a C-2 zoning district.

The 2030 Unified Plan Future Development Map identifies the project as being located within the Mixed Housing Types Character Area. Although not strictly consistent with the recommendations of the Future Development Map, the surrounding area is a long established, intensely developed commercial corridor containing numerous automobile dealerships. With the proper conditions, revised architectural standards could be considered compatible with the policies of the 2030 Unified Plan.

The property is surrounded on all sides by properties zoned C-2, with an auto repair business to the north, a tire sales business to the west, and auto dealerships to the east and south. The other commercial building subject to the zoning condition in question meets the architectural style requirements. To better address the applicant's desire to use alternative materials, staff recommends that a combination of brick, stone or stucco be used for a significant amount of the exterior with colored metal panels and glass as accents. This would result in an architectural style that may be more compatible with the area while allowing the applicant the use of alternative materials not normally permitted. The staff does not support the use of corrugated metal siding in any context on the site.

In conclusion, with proper modifications, the submitted alternative materials may be consistent with the 2030 Unified Plan. Therefore planning staff recommends **APPROVAL WITH CONDITIONS**.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Approval of CIC2016-00021, subject to the following enumerated conditions:

- I. To restrict the use of the property as follows:
 - A. Retail and service commercial and accessory uses, which may include automobile sales and/or service.
2. To satisfy the following site development considerations:
 - A. Provide a 50-foot wide natural buffer, undisturbed except for approved perpendicular access and utility crossings and replanting where sparsely vegetated, adjacent to residentially zoned property.
 - B. Provide a minimum 10-foot wide landscape strip outside the right-of-way of Satellite Boulevard.
 - C. Provide sidewalks adjacent to all road frontages. Sidewalks shall provide links between residential, commercial and industrial uses. Sidewalk plan shall be submitted for review and approval of the Development Division.
 - D. Provide a five-foot wide landscaped strip adjacent to any internal property lines except where interparcel access is provided.
 - E. Provide landscaped islands through 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. Alternate planting plans consistent with the intent of this condition may be submitted for review and approval of the Director of Planning and Development.
 - F. Buildings shall be finished with architectural treatments of glass and/or brick, stone, stucco, **corrugated metal paneling**, or other masonry finish. **The use of corrugated metal paneling shall only be permitted in conjunction with a six-foot average water table of brick and/or stone. Final architectural design or alternate type exterior may be allowed after plans are reviewed and approved by the Director of Planning and Development.**
 - G. Dumpsters shall be screened by a fence or wall. Dumpster pickup shall be limited to between the hours of 7:00 am until 7:00 pm.
 - H. All signage shall be consistent with the signage concept plan approved for Satellite Place on file with the Department of Planning and Development.

- I. No billboards shall be permitted.
 - J. Submit overall conceptual landscape plan for review and approval of the Development Division. Landscaping shall be consistent with the standards of other project elements and nearby office development.
 - K. Number and location of curb cuts shall be subject to review and approval of the Gwinnett Department of Transportation.
 - L. Any outdoor automotive repair, storage of parts or inoperable vehicles is prohibited.
 - M. No streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. No flags shall be flown on the site except for the flags of the United States of America, or the State of Georgia.
 - N. Parking of vehicles within landscaped strips or rights-of-way is specifically prohibited.
3. To address infrastructure issues, participate in the following requirements, dedications and improvements as part of the overall Satellite Place mixed-use development:
- A. Along the northerly right-of-way of Satellite Boulevard, dedicate at no cost to Gwinnett County an additional 20 feet of right-of-way or additional right-of-way required to obtain a minimum of 120 feet of right-of-way on Satellite Boulevard.
 - B. Prior to issuance of a development permit, prepare design and right-of-way plans for roadways extending across Satellite Boulevard from Commerce Avenue and Old Norcross Road and intersecting with the Satellite Place Project. The location and design of this intersection and intended connection to Northmont Parkway is subject to review and approval of the Gwinnett Department of Transportation.
 - C. Prior to issuance of certificates of occupancy cumulatively totaling either 250,000 square feet of commercial space or 400 multi-family units, the developer will be required to:
 - 1. Contribute to Gwinnett Department of Transportation \$750,000 for the widening of Satellite Boulevard to six lanes.
 - 2. Dedicate right-of-way and construct (or escrow equivalent funds with the Gwinnett Department of Transportation for) the Old Norcross Road extension to the standards of a minor arterial road from Satellite Boulevard to the Satellite-Northmont Connector.
 - 3. Dedicate right-of-way and construct (or escrow equivalent funds with the Gwinnett Department of Transportation for) the Satellite-Northmont Connector extension to the standards of a minor arterial road from Satellite Boulevard to the Colonial Pipeline easement.

- D. Prior to issuance of certificates of occupancy cumulatively totaling either 500,00 square feet of commercial space or 800 multi-family units, the developer will be required to contribute an additional \$750,000 to the Gwinnett Department of Transportation for the widening of Satellite Boulevard to six lanes.
- E. Redesign the proposed roadway network to eliminate loop roads and provide direct linkage of McDaniel Road to Old Norcross Road.
- F. For POD C1 (SUP-98-064) no interparcel access shall be required to the adjacent property to the south (POD C2, SUP-97-071) provided a heavily landscaped buffer is provided on the slope between these two tracts. Interparcel access drives shall be provided between the subject properties and other adjacent commercially zoned tracts.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING EXERCISE OF THE ZONING

SUITABILITY OF USE

In light of the existing architectural style of the other commercial buildings in the surrounding area and the requirements of the areas development standards, the proposed change in conditions to change the architectural standards could be considered compatible provided certain conditions are met that incorporate use of architectural styles suitable to the area.

ADVERSE IMPACTS

With the staff's recommended conditions, potential adverse impacts on adjacent or nearby properties could be reduced.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

A remodel of the existing building may have minimal impacts on public facilities.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates the property is located within a Mixed Housing Types Character Area. The proposed condition modifications could be considered consistent with the architectural style of the other commercial properties in the surrounding area.

CONDITIONS AFFECTING ZONING

The proposed reduction in architectural standards may be consistent with the intent of the original Board approval and the Satellite Place mixed-use development standards. Incorporation of condition language requiring use of materials more commonly found in the area will comply with the zoning district.

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 WITHOUT THE CHANGE IN CONDITIONS.

(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 REGIONAL 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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Planning & Development

CIC '16021

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 _____

RECEIVED BY: _____

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JUL 01 2016

Planning & Development

CIC '16 021

REZONING APPLICANT'S LETTER OF INTENT

The Applicant and Owner, Hennessy Jaguar, Land Rover Gwinnett, requests a Change in Conditions from case SUP1998-00064 and the condition that restrict the architectural treatments on the building. Specifically, condition F. states:

Buildings shall be finished with architectural treatments of glass and/or brick, stone, stucco, or other masonry finish. Alternate type exterior may be allowed after plans are reviewed and approved by the Director of Planning and Development.

Since the time that the dealership was constructed, the manufactures are now requiring that the dealerships upgrade their look to a more modern and sleek appearance. It used to be the Range Rover brand required a "Colorado" look to match the rugged country that the vehicle was known to be able to conquer. Now, with the combination of the Jaguar brand they are also presenting the vehicles as urban rugged starting with the look of the dealership that is now required by the auto company. The proposal is to use colored metal panels that require no maintenance and will look like the attached color pictures. The building will increase in size from 20,026 square feet to 23,388 square feet and the applicant has met with the Gwinnett Place CID and they do not have any issue with the proposed plan to update the building façade.

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Planning & Development

CIC '16 021

CASE NUMBER SUP-98-064

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>AYE</u>
Patti Muise, District 2	<u>AYE</u>
Judy Waters, District 3	<u>AYE</u>
Kevin Kenerly, District 4	<u>AYE</u>

On motion of COMM. HUGHES, which carried 5-0,
the following resolution was adopted:

A RESOLUTION TO GRANT A SPECIAL USE PERMIT

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 for a Special Use Permit by SATELLITE PARTNERS for the proposed use of AUTOMOTIVE SALES AND SERVICE on a tract of land described by the attached legal description, which

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

WHEREAS, notice to the public regarding said Special Use Permit Application has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on May 26, 1998, and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 26th day of May, 1998, that the aforesaid application for a Special Use Permit 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, which may include automobile sales and/or service.
2. To satisfy the following site development considerations:
 - A. Provide a 50-foot wide natural buffer, undisturbed except for approved perpendicular access and utility crossings and replantings where sparsely vegetated, adjacent to residentially zoned property.
 - B. Provide minimum 10-foot wide landscaped strips outside the right-of-way of Satellite Boulevard.
 - C. Provide sidewalks adjacent to all road frontages. Sidewalks shall provide links between residential, commercial and industrial uses. Sidewalk plan shall be submitted for review and approval of the Development Division.

- D. Provide a five-foot wide landscaped strip adjacent to any internal property lines except where interparcel access is provided.
- 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. Alternate planting plans consistent with the intent of this condition may be submitted for review and approval of the Director of Planning and Development.
- F. Buildings shall be finished with architectural treatments of glass and/or brick, stone, stucco, or other masonry finish. Alternate type exterior may be allowed after plans are reviewed and approved by the Director of Planning and Development.
- G. Dumpsters shall be screened by a fence or wall. Dumpster pickup shall be limited to between the hours of 7:00 am until 7:00 pm.
- H. All signage shall be consistent with the signage concept plan approved for Satellite Place on file with the Department of Planning and Development.
- I. No billboards shall be permitted.
- J. Submit overall conceptual landscape plan for review and approval of the Development Division. Landscaping shall be consistent with the standards of other project elements and nearby office development.
- K. Number and location of curb cuts shall be subject to review and approval of the Gwinnett Department of Transportation.

- L. Any outdoor automotive repair, storage of parts or inoperable vehicles is prohibited.
 - M. No streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. No flags shall be flown on the site except for the flags of the United States of America, or the State of Georgia.
 - N. Parking of vehicles within landscaped strips or rights-of-way is specifically prohibited.
3. To address infrastructure issues, participate in the following requirements, dedications and improvements as part of the overall Satellite Place mixed-use development:
- A. Along the northerly right-of-way of Satellite Boulevard, dedicate at no cost to Gwinnett County an additional 20 feet of right-of-way or additional right-of-way required to obtain a minimum of 120 feet of right-of-way on Satellite Boulevard.
 - B. Prior to issuance of a development permit, prepare design and right-of-way plans for roadways extending across Satellite Boulevard from Commerce Avenue and Old Norcross Road and intersecting with the Satellite Place Project. The location and design of this intersection and intended connection to Northmont Parkway is subject to review and approval of the Gwinnett Department of Transportation.
 - C. Prior to issuance of certificates of occupancy cumulatively totaling either 250,000 square feet of commercial space or 400 multi-family units, the developer will be required to:
 - 1. Contribute to Gwinnett Department of Transportation \$750,000 for the widening of Satellite Boulevard to six lanes.

2. Dedicate right-of-way and construct (or escrow equivalent funds with the Gwinnett Department of Transportation for) the Old Norcross Road extension to the standards of a minor arterial road from Satellite Boulevard to the Satellite-Northmont Connector.
 3. Dedicate right-of-way and construct (or escrow equivalent funds with the Gwinnett Department of Transportation for) the Satellite-Northmont Connector to the standards of a minor arterial road from Satellite Boulevard to the Colonial Pipeline easement.
- D. Prior to issuance of certificates of occupancy cumulatively totaling either 500,000 square feet of commercial space or 800 multi-family units, the developer will be required to contribute an additional \$750,000 to the Gwinnett Department of Transportation for the widening of Satellite Boulevard to six lanes.
- E. Redesign the proposed roadway network to eliminate loop road and provide direct linkage of McDaniel Road to Old Norcross Road.
- F. For POD C1 (SUP-98-064) no interparcel access shall be required to the adjacent property to the south (POD C2, SUP-97-071) provided a heavily landscaped buffer is provided on the slope between these two tracts. Interparcel access drives shall be provided between the subject properties and other adjacent commercially zoned tracts.

CASE NUMBER SUP-98-064

4. No outdoor speakers of any kind shall be allowed.

GWINNETT COUNTY BOARD OF COMMISSIONERS

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

Date Signed: *June 25, 1998*

ATTEST:

Brenda Maddox
Deputy Clerk



JLR ARCH
Facility Checklist

June 2015
SDA Partnership USA, Inc.

RECEIVED BY

JUL 01 2016

Planning & Development

CIC '16 021



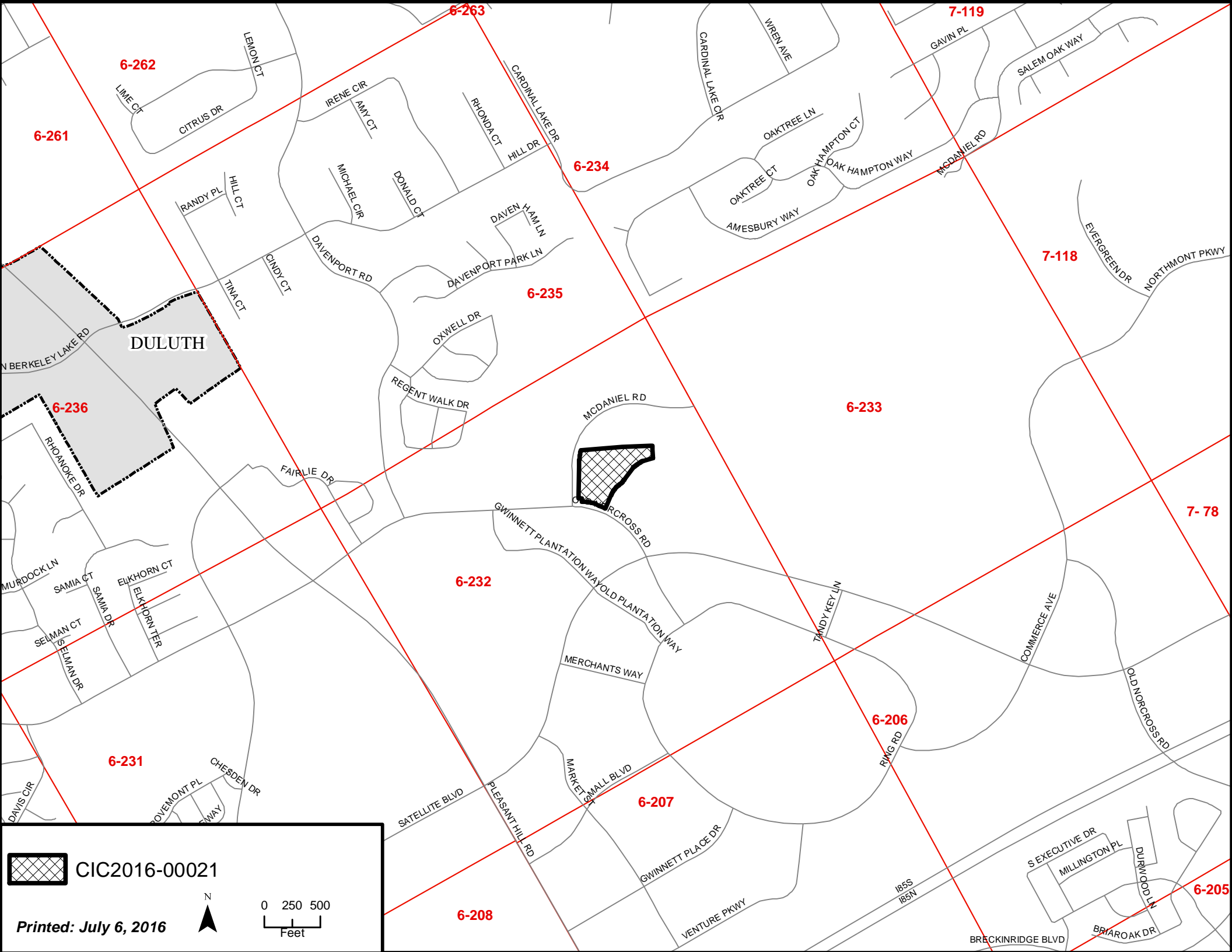


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Printed: July 6, 2016



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PROPOSED DEALERSHIP BUILDING
23,363 S.F.
HEIGHT 32'

BLOCK C, LOT 1A
ZONED C-2
5.059 ACRES
TAX ID# 6-232-150
RZ-35-160

OLD NORCROSS ROAD

PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"



SEAL
REVISION DATE

SCOTT K. HIGDON
10000 W. HUNTER STREET, SUITE 100
DULUTH, GEORGIA 30096
(770) 455-1701 / Fax 455-4132
www.probuildingsystems.com

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Atlanta, Georgia 30341
(770) 455-1701 / Fax 455-4132
www.probuildingsystems.com

ALTERATIONS TO
HENNESSY JLR GWINNETT
3423 OLD NORCROSS ROAD
DULUTH GEORGIA 30096

DATE: 08-28-2016
SCALE: 1/8" = 1'-0"
BY: JHO/BTE
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PROPOSED
SITE
PLAN
DRAWING TITLE

ASPI.1

SHEET 1 OF 2



MCDANIEL RD

OLD NORCROSS RD

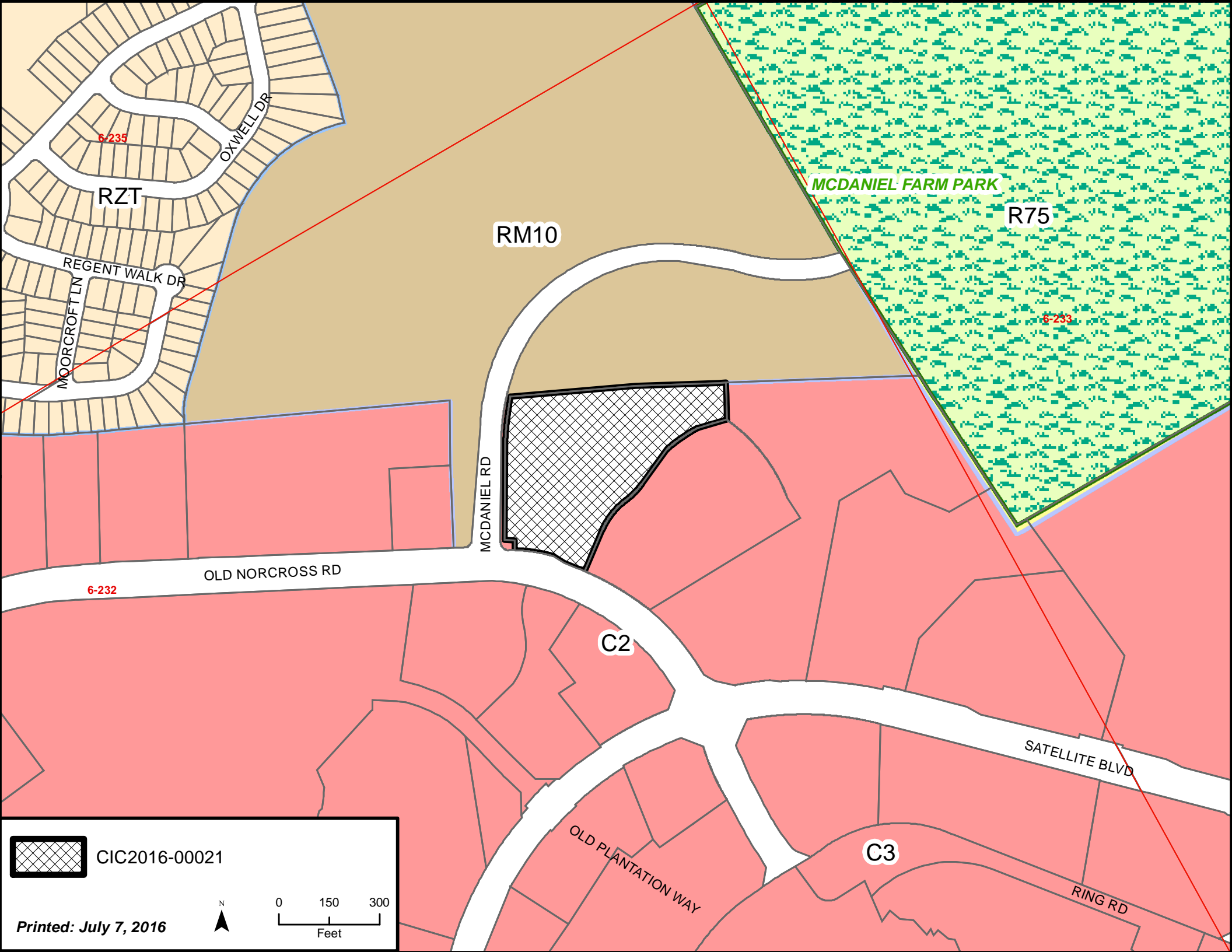


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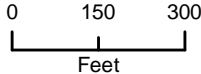
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CIC2016-00021

Printed: July 7, 2016



**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
CHANGE IN CONDITIONS AND BUFFER REDUCTION PERMIT ANALYSIS**

CASE NUMBER :**CIC2016-00022**
ZONING :C-2
LOCATION :3900 BLOCK OF ANNISTOWN ROAD
MAP NUMBER :R6020 279
ACREAGE :1.24 ACRES
SQUARE FEET :8,000 SQUARE FEET
PROPOSAL :CHANGE IN CONDITIONS TO ZONING
COMMISSION DISTRICT :(3) HUNTER

CASE NUMBER :**BRD2016-00004**
ZONING :C-2
LOCATION :3900-4000 BLOCKS OF ANNISTOWN ROAD
MAP NUMBERS :R6020 279 & 022A
ACREAGE :2.02 ACRES
PROPOSAL :REDUCTION IN BUFFERS FROM 75 FEET TO 20 FEET
COMMISSION DISTRICT :(3) HUNTER

FUTURE DEVELOPMENT MAP: **EXISTING/EMERGING SUBURBAN**

APPLICANT: TUNCE REALTY, LLC
374D NORTH DESHON ROAD
STONE MOUNTAIN, GA 30087

CONTACT: ANDREW KAISER PHONE: 770.349.8202

OWNER: WR OF SOUTH SNELLVILLE II, LLC
1311 CHUCK DAWLEY BOULEVARD, SUITE 102
MOUNT PLEASANT, SC 29464

DEPARTMENT RECOMMENDATION: **APPROVAL WITH CONDITIONS**

PROJECT DATA:

The applicant requests a Change-in-Conditions (CIC) on a portion of a 2.02-acre parcel assemblage and a Buffer Reduction (BRD) for the overall development of a dental office and commercial/retail facility. The properties are both zoned C-2 (General Business District), and are located on the south side of Annistown Road, west of its intersection with Centerville Highway.

The applicant requests a Change-in-Conditions of zoning of a previously approved C-2 zoned parcel (RZ-2-80), to eliminate a condition of zoning which limits the use of the property to a gift shop. Additionally, the applicant is requesting a Buffer Reduction to reduce the required buffer from 75 feet to 20 feet where adjacent to residentially zoned properties.

The applicant requests to change the condition of RZ-2-80, which currently reads as follows:

If the applicant ceases to operate the gift shop, the zoning will revert back to original zoning.

The applicant proposes to develop the site with an 8,000 square foot commercial building. A total of 48-parking spaces surrounding the proposed building are reflected on the plan. As proposed, the site would be accessed with a right-in, right-out driveway onto Annistown Road, with a second driveway accessed through a private driveway from the neighboring multi-family development leading to a signalized intersection on Annistown Road. The applicant has not indicated any architectural features or external finish materials for the proposed building. Stormwater detention facilities are not reflected on the submitted site plan.

The submitted site plan proposes to reduce the required 75-foot zoning buffer along the south (rear) and west (side) property lines (zoned RM and R-100, respectively) to 20 feet, to accommodate the proposed development of the commercial building, grading, driveways and paved parking.

ZONING HISTORY:

In 1970, the subject properties were zoned RA-200 (Agriculture-Residence District). A 0.77-acre portion of the property was zoned C-2 (General Business District) in 1973, pursuant to an area-wide rezoning. In 1973, the remaining 1.24-acre portion of the property was zoned RM (Multi-Family Residence District), pursuant to an area-wide rezoning. The 1.24-acre portion of the site has been zoned C-2 since 1980, pursuant to RZ-2-80.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

OPEN SPACE AND GREENWAY MASTER PLAN:

No comment.

DEVELOPMENT REVIEW SECTION COMMENTS:

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires a ten-foot wide landscape strip adjacent to all street rights-of-way for non-residential developments.

The Buffer, Landscape and Tree Protection Section of the Unified Development Ordinance (Chapter 620) requires submittal and approval of a Tree Preservation and Replacement Plan prepared by a professional landscape architect prior to securing a Land Disturbance or Development permit.

Section 610-20.3 of the Unified Development Ordinance requires screening of dumpsters and loading/unloading facilities.

Parking lots and interior driveways shall be designed in accordance with Chapter 240 of the Unified Development Ordinance.

Section 900-30 of the Unified Development Ordinance requires a 200-foot deceleration lane with a 50-foot taper at each project entrance that proposes access to a Minor Collection Street or Major Thoroughfare. Right-of-way dedication to accommodate the deceleration lane and an 11-foot shoulder is also required. Reduction in length of a deceleration lane requires approval of a Modification by the Development Division; elimination of a deceleration lane requires approval of a Waiver by the Board of Commissioners.

Section 900-90 of the Unified Development Ordinance requires construction of five-foot wide sidewalks along all exterior roadways adjoining the project, and four-foot wide sidewalks adjacent to both sides of all interior public streets (excluding cul-de-sac turnarounds).

Section 610-20.4B of the Unified Development Ordinance requires an additional five-foot setback for all structures (parking lots, driveways, detention ponds, retaining walls, etc.) adjacent to required buffers.

Section 320-20.2 of the Unified Development Ordinance requires submittal of a Specimen Tree Concept Plan and Tree Survey prior to submittal and acceptance of a Development Permit Application.

The developer must submit detailed site development plans, including a landscape and tree preservation/replacement plan, for review and approval of the Development Division prior to any construction.

Section 800-20 of the Unified Development Ordinance requires submittal of a Storm Water Management Report for the project prior to obtaining a Land Disturbance or Development Permit.

Section 700-40.1B of the Unified Development Ordinance requires that the lowest floor including the basement, of all non-residential building be constructed at an elevation of at least one foot above the 100-year floodplain.

This project lies within an Activity Center/Corridor Overlay District, and is subject to all requirements set forth in Chapter 220 of the Unified Development Ordinance.

STORMWATER REVIEW SECTION COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Annistown Road is a Major Arterial and 50 feet of right-of-way is required from the centerline, with 60 feet required within 500 feet of a major intersection.

Commercial entrances shall be provided to the site per current development regulations.

Standard deceleration lane with appropriate taper and adequate right-of-way will be required.

Prior to the issuance of a Development Permit, a sight distance certification shall be provided.

Minimum separation from a driveway, public road, or side street shall be provided as specified in the Gwinnett County Unified Development Ordinance.

The number and locations of driveways are subject to Gwinnett County D.O.T. approval.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 16-inch water main located on the northeastern right-of-way of Annistown Road.

Due to the uncontrollable variables, the Department of Water Resources makes no guarantees as to the minimum pressures or volumes available at a specific point within its system. Demands imposed by the proposed development may require reinforcements or extensions of existing water mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located on parcel 6-020-279.

The subject development is located within the Norris Lake service area. There are currently no connection restrictions within this service area. Treatment capacity within this area is presently available on a first come - first serve basis.

Demands imposed by the proposed development may require reinforcements or extensions of existing sewer mains. Any cost associated with such required reinforcements or extensions will be the responsibility of the development and will not be provided by this department. Developer shall provide easements for future sewer connection to all locations designated by DWR during plan review.

As-built information for this department is dependent upon outside entities to provide record drawings for the utilities. Therefore this department does not guarantee the accuracy of the information provided.

Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies and Gwinnett County's ordinances. Proceeding design, construction, inspection, and final acceptance of the required utilities, service to these utilities would then become available under the applicable utility permit rate schedules.

BUILDING CONSTRUCTION SECTION COMMENTS:

Building Plan Review has no objections under the following conditions:

1. The applicant shall submit civil site drawings to Building Plan Review for review and approval.
2. The applicant shall submit architectural, structural, mechanical, electrical and plumbing drawings for each building for review and approval by Building Plan Review.
3. Each building shall comply with the height and area limitations of Table 503 and the fire resistive and horizontal separation requirements of Table 601 and 602 of the 2012 International Building Code with Georgia state amendments based on occupancy group classification, type of construction, and location of each building from property lines and other buildings.
4. Architectural design of the proposed building shall incorporate the requirements of the Gwinnett County Unified Development Ordinance, Architectural Design Standards, Category I.
5. Upon completion of plan review approvals, the applicant shall obtain a building permit for each building and achieve satisfactory field inspections for issuance of a Certificate of Occupancy.

For assistance, you may contact this office at 678.518.6000 Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject site is a 2.02-acre parcel assemblage located along the south side of Annistown Road, just west of Centerville Highway. The applicant requests a Change-in-Conditions to eliminate a condition of zoning restricting use and a Buffer Reduction to decrease the required zoning buffer. The site is presently vacant and open, with a few scattered trees.

The 2030 Unified Plan Future Development Map indicates this site lies within an Existing/Emerging Suburban Character Area. The requested Change-in-Conditions could be supported by policies of the Unified Plan, which encourages commercial developments to be compatible with the character of existing developments in the area. However, a reduction of the required zoning buffer could be considered contrary to the policies of the 2030 Unified Plan promoting proper transitions between residential and commercial uses.

The location of the subject property along Annistown Road could be considered a transitional area separating the commercial and residential uses in the immediate area. Immediately to the west of the subject property is the R-100 (Single Family Residential District) Masonwood subdivision. To the south, is the Stone Creek on the Green Apartment multi-family development zoned RM (Multi Family Residential District). To the east, is a private drive providing access to the neighboring complex, zoned C-2 (RZ-2-80). Across the private drive, is a carwash facility zoned C-2 zoned, with an approved buffer reduction to 35 feet (BRD-03-004). Across Annistown Road are several retail establishments, which include a Walmart Supercenter as an anchor to the surrounding commercial developments in the immediate area.

In conclusion, the requested Change-in-Conditions to eliminate the condition of zoning restricting the use of the property could be consistent with the Unified Plan, and with the established development pattern in the immediate area. Additionally, the Department could support a buffer reduction along the south property line at a percentage similar to the 2003 approval for the neighboring property. Furthermore, the Department suggests maintaining the full required 75-foot zoning buffer adjacent to the Masonwood subdivision with enhanced landscaping providing a more effective visual screen than the graded and replanted buffer proposed by the applicant. Therefore, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS** of this request.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

RZ-2-80 Conditions with:

Additions in **bold**

Deletions in ~~striketrough~~

Approval as C-2 (Change-in-Conditions) and approval of a buffer reduction subject to the following enumerated conditions:

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

~~*If the applicant ceases to operate the gift shop, the zoning will revert back to original zoning.~~

A. Retail, service-commercial, office and accessory uses. The following uses shall be prohibited:

- **adult bookstores or entertainment**
- **automotive parts stores**
- **contractors offices**
- **emissions inspection stations**
- **equipment rental**
- **extended stay hotels or motels**
- **recovered materials processing facilities**
- **smoke shops/novelty stores**
- **tattoo parlors**
- **taxidermists**
- **yard trimmings composting facilities**

B. Buildings shall be of a brick, stacked stone and/or glass finish on all sides (stucco may only be used as an accent material). Final building elevations shall be submitted for review and approval by the Director of Planning and Development.

2. To abide by the following site development considerations:

A. Provide a 75-foot wide natural undisturbed buffer adjacent to Masonwood subdivision. The buffer shall be enhanced where sparsely vegetated. The buffer shall be supplemented with a minimum six-foot high opaque wood privacy fence. Final buffer and fence plans shall be subject to review and approval of the Director of Planning and Development.

B. Provide a 35-foot wide landscaped buffer adjacent to Stonecreek on the Green Apartments. The buffer shall be supplemented with a minimum six-

foot high opaque wood privacy fence. Final buffer and fence plans shall be subject to review and approval of the Director of Planning and Development.

- C. Provide a ten-foot wide landscaped strip adjacent to all rights-of-way.**
- D. Ground signage shall be limited to monument-type sign(s), and shall be subject to review and approval by the Director of Planning & Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed ten feet in height.**
- E. Wall signage shall not exceed the requirements of the Gwinnett County Sign Ordinance, and shall only utilize neutral (non-white earth tone) background colors for the sign cabinet.**
- F. Window signage (signs displayed on the interior or exterior of the business storefront windows) shall be prohibited, except for open/closed signs or signs required by county, state or federal law. Flashing or blinking signs and exposed neon or LED signs shall be prohibited. Exposed or visible lighting strips mounted on the building or around window frames shall be prohibited.**
- G. Billboards or oversized signs shall be prohibited.**
- H. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. Yard and/or bandit signs, sign-walkers and sign-twirlers shall be prohibited.**
- I. Outdoor storage shall be prohibited.**
- J. Dumpsters shall be screened by a 100% opaque brick or stacked stone wall with an opaque metal gate enclosure. Hours of dumpster pick-up shall be limited to between 7:00 am and 7:00 pm.**
- K. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to shine directly into adjacent properties or right-of-way.**
- L. Outdoor loudspeakers shall be prohibited.**
- M. Peddlers and/or parking lot sales shall be prohibited.**

N. The property owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.

PLANNING AND DEVELOPMENT DEPARTMENT RECOMMENDATIONS
STANDARDS GOVERNING THE EXERCISE OF ZONING

SUITABILITY OF USE

The requested Change-in-Conditions for the proposed development could be suitable in light of the similar intensity of uses along the Annistown Road/Centerville Highway corridor. However, buffers should be preserved and enhanced in order to protect neighboring property from any further commercial encroachment.

ADVERSE IMPACTS

With the recommended conditions, potential impacts on adjacent and nearby properties may be reduced.

REASONABLE ECONOMIC USE AS ZONED

The subject property has a reasonable economic use as currently zoned.

IMPACT ON PUBLIC FACILITIES

An increase in utilities usage, traffic and stormwater runoff could be anticipated from this request.

CONFORMITY WITH POLICIES

The 2030 Unified Plan Future Development Map indicates that the subject property lies within an Existing / Emerging Suburban Character Area. With appropriate conditions, the proposed Change-in-Conditions and Buffer Reductions could be consistent with the Unified Plan and compatible with the existing commercial and residential uses in the area.

CONDITIONS AFFECTING ZONING

If properly conditioned, including the enhancement of the required zoning buffer and providing landscaping along Annistown Road, the request could result in an improved appearance for the site.

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

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

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

- (A) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY: Yes, the proposed use as a dental office and retail building is suitable. A big box building (Walmart) is located across Annistown Road.

- (B) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:
No

- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED: The gift shop condition/limitation enacted in 1980 is antiquated and inappropriate, and unreasonably limits the use of the subject property.

- (D) WHETHER THE PROPOSED CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:
No

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

- (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:
No known existing or changing zoning conditions which are relevant.

CIC '16 022

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JUL 01 2016

Planning & Development

LETTER OF INTENT

3966 Annistown Road, Snellville, Georgia 30039

Parcel Number R6020 279

Change in Conditions Application

Applicant has contracted to purchase the subject parcel, which comprises 1.242 acres, and the contiguous property known as 4004 Annistown Road, Snellville, Georgia 30039 (Parcel Number R6020 022A), which comprises .774 of an acre. Applicant desires to develop the combined parcels with a one story building for the operation of the dentistry practice of the Applicant's principal, Dr. Adesegun Tewogbade, and one or more retail businesses. These uses are allowable under the C-2 zoning applicable to both parcels and require no variances. The proposed building is currently planned to comprise approximately 8,000 square feet. Please see attached site plan for further information regarding the building and planned development.

3966 Annistown Road is a portion of a larger parcel which was the subject of zoning case RZ: 2-80, for which a resolution was enacted by the Gwinnett County Board of Commissioners on January 22, 1980. Such resolution approved the rezoning of the subject property from RM to C-2, but specifically for use as a gift shop and with the condition/stipulation that the property would revert back to the original RM zoning if the proposed gift shop ceased operations thereon. As stated and confirmed by the Gwinnett County Department of Planning & Development, the C-2 zoning applicable to the subject property could not, and has not, reverted back to RM, but the gift shop condition/stipulation remains in effect. This Change in Conditions Application is being filed in order to eliminate the gift shop condition/stipulation so that the subject property can be used for professional office and retail purposes to the full extent allowed by the C-2 zoning classification.

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Planning & Development

CIC '16 022

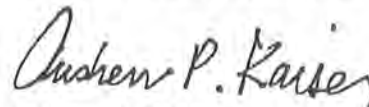
Not surprisingly, the immediate vicinity of 3966 Annistown Road and the larger neighborhood has changed materially since zoning case RZ: 2-80 was approved in 1980. Annistown Road, now a commercial corridor in the area of the subject property, has been widened over the years, and its traffic volume has increased substantially. A big box retail center occupied by a Walmart store is now located immediately across Annistown Road from the subject property. There is no longer any reasonable justification for, or legitimate purpose served by, limiting the use of the subject property to the operation of a gift shop.

In addition to the elimination of the gift shop condition/stipulation, Applicant requests allowance and approval of parking spaces in the front and on the sides of the proposed building as shown on the attached site plan.

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 regarding this letter or the Change in Conditions Application.

Respectfully submitted,

STOUT KAISER MATTESON
PEAKE & HENDRICK, LLC



Andrew P. Kaiser
Attorney for Applicant

Stout Kaiser Matteson Peake & Hendrick, LLC
1117 Perimeter Center West, Suite W400
Atlanta, Georgia 30338
akaiser@stoutkaiser.com
(770) 349-8202 (office direct)

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Planning & Development

CIC 16022

At a regular meeting of the Municipal-Gwinnett Planning and Zoning Commission held on December 6, 1979 at 9:00 A. M. in the Planning and Zoning Department, public hearing was held on the Zone Change Application for a rezoning amendment to the Gwinnett County Zoning Resolution adopted June 2, 1970 and map as amended June 9, 1970 of Henri D. Moon from present Zone RM to C-2. Proposed use is Gift Shop.

SEE ATTACHED DESCRIPTION:

Opposition was not voiced or filed on said application. Motion was made by Douglas Wilkerson and duly seconded by Carrol Higgins that the Municipal-Gwinnett Zoning and Planning Commission recommend to the Honorable Board of Gwinnett County Commissioners APPROVAL of the application. Motion was unanimously carried.

Henri D. Moon
4004 Annistown Road
Lithonia, GA 30058

Respectfully submitted,

Lewis Brinkley III

A RESOLUTION

COMMISSIONERS OF ROADS AND REVENUES
GWINNETT COUNTY, GEORGIA

WHEREAS, the Municipal-Gwinnett Planning and Zoning Commission has filed a formal recommendation with the Board of Gwinnett County Commissioners upon application of Henri D. Moon for rezoning amendment to rezone a tract of land from RM to C-2 for the proposed use of Gift Shop and

WHEREAS, Notice to the Public regarding said amendment to Zoning Map and Ordinance has been published in the Home Weekly the official news organ of Gwinnett County, and

WHEREAS, Public Hearing was held in the Office of the Board of County Commissioners on January 22, 1980 and objections were not filed.

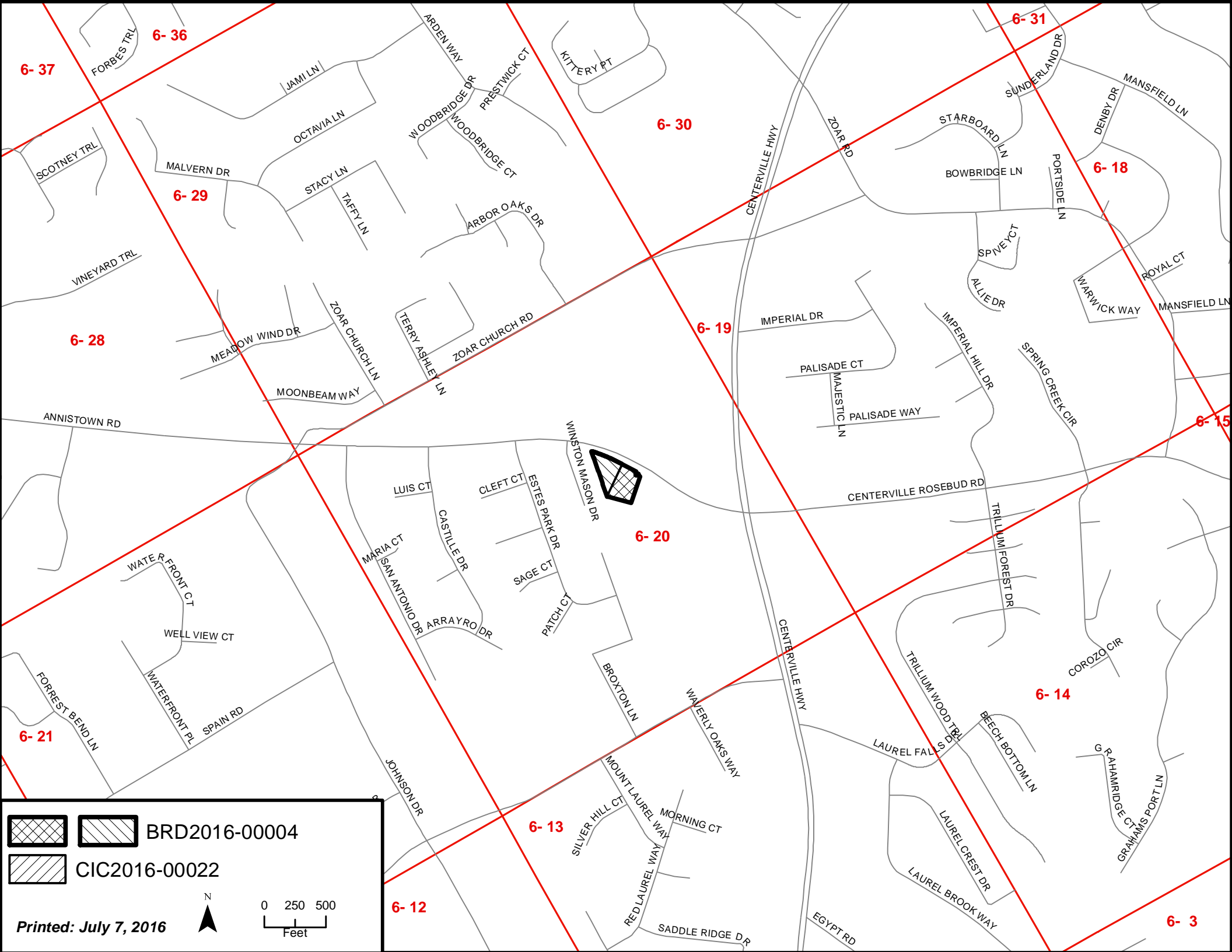
THEREFORE, BE IT RESOLVED That the Board of County Commissioners do hereby adopt *w/stip. the rezoning from RM to C-2. This is the 22nd day of January, 1980.

*If applicant ceases to operate the gift shop, the zoning will revert back to original zoning.

BOARD OF GWINNETT COUNTY COMMISSIONERS

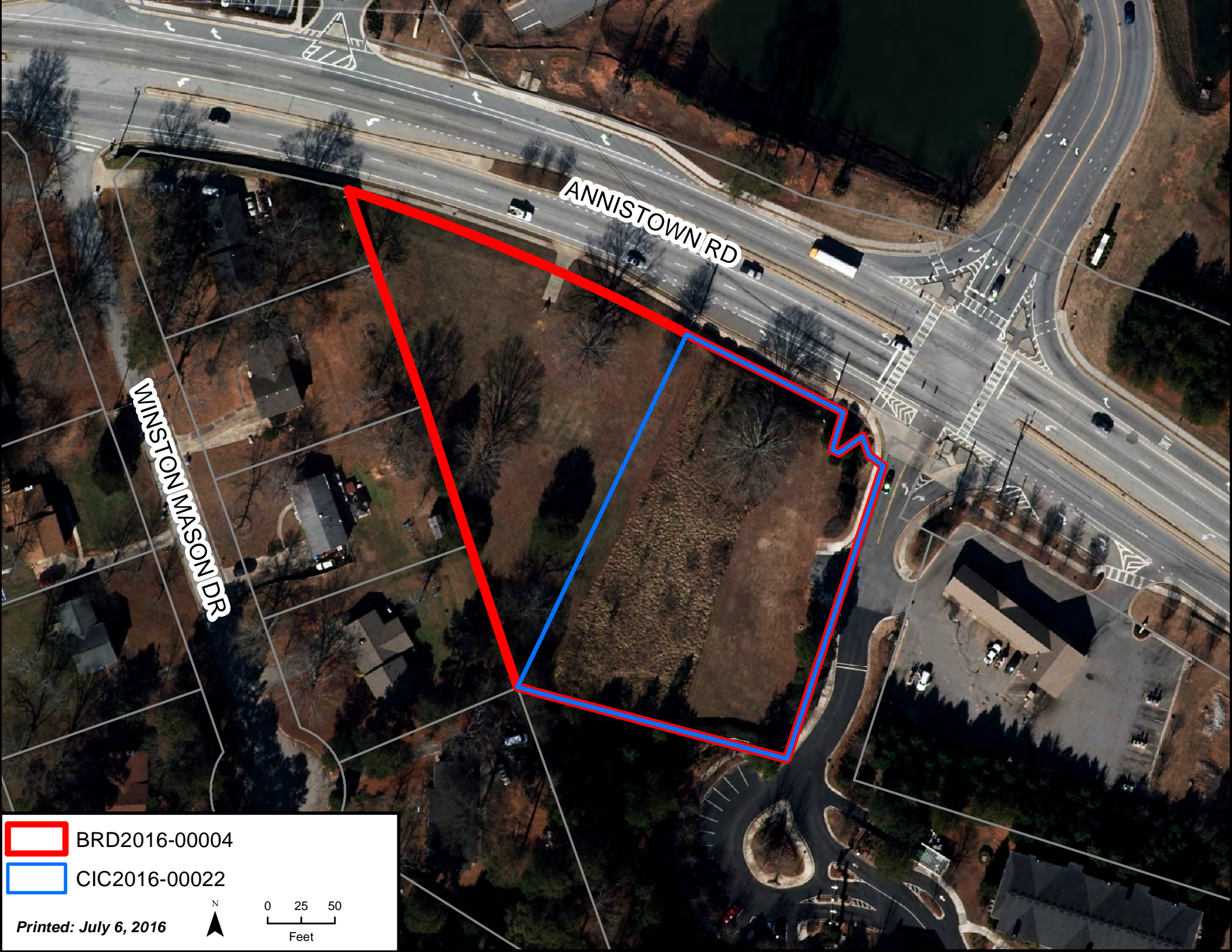
Wayne H. Mason

Wayne H. Mason, Chairman



  BRD2016-00004
 CIC2016-00022

Printed: July 7, 2016
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ANNISTOWN RD

WINSTON MASON DR

BRD2016-00004

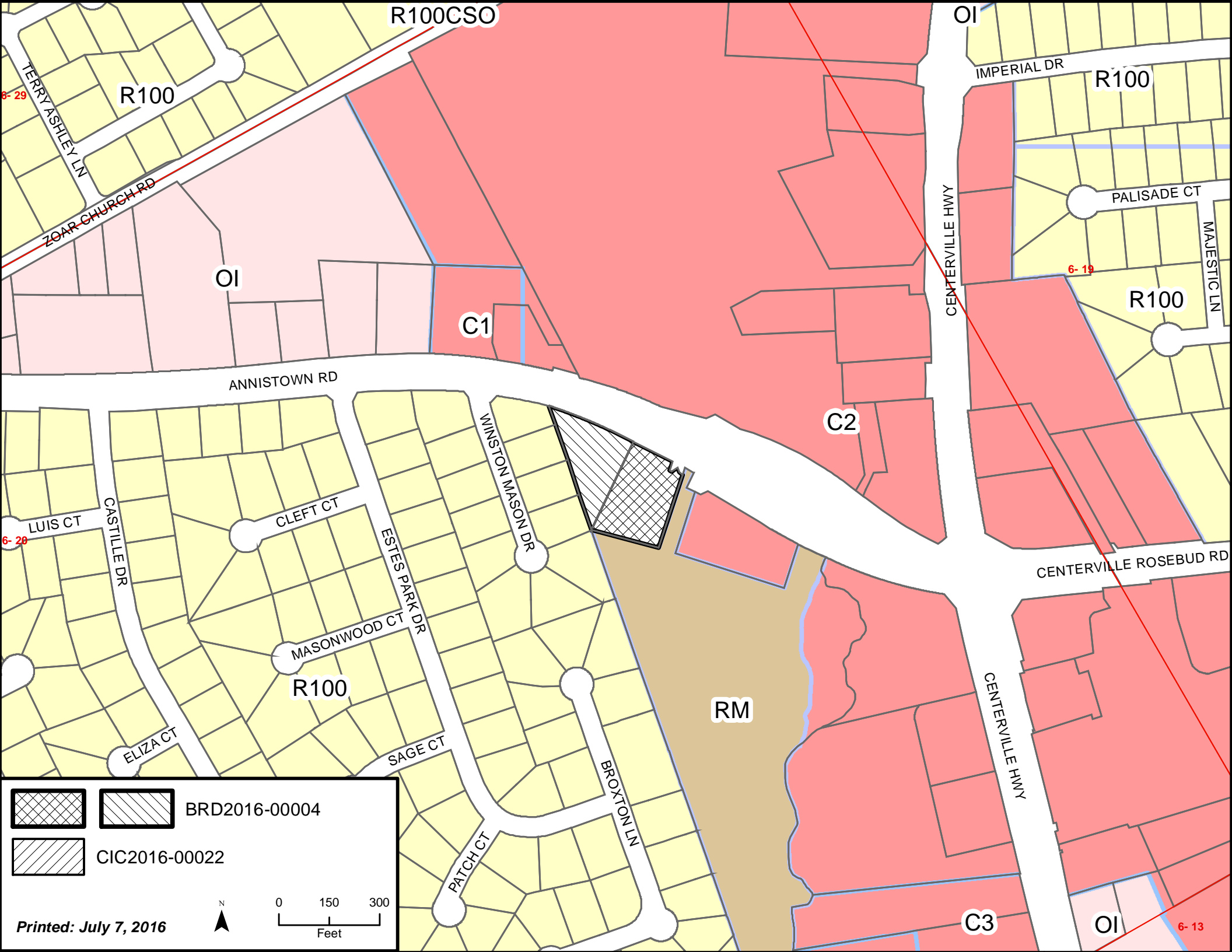
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BRD2016-00004
CIC2016-00022



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Printed: July 7, 2016

**GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
SPECIAL USE PERMIT ANALYSIS**

CASE NUMBER :**SUP2016-00051**
ZONING :C-2
LOCATION :2000 BLOCK OF BEAVER RUIN ROAD
MAP NUMBER :R6213 023
ACREAGE :1.0 ACRE
PROPOSED DEVELOPMENT :TRUCK RENTAL
COMMISSION DISTRICT :(1) BROOKS

CASE NUMBER :**SUP2016-00053**
ZONING :C-2
LOCATION :2000 BLOCK OF BEAVER RUIN ROAD
MAP NUMBER :R6213 023
ACREAGE :1.0 ACRE
PROPOSED DEVELOPMENT :LIMOUSINE SERVICE
COMMISSION DISTRICT :(1) BROOKS

FUTURE DEVELOPMENT MAP: **EXISTING / EMERGING SUBURBAN**

APPLICANT: SANDIP PATEL
2070 BEAVER RUIN ROAD
NORCROSS, GA 30071

CONTACT: JOYCE LLORENS PHONE: 770.490.8476

OWNER: RITA SHARP
5995 NELSON ROAD
LONGMONT, CO 80503

DEPARTMENT RECOMMENDATION: **DENIAL**

PROJECT DATA:

The applicant requests two Special Use Permits to allow for the rental of trucks and trailers, and to allow limousine services to operate within a small multi-tenant shopping center and gasoline convenience store. The subject site is a 1.0-acre parcel, zoned C-2 (General Business District), and located on the north side of Beaver Ruin Road, just west of its intersection with Indian Trail Road.

Staff notes that on January 21, 2016, the applicant was issued a Notice of Violation by the Quality of Life Division of the Police Department (Code Enforcement) for operating the truck rental business and limousine service without the required Special Use Permits (SUP) or Business Licenses, pursuant to CEU2016-00548.

Based upon a site inspection by staff, the applicant utilizes substantial portions of the existing parking lot to store approximately twelve trucks and trailers, and three limousines, for rent from the existing commercial/retail facility known as the Beaver Ruin Center. Aside from vehicle parking and signage for the rental activities, no changes to the site or building are proposed.

ZONING HISTORY:

In 1970, the subject property was zoned RM (Multifamily Residence District). The property was rezoned to C-2 in 1975, pursuant to RZ-50-75.

GROUNDWATER RECHARGE AREA:

The subject property is located within an identified Significant Groundwater Recharge Area. The development would be served by sanitary sewer, resulting in minimal impact.

WETLANDS INVENTORY:

The subject property does not contain areas, streams and/or bodies of water depicted as wetlands on the U.S. Department of Interior, Fish and Wildlife Service – National Wetlands Inventory map on file with the Gwinnett Department of Planning and Development.

DEVELOPMENT REVIEW SECTION COMMENTS:

No comment.

STORMWATER REVIEW SECTION COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF TRANSPORTATION COMMENTS:

Beaver Ruin Road is a State Route and Georgia D.O.T. right-of-way requirements govern.

GWINNETT COUNTY ENVIRONMENTAL HEALTH COMMENTS:

No comment.

GWINNETT COUNTY DEPARTMENT OF WATER RESOURCES COMMENTS:

The available utility records show that the subject development is currently in the vicinity of a 30-inch water main located on the northeastern right-of-way of Beaver Ruin Road.

The available utility records show that the subject development is currently in the vicinity of an eight-inch sanitary sewer main located on parcel 6-213-023.

BUILDING CONSTRUCTION SECTION COMMENTS:

No comment.

GWINNETT COUNTY FIRE SERVICES COMMENTS:

No comment.

DEPARTMENT ANALYSIS:

The subject site is a 1.0-acre parcel located on the north side of Beaver Ruin Road, just west of Indian Trail Road. The applicant proposes to utilize the parking lot to store trucks, trailers and limousines for rent from an existing convenience store and commercial facility known as the Beaver Ruin Center.

The subject property is located within an Existing and Emerging Suburban Character Area. Allowing the proposed truck, trailer and limousine rental business to operate on the subject site could be inconsistent with 2030 Unified Plan policies that discourage commercial activities such as outdoor storage of trucks or trailers that could have a negative or blighting influence on the neighborhood, create site congestion, and result in inadequate parking and site circulation.

The surrounding area is primarily a retail shopping district extending along Beaver Ruin Road in both directions, and continuing south along Indian Trail Road. Immediately to the north of the subject site is the R-75 zoned Indian Crossing subdivision. To the south, across Beaver Ruin Road and immediately to the west are commercial uses located within the city limits of Norcross. The subject property is considered relatively small for the number of trucks, trailers and limousines being proposed, and these activities may result in site congestion and a degraded appearance for the property. As such, the Department is not supportive of these requests.

Given the congested appearance of the site and the lack of adequate screening from neighboring residential properties and adjacent roadways, the requested Special Use Permits may not be an appropriate use of the subject property. Therefore the Department of Planning and Development recommends **DENIAL** of these requests. Should the Board of Commissioners approve the request, it is suggested the Board limit the number of trucks, trailers and limousines and require the applicant to provide an effective visual screen to minimize the potential adverse impact to the neighboring properties.

PLANNING AND DEVELOPMENT DEPARTMENT
RECOMMENDED CONDITIONS

Note: The following conditions are provided should the Board of Commissioners choose to approve the petition.

Approval of Special Use Permits for truck rental and limousine services, subject to the following enumerated conditions:

1. Retail, service-commercial and accessory uses which may include truck rental and limousine service as special uses.
2. Truck rental shall be limited to no more than three trucks. Rental trucks shall be no larger than 16-foot box trucks, and must be parked in the service area to the rear of the building.
3. Limousine service shall be limited to no more than two limousines. Limousines must be parked in the service area to the rear of the building.
4. Tow-behind rental trailers shall be prohibited.
5. Any new ground signage shall be limited to monument-type sign(s), and shall be subject to review and approval by the Director of Planning & Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed eight feet in height.
6. All new wall signage shall not exceed the requirements of the Gwinnett County Sign Ordinance, and shall only utilize neutral (non-white earth tone) background colors for the sign cabinet.
7. Window signage (signs displayed on the interior or exterior of the business storefront windows) shall be prohibited, except for open/closed signs or signs required by county, state or federal law. Flashing or blinking signs and exposed neon or LED signs shall be prohibited. Exposed or visible lighting strips mounted on the building or around window frames shall be prohibited.
8. Billboards or oversized signs shall be prohibited.
9. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. Yard and/or bandit signs, sign-walkers and sign-twirlers shall be prohibited.
10. Peddlers and/or parking lot sales shall be prohibited.

11. The property owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours

PLANNING AND DEVELOPMENT DEPARTMENT
STANDARDS GOVERNING EXERCISE OF ZONING

SUITABILITY OF USE

Allowing the continued use of truck rental and limousine services to operate from a small multi-tenant shopping center parking lot could be considered unsuitable in light of the potential for site congestion, inadequate parking, and degraded appearance of the property.

ADVERSE IMPACTS

Adverse impacts may be anticipated on nearby businesses and residential properties in the form of clutter and visual blight associated from large trucks, trailers and limousines being parked in a small multi-tenant shopping center.

REASONABLE ECONOMIC USE AS ZONED

The property has a reasonable economic use as currently zoned.

IMPACTS ON PUBLIC FACILITIES

Only a minor change in impacts on public facilities would be anticipated from the requests.

CONFORMITY WITH POLICIES

The leasing of rental trucks, trailers and operation of limousine services from the parking lot where they may be visible from Beaver Ruin Road and neighboring residential properties has created a visual blight, and site clutter and congestion that could be considered to be inconsistent with the recommendations of the Unified Plan.

CONDITIONS AFFECTING ZONING

The request is the result of a Code Enforcement investigation for operating the truck, trailer and limousine rental businesses without proper County approvals and licenses.

SPECIAL USE PERMIT APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENT 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 SPECIAL USE PERMIT WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes

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

No

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

Yes

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

No

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

Yes

- (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 SPECIAL USE PERMIT:

N/A

RECEIVED BY

JUN 09 2016

SUP '16 051

Gwinnett County Planning Commissioners,

I am requesting a special use permit for my business location at 2072 D Beaver Ruin Rd for the purpose of parking rental U-Haul vehicles. There would be no more than 6 to 8 vehicles parked on the property and this would not impact the surrounding property.

Thank you for your time and consideration.

Respectfully,

Sandip K. Patel

RECEIVED BY

JUN 09 2016

Planning & Development

SUP '16 051

Gwinnett County Planning Commissioners,

I am requesting a special use permit for my business location at 2070 D Beaver Ruin Rd for the purpose of parking Two to Three LIMO Cars. There would be no more than 2 to 3 cars parked on the property and this would not impact the surrounding property.

Respectfully,

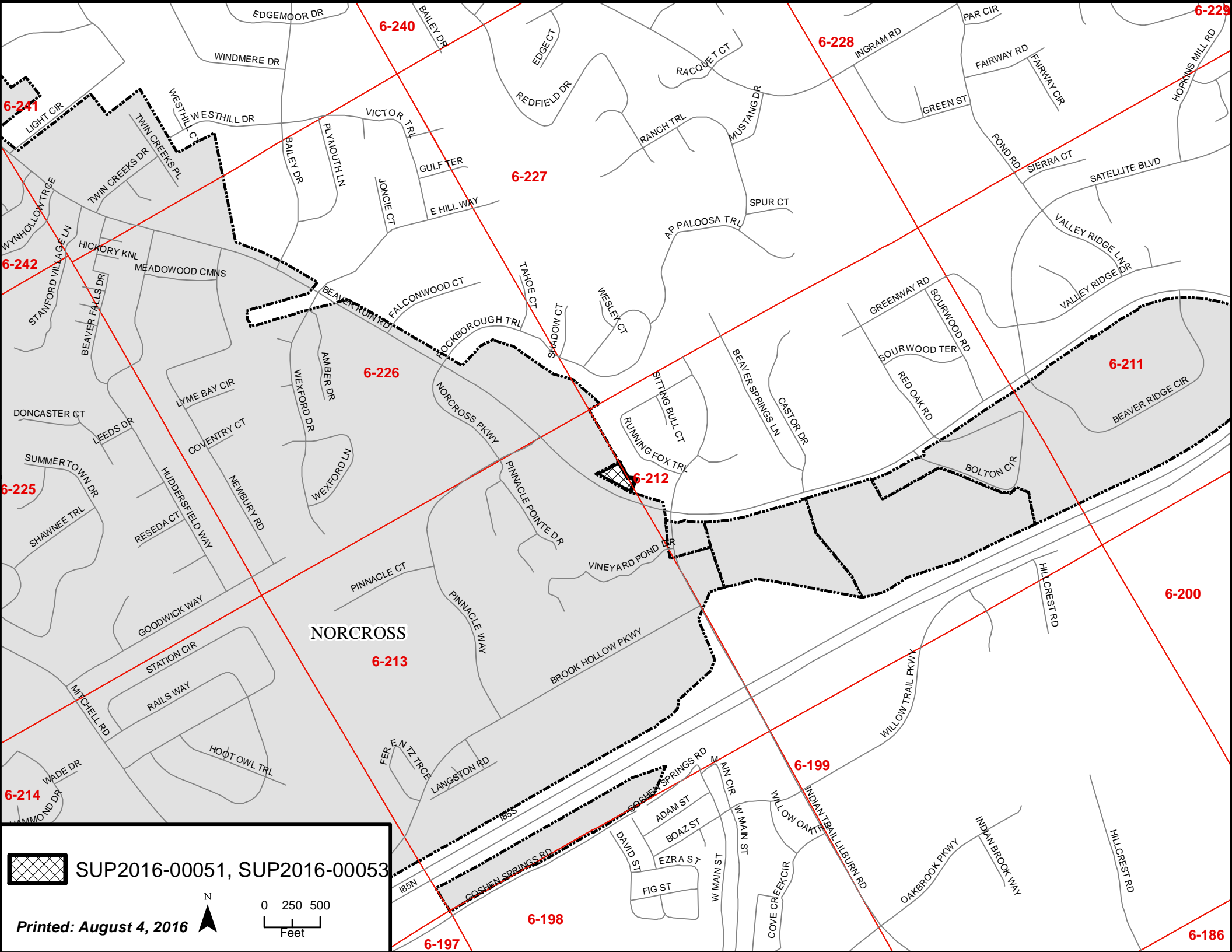
Sandip Patel


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JUL 21 2016

Planning & Development

SUP '16 053




 SUP2016-00051, SUP2016-00053



RUNNING FOX TRL


BEAVER RUIN RD



SUP2016-00051, SUP2016-00053

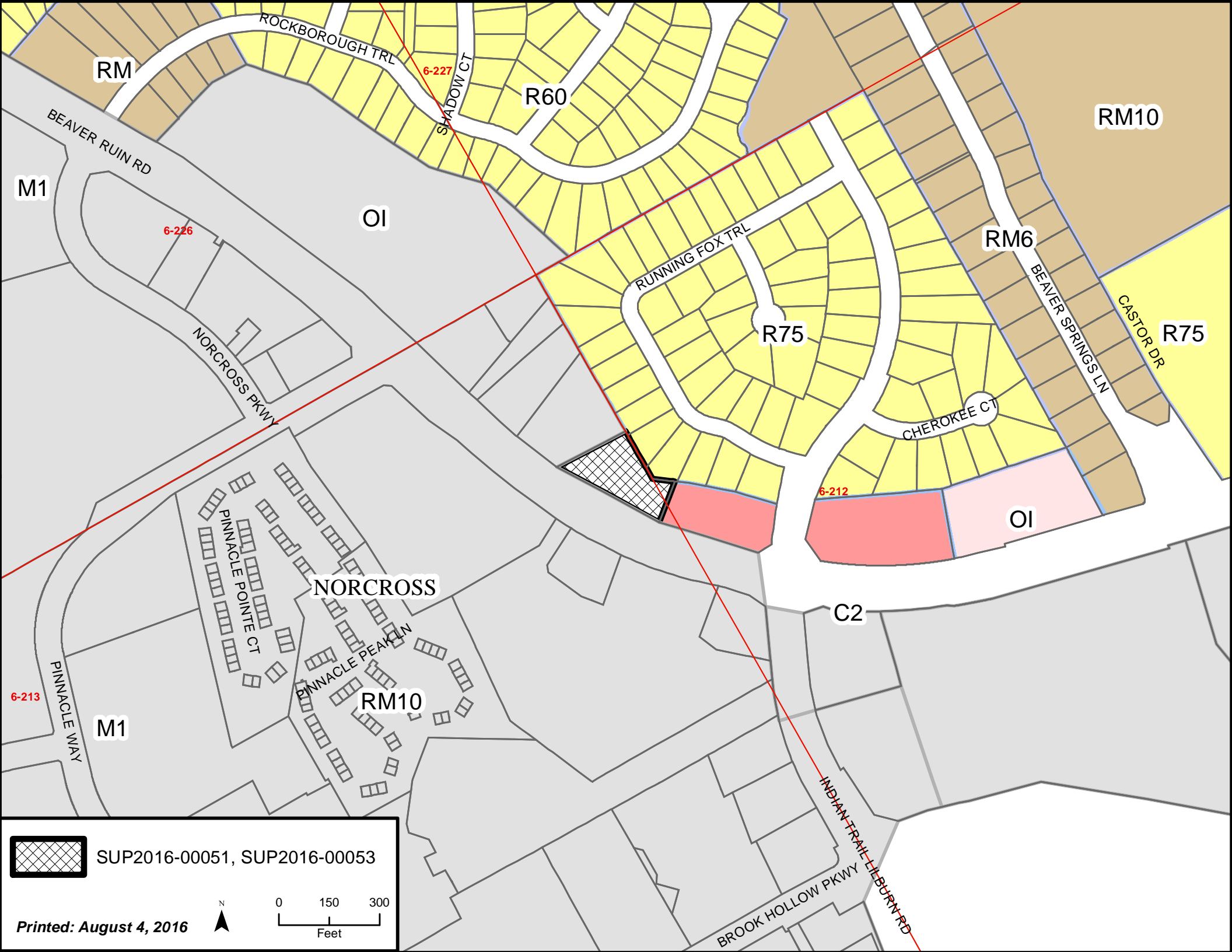
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Printed: August 4, 2016

UDOA2016-00003

UDO Amendment to Address Drop Boxes

Documentation Timeline and Background Information

MARCH- JUNE 2016

Gwinnett County Board of Commissioners Agenda Request

GCID #		Group With GCID #:		<input type="checkbox"/> Rezoning <input checked="" type="checkbox"/> Public Hearing	
20160258					
Department:		Planning & Development		Date Submitted: 02/22/2016	
Working Session:		Business Session:		Public Hearing: 03/22/2016	
Submitted By:		shchilton		Multiple Depts? No	
Budget Type:		Neither		Special Routing:	
Agenda Type		Approval/authorization		Rezoning Type Amendment	
Item of Business:				Locked by Purchasing No	
of UDOA2016-00003, an amendment to The Unified Development Ordinance of Gwinnett County, Title 1: Administration, and Title 2: Land Use and Zoning, to provide new or revised requirements for Donation Drop Boxes.					
Land Lot:		Parcel:			
District:					
Attachments		Justification Memo and Draft Ordinance			
Authorization:		Chairman's Signature?		Yes	
Department Head		ksholland (3/17/2016)			
Attorney					
District		For	Against	Abstained	Absent
District 1 (Paula Hastings)		X			
District 1 (Earl Mitchell)		X			
District 2 (Matt Houser)		X			
District 2 (Omar Zaman)		X			
District 3 (Chuck Warbington)		X			
District 3 (Jeff Tullis)		X			
District 4 (Clint Dixon)		X			
District 4 (Brad Crowe)		X			
At Large (Larry Still)		X			
Comments					


County Clerk Use Only Working Session: Action: Public Hearing Tabled: Motion: 2nd by: Vote: 	Planning and Development Recommendation: <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Approve with Conditions <input type="checkbox"/> Appr w/ Cond As <input type="checkbox"/> Deny w/out Prejudice <input type="checkbox"/> Deny PH was Held? <input type="checkbox"/> <input type="checkbox"/> No Recommendation	Planning Commission Recommendation: <input checked="" type="checkbox"/> Tabled - Date 04/13/2016 <input type="checkbox"/> Approve <input type="checkbox"/> Approve with Conditions <input type="checkbox"/> Appr w/ Cond As <input type="checkbox"/> Deny <input type="checkbox"/> Deny w/out Prejudice <input type="checkbox"/> No Recommendation
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Department of Planning and Development

446 West Crogan Street • Lawrenceville, GA 30046-2440
(tel) 678.518.6000
www.gwinnettcountry.com



To: Chairman, Charlotte J. Nash
Commissioner Jace Brooks, District 1
Commissioner Lynette Howard, District 2
Commissioner Tommy Hunter, District 3
Commissioner John Heard, District 4

From: Kathy S. Holland, Acting Department Director 

Date: February 23, 2016

Re: UDO 2016 Amendment # 3

In your agenda packets for March 22, 2016, you will find an amendment to the Unified Development Ordinance (UDO).

This amendment has been submitted to you for consideration to disallow drop boxes within unincorporated Gwinnett County which are not associated with the principal use of the property on which they are located.

A drop box permitted under the previous ordinance may remain until the permit expires after which time the drop box shall be removed within 15 days.

To allow enforcement of this amendment any drop box which is not associated with the principal use of the property are subject to impoundment, a fee of \$200 and \$20 per day thereafter, or any other remedies available to the County.

The proposed amendment containing the complete details of the changes is attached for your reference.

I am available to answer any of your questions. Thank you for your careful consideration of this item.

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: Amendment of Gwinnett County Unified Development Ordinance relative to Drop Boxes

READING AND ADOPTION: _____, 2016

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

Name	Present	Vote
Charlotte Nash, Chairman		
Jace Brooks, District 1		
Lynette Howard, District 2		
Tommy Hunter, District 3		
John Heard, District 4		

On motion of Commissioner _____, which carried _____, the Unified Development Ordinance of Gwinnett County, Title 1: Administration and Title 2: Land Use and Zoning are hereby amended related to Drop Boxes.

WHEREAS, the Unified Development Ordinance contains regulations governing zoning and land use, development and permitting, landscape requirements and architectural guidelines, as well as procedures for the administration and application of those regulations; and

WHEREAS, by careful review of the rules and requirements contained therein, it has become evident that certain Definitions, Chapters and Sections of the Unified Development Ordinance could be logically amended; and

WHEREAS, the Gwinnett County Board of Commissioners desires that the Unified Development Ordinance provide appropriate and sound regulation of land use, zoning, development and permitting; and

WHEREAS, the Unified Development Ordinance was adopted by the Gwinnett County Board of Commissioners on February 25, 2014; and

WHEREAS, the Unified Development Ordinance provides that the text, tables and drawings thereof may be amended from time to time by the Board of Commissioners following submission of certain items to the Municipal-Gwinnett Planning Commission for review and recommendation; and

WHEREAS, the Board of Commissioners finds that the following amendment to the Unified Development Ordinance promotes the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Gwinnett County;

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby amends portions of the Unified Development Ordinance relative to Drop Boxes, which such revisions are attached hereto as Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall be effective upon its adoption.

BE IT FURTHER RESOLVED that all ordinances, regulations or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
Charlotte J. Nash, Chairman

Date Signed: _____

ATTEST:

By: _____ (Seal)
Diane Kemp, County Clerk

APPROVED AS TO FORM:

By: _____
Theresa Cox, Senior Assistant County Attorney

EXHIBIT A

That Title 1, Chapter 110, Subsection 40. General Definitions, is amended by deleting the existing defined term “Donation Collection Bin” in its entirety, and inserting in lieu thereof the following:

Drop Box: Any enclosed receptacle or container made of metal, steel, or similar product and designed for the depositing and temporary storage of items including clothing, shoes, books or other similar materials.

That Title 2, Section 230-130.4(C) is hereby amended by deleting the existing subsection in its entirety, and inserting in lieu thereof the following:

C. Drop Boxes

1. Drop boxes not associated with the principal use of the property on which they are located shall be prohibited.
2. Any drop boxes located within unincorporated Gwinnett County which are not associated with the principal use of the property on which they are located shall be subject to impoundment by Gwinnett County. Any such drop boxes impounded by the county shall be released to the owner upon the payment of an impound fee of \$200.00, and a daily storage fee of \$20.00 for each day in County possession after impound.
3. Any drop box which has received a permit under the previous ordinance shall be allowed to remain in its permitted location until the permit expires. At that time, the unattended drop box shall be removed within Fifteen (15) days of the expiration of the permit.
4. Nothing in this section shall limit the remedies available to the County in seeking to enforce the provisions of this article. Each day's violation thereof shall constitute a separate offense.
5. Where it is deemed necessary by the County Administrator and the Director, the County Attorney is hereby empowered to secure injunctive relief to enforce the provisions of this Article. This shall be in addition to, and not in lieu of, the enforcement provisions found in the Unified Development Ordinance.
6. This ordinance shall become effective immediately upon its adoption (March 22, 2016).

JULY 5, 2016

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: Gwinnett County Unified Development Ordinance

READING AND ADOPTION: March 22, 2016

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

Name	Present	Vote
Charlotte Nash, Chairman		
Jace Brooks, District 1		
Lynette Howard, District 2		
Tommy Hunter, District 3		
John Heard, District 4		

On motion of Commissioner _____, which carried _____, the Unified Development Ordinance of Gwinnett County, Title 1: Administration and Title 2: Land Use and Zoning are hereby amended.

WHEREAS, the Unified Development Ordinance contains regulations governing zoning and land use, development and permitting, landscape requirements and architectural guidelines, as well as procedures for the administration and application of those regulations; and

WHEREAS, by careful review of the rules and requirements contained therein, it has become evident that certain Definitions, Chapters and Sections of the Unified Development Ordinance could be logically amended; and

WHEREAS, the Gwinnett County Board of Commissioners desires that the Unified Development Ordinance provide appropriate and sound regulation of land use, zoning, development and permitting; and

WHEREAS, the Unified Development Ordinance was adopted by the Gwinnett County Board of Commissioners on February 25, 2014; and

WHEREAS, the Unified Development Ordinance provides that the text, tables and drawings thereof may be amended from time to time by the Board of Commissioners following submission of certain items to the Municipal-Gwinnett Planning Commission for review and recommendation; and

WHEREAS, the Board of Commissioners finds that the following amendment to the Unified Development Ordinance promotes the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Gwinnett County;

NOW, THEREFORE, BE IT ORDAINED that the Unified Development Ordinance of Gwinnett County, Title 1: Administration and Title 2: Land Use and Zoning and are hereby amended as set forth in **Exhibit A** which is attached hereto.

BE IT FURTHER RESOLVED that all regulations or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
Charlotte J. Nash, Chairman

Date Signed: _____

ATTEST:

By: _____ (Seal)
Diane Kemp, County Clerk

APPROVED AS TO FORM:

By: _____
Theresa Cox, Senior Assistant County Attorney

EXHIBIT A

Definitions.

Collection Bin

An attended or unattended enclosed receptacle, trailer, or container made of metal, steel, plastic, wood, or similar material and designed or intended for the collection of unwanted clothing, shoes, textiles, books, or other household items.

Site Host, Collection Bin

All owners of the real property upon which a Collection Bin within unincorporated Gwinnett County is located and maintained.

Permitee, Collection Bin

Any person, organization, or other entity issued a permit to place and maintain a Collection Bin in unincorporated Gwinnett County.

Lawful Occupant, Collection Bin

The occupant, or their respective representative, of real property, other than the Site Host, via a lease, rental agreement, or other instrument, who has the right to control and manage the maintenance and upkeep of the real property upon which a Collection Bin within unincorporated Gwinnett County is located or maintained.

Permit required; dates of issuance, expiration.

- A. It shall be unlawful to erect, place, maintain, or operate any Collection Bin in unincorporated Gwinnett County without first obtaining a permit issued by Gwinnett County.
- B. A permit issued under this Section shall be valid for one year and renewable for one year periods thereafter.
- C. Collection Bins owned and/or operated by one person or entity for the benefit of another person or entity require the contact information for both entities on the permit application.

Fee required.

Fees for the Initial Application, Renewal Applications, and Sticker fees can be found in the Gwinnett County Department of Planning and Development's Fee Schedule.

Qualifications of Permitee and Form of Application.

In order to qualify as a Permitee under this Section, an applicant must either be (1) an organization exempt from taxes under 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of Georgia; (2) a business organization in good standing with the State of Georgia; or (3) a natural person. The application for a Collection Bin permit shall include the following information from the applicant:

- A. If the applicant claims to be a qualified nonprofit organization; (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is an organization exempt from taxation under Internal Revenue Code, 26 U.S.C. § 501(c)(3); and (2) a certificate of good standing issued by the Office of the Georgia Secretary of State. If the applicant is a business organization not exempt from taxation, a certificate of good standing issued by the Office of the Georgia Secretary of State. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- B. Name, address and telephone number of contact person of the applicant who will agree in writing to be available between the hours of 8 a.m. to 6 p.m. each day of the week to receive and respond to complaints or other inquiries regarding the permitted Collection Bin.
- C. Name, address, and telephone number of an individual who is authorized by the owner of the Collection Bin to accept service of process and to accept citations issued by the County on behalf of the applicant for violations of this Section.
- D. Written and signed consent from the Site Host and the Lawful Occupant, if applicable, to place the Collection Bin on the property, including name, address and telephone number of the Site Host and the name, address, and telephone number of the person authorized by the Site Host to accept service of process and to accept citations issued by the County on behalf of the Site Host. The name, address, and telephone number of the Lawful Occupant and the name, address, and telephone number of the person authorized by the Lawful Occupant to accept service of process and to accept citations issued by the County on behalf of the Lawful Occupant shall also be included.
- E. Permittee must provide proof to Gwinnett County of a Certificate of Liability Insurance of at least \$1 million covering the liability of the Permittee, Site Host, and Lawful Occupant, if applicable, arising out of the placement and maintenance of a Collection Bin.
- F. Permittee must provide a closed boundary survey and a site plan drawn to scale which will indicate the zoning of the property, indicate if there are zoning or overlay conditions on the proposed Site, and show the location of any and all existing bins on the Site; show, label, and dimension the proposed Bin; show the footprint of the principal building for the Site; show and label the front, rear, and side building setbacks on the site; label concrete or asphalt surfaces; label landscape and planter areas; label and dimension all buffers (if applicable); show and identify adjacent public streets and right-of-way; provide a dimension of the distance between the Collection Bin and the public right-of-way; Collection Bin must be located behind the front building setback; and any other information deemed necessary by the Director.
- G. In addition to the information listed in this Section, the application shall be made on the form provided by the Gwinnett County Department of Planning and Development
- H. Applications which are not complete when submitted shall be returned to the applicant.

Proof of Permit.

Gwinnett County shall provide the Permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place on the front of the Collection Bin that is installed on the permitted property. Gwinnett County will provide replacement stickers for (\$25.00) should the original sticker become damaged, fall off, or disappear.

Management, Maintenance; Requirements.

- A. Permittee and Site Host or Lawful Occupant must maintain the aesthetic presentation of each Collection Bin including fresh paint, readable signage, and general upkeep.
- B. Permittee must provide to the Site Host or Lawful Occupant a telephone number for requests to respond to Collection Bin maintenance complaints.
- C. Permittee and Site Host or Lawful Occupant must respond to Collection Bin maintenance complaints within 24 hours of receiving notification during regular business hours.
- D. Permittee must remove graffiti within 48 hours following receipt of notice of its existence.
- E. If a Collection Bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.
- F. Permittee and Site Host or Lawful Occupant shall not allow for any of the collected materials, trash, or other debris to be placed outside the Collection Bin.
- G. Collections bins shall have a receiving door that can be closed so that only an authorized representative of the owner may access the items deposited in the Collection Bin.

Location and Placement of Collection Bins.

- A. There shall be no more than two Collection Bins per parcel of land.
- B. Collection Bins shall be only permitted on developed property which is zoned C-1, C-2, C-3, M-1, or M-2; or on the premises of a church, school, consistent with all applicable ordinances and policies, within any zoning district. Collection Bins located on County-owned properties shall meet the requirements of this subsection.
- C. Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
- D. Collection Bins shall not be placed in the right-of-way and shall be placed no closer to any adjacent right-of-way than the front or side building plane of the principal structure located on the site.
- E. Collection Bins shall not be placed in designated parking spaces or reduce the number of parking spaces below the minimum number required by zoning codes.
- F. Collection Bins shall be placed on a concrete or asphalt surface.
- G. Collection Bins shall not be placed within any landscape strip, landscaped parking lot island, any type of buffer, or within five feet (5') of a zoning buffer.
- H. Collection Bins shall not be placed on sidewalks.
- I. Collection Bins shall not be placed within the sight triangle, as defined in The Complete Illustrated Book of Development Definitions, Fourth Edition, of any intersection and shall not interfere with on-site traffic circulation.
- J. Collection Bins located at public libraries shall meet the requirements of subsections A through I above.

Information and Label Requirement for all Bins.

Every Collection Bin shall display the following information in boldface letters at least two inches high located on the front of the Collection Bin and directly underneath the deposit door:

- (a) The name, address, telephone number, and the Internet Web Address of the Permittee, Site Host, and Lawful Occupant
- (b) Each Bin shall meet the requirements set forth by the State of Georgia as found in Title 43, Chapter 17 of the Official Code of Georgia.

Size, Appearance, and Screening of Bins.

- A. Collection Bins shall not cover a ground surface area in excess of five-feet by five-feet, nor be more than six feet in total height.
- B. Collection Bins shall be of neutral or earth tone color schemes as found in the Architectural Design Standards, Color and Finish Chart found in the Appendix of the Gwinnett County Unified Development Ordinance. High-intensity colors, metallic colors, black, or fluorescent colors shall be prohibited.
- C. Collection Bins shall be surrounded by a three-sided opaque enclosure not less than six feet in height, with an open side facing away from any public road. Collection Bin enclosures shall have a finish consistent with the finish materials of the building facade and conform substantially with the UDO Design Guidelines.

Violations and Penalties.

- A. In addition to any other penalties or remedies prescribed for ordinance violations pursuant to the Official Code of Georgia and this Unified Development Ordinance, Sections 120-60, 120-70, and 120-80, any Permittee, Site Host, or Lawful Occupant that violates any provision of this Section shall be subject to a penalty of \$250 for each violation, including the following violations:
 - 1. Unpermitted placement of a Collection Bin;
 - 2. Failure to adequately respond to maintenance request;
 - 3. Failure to maintain Collection Bins;
 - 4. Failure to adhere to Collection Bin placement and removal provisions; or
 - 5. Failure to adhere to all permit requirements.
- B. If a Permittee, Site Host, or Lawful Occupant is found to have violated the provisions of this Section and ignores mitigation on more than 3 occasions in a calendar year, the Permittee, Site Host, or Lawful Occupant shall, in addition to all penalties set forth in this Section along with those allowed by the Official Code of Georgia, be deemed ineligible to place, use, or employ a Collection Bin within the County for a period of five years, and the County may remove any or all of such Permittee's Collection Bins upon 30 days advance notice.
- C. The above penalties shall only apply to a Site Host or Lawful Occupant that has consented, in writing, to the placement of a Collection Bin on its Property.

Liability; protections.

The Site Host or Lawful Occupant will be held harmless by the Permittee for the removal of an unauthorized Collection Bin or where removal is necessary to comply with zoning ordinances.

JULY 26, 2016

Gwinnett County Board of Commissioners Agenda Request

GCID #		Group With GCID #:		<input checked="" type="checkbox"/> Rezoning <input checked="" type="checkbox"/> Public Hearing	
20160258					
Department:		Planning & Development		Date Submitted: 02/22/2016	
Working Session:				Public Hearing: 07/26/2016	
Submitted By:		shchilton		Multiple Depts? No	
Budget Type:		Neither		Special Routing:	
Agenda Type		Rezoning		Rezoning Type Amendment	
Item of Business:				Locked by Purchasing No	
<p>of UDOA2016-00003, an amendment to The Unified Development Ordinance of Gwinnett County, Title 1: Administration, and Title 2: Land Use and Zoning, to provide new or revised requirements for Donation Drop Boxes.</p>					
Land Lot:		Parcel:			
District:					
Attachments		Justification Memo and Draft Ordinance			
Authorization:		Chairman's Signature? Yes			
Department Head		ksholland (7/19/2016)			
Attorney					
District		For	Against	Abstained	Absent
District 1 (Paula Hastings)		X			
District 1 (Earl Mitchell)		X			
District 2 (Matt Houser)		X			
District 2 (Omar Zaman)		X			
District 3 (Chuck Warbington)					X
District 3 (Jeff Tullis)		X			
District 4 (Clint Dixon)		X			
District 4 (Brad Crowe)		X			
At Large (Larry Still)		X			
Comments					

<p>County Clerk Use Only</p> <p>Working Session _____</p> <p>Action Tabled</p> <p>Tabled 06/28/2016</p> <p>Motion Brooks</p> <p>2nd by Howard</p> <p>Vote 5-0; Nash-Yes; Brooks-Yes; Howard-Yes; Hunter-Yes; Heard-Yes</p>	<p>Planning and Development</p> <p>Recommendation:</p> <p><input checked="" type="checkbox"/> Approve</p> <p><input type="checkbox"/> Approve with Conditions</p> <p><input type="checkbox"/> Appr w/ Cond As _____</p> <p><input type="checkbox"/> Deny w/out Prejudice</p> <p><input type="checkbox"/> Deny PH was Held? <input type="checkbox"/></p> <p><input type="checkbox"/> No Recommendation</p>	<p>Planning Commission</p> <p>Recommendation:</p> <p><input type="checkbox"/> Tabled - Date _____</p> <p><input checked="" type="checkbox"/> Approve</p> <p><input type="checkbox"/> Approve with Conditions</p> <p><input type="checkbox"/> Appr w/ Cond As _____</p> <p><input type="checkbox"/> Deny <input type="checkbox"/> Deny w/out Prejudice</p> <p><input type="checkbox"/> No Recommendation</p>
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Department of Planning and Development

446 West Crogan Street • Lawrenceville, GA 30046-2440
(tel) 678.518.6000
www.gwinnettcountry.com



To: Chairman, Charlotte J. Nash
Commissioner Jace Brooks, District 1
Commissioner Lynette Howard, District 2
Commissioner Tommy Hunter, District 3
Commissioner John Heard, District 4

From: Kathy Holland, Department of Planning and Development

Date: July 22, 2016

Re: UDO Amendment regarding Collection Bins

In your agenda packets for July 26, 2016, you will find an amendment to the Unified Development Ordinance (UDO) for your consideration. The amendment will allow both for-profit and non-profit entities to operate collection bins within unincorporated Gwinnett County. Collection bins will be allowed in C-1, C-2, C-3, M-1, and M-2 zonings. Only two collection bins shall be allowed per parcel of land. They shall not be placed near the right-of-way, shall not be placed in designated parking spaces, shall be on asphalt or concrete surfaces, and shall not interfere with traffic circulation.

The aesthetic presentation of each collection bin shall be maintained and collected materials or debris shall not be allowed to accumulate outside each bin. Bins shall be in neutral or earth tone color schemes as set forth in the UDO.

The proposed amendment containing the complete details of the changes is attached for your reference, along with additional supporting documents.

I am available to answer any of your questions. Thank you for your careful consideration of this item.

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: An Ordinance Amending the Gwinnett County Unified Development Ordinance

READING AND ADOPTION:

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

Name	Present	Vote
Charlotte J. Nash, Chairman		
Jace Brooks, District 1		
Lynette Howard, District 2		
Tommy Hunter, District 3		
John Heard, District 4		

On motion of Commissioner _____, which carried _____, the Unified Development Ordinance of Gwinnett County, Title 2: Land Use and Zoning, is hereby amended as follows:

WHEREAS, the Unified Development Ordinance contains regulations governing zoning and land use, development and permitting, landscape requirements and architectural guidelines, as well as procedures for the administration and application of those regulations; and

WHEREAS, by careful review of the rules and requirements contained therein, it has become evident that certain Chapters and Sections of the Unified Development Ordinance could be logically amended; and

WHEREAS, the Gwinnett County Board of Commissioners desires that the Unified Development Ordinance provide appropriate and sound regulation of land use, zoning, development and permitting; and

WHEREAS, the Unified Development Ordinance was adopted by the Gwinnett County Board of Commissioners on February 25, 2014; and

WHEREAS, the Unified Development Ordinance provides that the text, tables and drawings thereof may be amended from time to time by the Board of Commissioners following submission of certain items to the Municipal-Gwinnett County Planning Commission for review and recommendation; and

WHEREAS, Gwinnett County has seen a rise in collection bins being placed on parking lots and other areas in the public view over the last five years; and

WHEREAS, Gwinnett County attempted to regulate collection bins in the Gwinnett County Unified Development Ordinance by requiring permitting based on several factors, including but not limited to requiring the owner of the property upon which the box was to be located to consent to the placement of the box, requiring that the box be placed in a certain location on said property, verifying the 501(c)(3) status of the box owner, and requiring proper maintenance of bins; and

WHEREAS, This regulation was ineffective due to the difficulty of enforcement because of the continued unauthorized placement of bins by entities who were difficult to trace and failure of owners of existing collection bins to permit them with Gwinnett County per the terms of the Ordinance; and

WHEREAS, despite these regulations, collection bins are still left on private property without the property owners' consent, and without a permit, which creates burdensome removal costs for those property owners; and

WHEREAS, Gwinnett County finds that the following problems still occur due to unattended collection bins: placement of bins on private property without permission of the property owner; illegal dumping of garbage, large furniture, and other refuse items; overflowing bins resulting from insufficient management by their respective owners; scavenging of the bins and items around them; loitering; theft; clustering of bins in areas typically reserved for parking and traffic flow; placement of bins in areas of public view creating aesthetic blight, and placement of bins in areas prohibited by Gwinnett County's ordinances; and

WHEREAS, staff of the Gwinnett County Department of Planning and Development studied the issues created by the unattended collection bin industry, especially as they impact and hinder the management of properties on which these collection bins are frequently placed, with or without permission of the property owners, in an attempt to resolve these issues; and

WHEREAS, Gwinnett County Department of Planning and Development staff met with members of the collection bin industry to discuss their business practices and collection procedures; and

WHEREAS, staff of the Gwinnett County Department of Planning and Development met with leaders of Gwinnett County's Community Improvement Districts to discuss these issues and receive input from Gwinnett County's stakeholders

with regard to the issues raised by the placement of unattended collection bins on property, with or without permission of the property owner; and

WHEREAS, members of Gwinnett County Community Districts impacted by these collection bins have provided affidavits detailing the multiple issues with these collection bins to the Gwinnett County Department of Planning and Development and the Gwinnett County Board of Commissioners, and those affidavits are hereby made a part of the record before this Board; and

WHEREAS, the staff of the Gwinnett County Department of Planning and Development has presented to the Gwinnett County Board of Commissioners via a memorandum prepared by Kathy Holland, in her official capacity as Director of the Gwinnett County Department of Planning and Development, showing that Gwinnett County is experiencing ongoing issues with these unattended collection bins, including but not limited to a failure of box owners to apply for permitting, bins being placed on properties without permission of the property owners, property owners bearing their own costs to remove these unattended collection bins from their properties, trash accumulation and dumping taking place around the bins; and

WHEREAS, Ms. Holland's memorandum also addressed issues that the collection bin industry continue to have with their unattended bins, including but not limited to having the locks on the unattended bins broken, having decoy tracking items placed in bins in case of theft, having homeless or transient individuals using the unattended bins as shelter, and, in an effort to prevent dumping, marking the trash found on private properties, such as apartment complexes, to determine if it was placed on or near the unattended collection bins at a later date; and

WHEREAS, the Gwinnett County Zoning Board of Appeals heard an Appeal of an Administrative Decision related to the Gwinnett County Department of Planning and Development's denial of permits for several collection bins on November 12, 2015, during which evidence was presented to the Board regarding the impact the collection bins have on Gwinnett County by members of the Gwinnett County Community Improvement Districts and Gwinnett County Code Enforcement, and

WHEREAS, a copy of the transcript of that November 12, 2015 hearing has been provided to this Board to illustrate the many issues surrounding the collection bins; and

WHEREAS, collection bins are attractive nuisances which tend to invite the illegal dumping and accumulation of trash; and

WHEREAS, the County successfully regulates similar structures, such as commercial dumpsters and other designated, unattended receptacles which are required to be enclosed on all sides and hidden from public view and secured, per Section 240-140, et seq. of the Gwinnett County Unified Development Ordinance; and

WHEREAS, Gwinnett County regulates private trash receptacles that are part of a county-mandated residential curbside pick-up scheme under the Gwinnett County Solid Waste Collection and Disposal Services Ordinance, which regulates, among other issues, the placement of unattended containers and the collection hours of unattended containers; and

WHEREAS, the Gwinnett County Unified Development Ordinance regulates structures that are accessory structures to the principal use of buildings, both commercial and residential; and

WHEREAS, this ordinance applies to those types of physical receptacles in the public view, which are easily accessible and tend to invite the illegal dumping of trash and other items that in turn create negative externalities such as property maintenance costs, uncleanliness, hazards, aesthetic blight, etc.; and

WHEREAS, this ordinance does not preempt or conflict with the specific requirements in UDO Section 230-120.14, which governs outside dumpsters and which may otherwise fall under the definition of “bin” under this section; and

WHEREAS, this ordinance does not apply to those establishments or businesses which are devoted to waste collection or recycling which operate on their own property and have set hours of operation and access and which secure or otherwise monitor those receptacles; and

WHEREAS, this ordinance does not affect private trash receptacles that are part of a county-mandated residential curbside garbage pick-up scheme under the Gwinnett County Solid Waste Collection and Disposal Services Ordinance; and

WHEREAS, this ordinance does not prohibit the solicitation of donations of salvageable items by means not inconsistent with this proposed ordinance, including but not limited to collection of donated items by vehicle pick-up from individual residences and collection of donated goods through bins placed inside commercial buildings; and

WHEREAS, the Board of Commissioners finds that the following amendment to the Unified Development Ordinance promotes the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Gwinnett County; and

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby amends Title I, Section 110-40 "General Definitions" of the Gwinnett County Unified Development Ordinance, by deleting the definitions set forth in Exhibit A, attached hereto and incorporated by reference, and replacing them with the additions also set forth in Exhibit A, attached hereto and by repealing the current Title 2, Section 230-130.4(C) "Donation Collection Bins" and replacing it with new Section 230-130.4(C) "Collection Bins" as set forth in Exhibit A, attached hereto and incorporated by reference.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall be effective upon adoption.

BE IT FURTHER RESOLVED that all ordinance, regulations or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
CHARLOTTE J. NASH, CHAIRMAN

DATE SIGNED: _____

ATTEST:

By: _____ (SEAL)
DIANE KEMP, COUNTY CLERK

APPROVED AS TO FORM:

By: _____
COUNTY ATTORNEY

“EXHIBIT A”

Title 1, Section 110-40 of the Gwinnett County Unified Development Ordinance entitled “General Definitions” is amended by deleting “Donation Collection Bin” and adding the following:

Collection Bin

An attended or unattended enclosed receptacle, trailer, or container made of metal, steel, plastic, wood, or similar material and designed or intended for the collection of unwanted clothing, shoes, textiles, books, or other household items.

Site Host, Collection Bin

Any owner of real property within unincorporated Gwinnett County upon which a collection bin is located and maintained.

Permitee, Collection Bin

Any person, organization, or other entity issued a permit to place and maintain a collection bin in unincorporated Gwinnett County.

Lawful Occupant, Collection Bin

The occupant, or occupant's legal representative, of real property, other than the Site Host, via a lease, rental agreement, or other instrument, who has the right to control and manage the maintenance and upkeep of the real property upon which a collection bin within unincorporated Gwinnett County is located or maintained.

Title 2, Section 230-130.3 (C) is deleted in its entirety and replaced by the following:

C. Collection Bins

I. Permit required; dates of issuance, expiration.

- a. It shall be unlawful to erect, place, maintain, or operate any collection bin in unincorporated Gwinnett County without first obtaining a permit issued by Gwinnett County.
- b. A permit issued under this Section shall be valid for one year and renewable for one year periods thereafter.
- c. Collection bins owned and/or operated by one person or entity for the benefit of permit applications for another person or entity require the contact information for both entities.

2. Fee required.

The Fee for the Initial Application and Renewal Applications shall be \$250.00. The Sticker Fee shall be \$25.00. These fees shall remain in effect unless otherwise modified by the Gwinnett County Department of Planning and Development's Fee Schedule.

3. Qualifications of Permittee and Form of Application.

In order to qualify as a Permittee under this Section, an applicant must either be (1) an organization exempt from taxes under 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of Georgia; (2) a business organization in good standing with the State of Georgia; or (3) a natural person. The application for a collection bin permit shall include the following information from the applicant:

- a. If the applicant claims to be a qualified nonprofit organization; (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is an organization exempt from taxation under Internal Revenue Code, 26 U.S.C. § 501(c)(3); and (2) a certificate of good standing issued by the Office of the Georgia Secretary of State. If the applicant is a business organization not exempt from taxation, a certificate of good standing issued by the Office of the Georgia Secretary of State. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- b. Name, address and telephone number of contact person of the applicant who will agree in writing to be available by telephone between the hours of 8 a.m. to 5 p.m. each day of the week to receive and respond to complaints or other inquiries regarding the permitted collection bin.
- c. Name, address, and telephone number of a person who is authorized by the owner of the collection bin to accept service of process and to accept citations issued by the County on behalf of the applicant for violations of this Section.
- d. Written and signed consent from the Site Host and the Lawful Occupant, if applicable, to place the collection bin on the property, including name, address and telephone number of the Site Host and the name, address, and telephone number of the person authorized by the Site Host to accept service of process and to accept citations issued by the County on behalf of the Site Host. The name, address, and telephone number of the Lawful Occupant and the name, address, and telephone number of the Person authorized by the Lawful Occupant to accept service of process and to accept citations issued by the County on behalf of the Lawful Occupant shall also be included.

- e. Permittee must provide proof to Gwinnett County of a Certificate of Liability Insurance of at least \$1 million covering the liability of the Permittee arising out of the placement and maintenance of a collection bin.
- f. Permittee must provide a closed boundary survey and a site plan drawn to scale which will indicate the zoning of the property, indicate if there are zoning or overlay conditions on the proposed Site, and show the location of any and all existing bins on the Site; show, and label the dimensions of the proposed bin; show the footprint of the principal building for the Site; show and label the front, rear, and side building setbacks on the Site; label concrete or asphalt surfaces; label landscape and planter areas; label and dimension all buffers (if applicable); show and identify adjacent public streets and rights-of-way; provide a dimension of the distance between the collection bin and the public right-of-way; and any other information deemed necessary by the Director.
- g. In addition to the information listed in this Section, the application shall be made on the form provided by the Gwinnett County Department of Planning and Development
- h. Applications which are not complete when submitted shall be returned to the applicant.

4. Proof of Permit.

Gwinnett County shall provide the Permittee with one permit Sticker for each approved permit. The permit Sticker shall be placed in a conspicuous place on the front of the collection bin that is installed on the permitted property. Gwinnett County will provide replacement Stickers for (\$25.00) should the original Sticker become damaged, fall off, or disappear.

5. Management, Maintenance; Requirements.

- a. Permittee and Site Host or Lawful Occupant must maintain the aesthetic presentation of each collection bin including fresh paint, readable signage, and general upkeep.
- b. Permittee must provide to the County and Site Host or Lawful Occupant a telephone number for requests to respond to collection bin maintenance complaints.
- c. Permittee and Site Host or Lawful Occupant must respond to complaints within 24 hours of receiving said complaint. This response may be via telephone and should include a time frame for resolving the complaint.
- d. Permittee must remove graffiti within 48 hours following receipt of telephonic notice of its existence.
- e. If a collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of telephonic notice of such condition.

- f. Permittee and Site Host or Lawful Occupant shall not allow for any of the collected materials, trash, or other debris to be placed outside the collection bin.
- g. Collection bins shall have a receiving door that can be closed so that only an authorized representative of the owner may access the items deposited in the collection bin.

6. Location and Placement of Collection Bins.

- a. There shall be no more than two collection bins per parcel of land.
- b. Collection bins shall be only permitted on developed property which is zoned C-1, C-2, C-3, M-1, or M-2; or on the premises of a church or school, consistent with all applicable ordinances and policies, within any zoning district. Collection bins located on County-owned properties shall meet the requirements of subsection 6.
- c. Collection bins shall be placed on the Site in a manner that does not impede vehicular or pedestrian traffic flow.
- d. Collection bins shall not be placed in a right-of-way and shall be placed no closer to any adjacent right-of-way than the front or side building plane of the principal structure located on the Site.
- e. Collection bins shall not be placed in designated parking spaces or reduce the number of parking spaces below the minimum number required by zoning codes.
- f. Collection bins shall be placed on a concrete or asphalt surface.
- g. Collection bins shall not be placed within any landscape strip, landscaped parking lot island, any type of buffer, or within five feet (5') of a zoning buffer.
- h. Collection bins shall not be placed on sidewalks.
- i. Collection bins shall not be placed within the sight triangle, as defined in The Complete Illustrated Book of Development Definitions, Fourth Edition, and its subsequent revisions, of any intersection and shall not interfere with on-site traffic circulation.
- j. Collection bins located at public libraries shall meet the requirements of subsections a through i above.

7. Information and Label Requirement for all Bins.

Every collection bin shall display the following information in boldface letters at least two inches high located on the front of the collection bin and directly underneath the deposit door:

- a. The name, address, telephone number, and the Internet Web Address of the Permittee.
- b. Each bin shall meet the requirements set forth by the State of Georgia as found in Title 43, Chapter 17 of the Official Code of Georgia Annotated.

8. Size, Appearance, and Screening of Bins.

- a. Collection bins shall not cover a ground surface area in excess of five feet by five feet, nor be more than seven feet in total height.
- b. Collection bins shall be of neutral or earth tone color schemes as found in the Architectural Design Standards, Color and Finish Chart found in the Appendix of the Gwinnett County Unified Development Ordinance. High-intensity colors, metallic colors, black, or fluorescent colors shall be prohibited.
- c. Collection bins shall be surrounded by a three-sided opaque enclosure not less than six feet in height, with an open side facing away from any public road. Collection bin enclosures shall have a finish consistent with the finish materials of the building facade and conform substantially with the Unified Development Ordinance Design Guidelines.

9. Violations and Penalties.

- a. In addition to any other penalties or remedies prescribed for ordinance violations pursuant to the Official Code of Georgia Annotated and this Unified Development Ordinance, Sections 120-60, 120-70, and 120-80, any Permittee, Site Host, or Lawful Occupant that violates any provision of this Section shall be subject to a penalty of \$250 for each violation, including the following violations:
 - 1. Unpermitted placement of a collection bin;
 - 2. Failure to adequately respond to maintenance request;
 - 3. Failure to maintain collection bins;
 - 4. Failure to adhere to collection bin placement and removal provisions;
 - or
 - 5. Failure to adhere to all permit requirements.
- b. If a Permittee, Site Host, or Lawful Occupant is found to have violated the provisions of this Section and ignores mitigation on more than 3 occasions in a calendar year, the Permittee, Site Host, or Lawful Occupant shall, in addition to all penalties set forth in this Section along with those allowed by the Official Code of Georgia Annotated, be deemed ineligible to place, use, or employ a collection bin within the County for a period of five years, and the County may remove any or all of such Permittee's collection bins upon 30 days advance notice.
- c. The above penalties shall only apply to a Site Host or Lawful Occupant that has consented, in writing, to the placement of a collection bin on its Property.

10. Liability; protections.


The Site Host or Lawful Occupant will be held harmless by the Permittee for the removal of an unauthorized collection bin or where removal is necessary to comply with zoning ordinances.

Department of Planning and Development

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(tel) 678.518.6000
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To: Chairman, Charlotte J. Nash
Commissioner Jace Brooks, District 1
Commissioner Lynette Howard, District 2
Commissioner Tommy Hunter, District 3
Commissioner John Heard, District 4

From: Kathy Holland, Department of Planning and Development 

Date: July 22, 2016

Re: Collection Bins in Unincorporated Gwinnett County

The regulation of collection bins (or "donation bins," as they are sometimes called) is an ongoing issue within Unincorporated Gwinnett County. The Gwinnett County Department of Planning and Development has studied this issue extensively in order to present an Ordinance to the Gwinnett County Board of Commissioners which balances the interests of the collection bin industry with the interests of the property owners in Unincorporated Gwinnett County, along with preserving the health, safety, and welfare of all Gwinnett County citizens. In order to accomplish this task, the Gwinnett County Department of Planning and Development has taken the following steps to examine this issue.

In 2015, County representatives met with representatives of the collection bin industry, at their request, to discuss their business models and the impact of the current Gwinnett County Collection Bin Ordinance on their businesses. During this meeting and discussion, the representatives shared the following information:

- Locks are routinely broken on unattended collection bins
- In order to track routine theft from these unattended collection bins, decoy items, with tracking devices installed, are placed in the collection bins
- They have marked garbage from nearby private apartment complexes, but illegal dumping of trash and other materials routinely occurs in spite of their efforts
- They attempt to police their collection bins heavily to avoid these issues, but they keep encountering them
- Homeless people have attempted to use the collection bins as temporary shelter

Department of Planning and Development

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Staff has also contacted local Community Improvement Districts and owners of local shopping center locations regarding the bins and found that:

- Since the ordinance was enacted, the number of bins has decreased, but there are still continuing issues
- Not all bin owners are applying for permits
- Bins are still being placed without property owners' permission in greenspace areas, right-of-way areas, and within parking spaces
- Dumping continues to take place around these bins, including but not limited to, mattresses, furniture, and other oversized items, along with general rubbish and trash
- Property owners continue to bear the costs of removing the unattended bins and cleaning up these areas after the bins are removed

This is an area that, despite our attempts to regulate, has continuing issues. The County does not allow any other unattended bins, receptacles, or other accessory structure without some type of regulation. Additionally, the majority of these bins are commercial, and "for profit" donations, rather than true charitable donations. The County should have the ability to regulate or permit these commercial endeavors in a manner consistent with other revenue generating businesses within the County.

Pictures of a few of these unattended donation bins are attached to this memorandum and illustrate the ongoing issues with these unattended bins. In Picture 1, you see that a large box of trash, including a Chick-Fil-A bag, has been placed beside the bin on its right. To the bin's left there are several discarded boards. In Picture 2 you see two unattended bins placed side by side. Mattresses and trash surround the bins, and a large object is placed between them. The bin shown in Picture 3 is not on an asphalt surface as required by the ordinance. Additionally, the bin also appears to be within the setback area and has been placed on a landscape strip/buffer, which is also in violation of the ordinance. In Picture 4, the bin is also not on an asphalt surface, as required by the ordinance, and also appears to be within the setback area and on a landscape strip/buffer. Picture 5 shows two bins and a tractor-trailer surrounded by mattresses, abandoned furniture, and other refuse. This picture has the same issues as Pictures 3 and 4 as the bins are not on an asphalt surface as required by the ordinance. Picture 6 shows another bin with trash located immediately to the right of it and the bin is not on an asphalt surface as required by the ordinance, is within the setback area, and is on a landscape strip/buffer. Finally, the bin in Picture 7 is placed in parking spaces, and thus interferes with parking, in violation of the ordinance.

The issues illustrated by these pictures are found throughout unincorporated Gwinnett County. Because of the information gained from our meeting with representatives from the collection bin industry, the local Community Improvement Districts, and shopping centers, which was set forth earlier in this memorandum, along with the photographic evidence attached hereto, the Department feels that the proposed ordinance revisions will allow for commercial, for-profit collection bins within Gwinnett County while still protecting the health, safety, and welfare of the citizens of Gwinnett County.

PICTURE 1



PICTURE 2



PICTURE 3



PICTURE 4

CLOTHING DROP BOX

inspire

HOMELESS OUTREACH
Giving a Hand Up!



Thank You For Your Donation!
Please call 678-298-2073
For Larger Donations
www.clothingdropbox.org

PICTURE 5

NOTHING DONATION CENTER INSPIRE HOMELESS OUTREACH

Living
and Up!
Inspiration

Food And Jobs To Atlanta's Homeless Families
Pick up or to place a collection box please call 678-298-2073



PICTURE 6



PICTURE 7

THANK YOU
FOR YOUR SUPPORT
100% Tax Deductible

THANK YOU FOR YOUR SUPPORT
100% TAX DEDUCTIBLE

THANK YOU FOR YOUR SUPPORT
100% TAX DEDUCTIBLE

D O N A T E



CLOTHING
AND SHOES
855-550-8387
FAST LOOSE FITS AND MORE
NO DUMPING

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H E R E

STATE OF GEORGIA

COUNTY OF GWINNETT

AFFIDAVIT OF GLENN WISDOM

Personally appeared before the undersigned officer duly authorized to administer oaths Glenn Wisdom, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Glenn Wisdom. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the Director of Operations for the Gwinnett Place Community Improvement District (CID). The entire district is in Gwinnett County and is bounded by Club Drive on the south, by Old Norcross Road on the north, by Satellite Boulevard on the east, and by Steve Reynolds Boulevard on the west. There are approximately 140 commercial property owners and about 250 commercial businesses in the district. As Director of Operations, my duties include supervising the day-to-day functions of the Gwinnett Place Community Improvement District. I routinely interact with staff, property owners, and members of the Gwinnett Place Community Improvement District and discuss issues with them which are relevant to the mission statement of the Gwinnett Place Community Improvement District: 1) Sustain the District as a place in which businesses flourish through coordinated planning and shared responsibility; 2) Ensure the District remains Gwinnett's most desirable business location through investments in the infrastructure and development of an enhanced transportation network; and 3) Provide an area that is competitive, secure, and attractive to businesses.

3.

I am familiar with the donation collection bins industry or sometimes referred to as the "drop box" industry. As part of my day-to-day duties with the Gwinnett Place Community Improvement District, I have interactions with property owners within the Gwinnett Place Community Improvement District and members of the Gwinnett Place Community Improvement District regarding drop boxes. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Gwinnett Place Community Improvement District.

4.

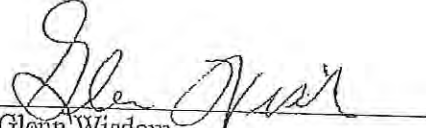
Gwinnett Place Community Improvement District property owners and businesses routinely have drop boxes placed on their properties without their permission. I have personal knowledge of these issues for the property owners in the district because, at the request of property owners or property managers, I assist the owners in arranging for removal of the drop

boxes which have been placed without permission of the property owners. Typically, a property owner contacts me about a drop box placed without permission, and asks me to contact a towing company to remove the drop box and place it in storage for retrieval by the drop box owner. I have worked with the property owners to remove upwards of 50 of these drop boxes. In every instance that I recall, the offending drop boxes were placed without permission by for profit companies, including U'SAgain, LLC and Mid-Atlantic Recycling Company. I don't recall any involving nonprofit companies. These drop boxes become places where trash, household goods, appliances, mattresses, and other debris are dumped on the ground outside the drop box with no regard to the property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of the property. Attached as Exhibits nos. 1, 2, and 3 are photographs of the Plaintiffs' drop boxes located in the Gwinnett Place Improvement District of which I have personal knowledge and which accurately show the dumping that occurs at the drop boxes and the lack of maintenance by the drop box companies.

5.

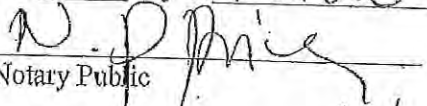
Property owners and businesses routinely expend their own time and money to clean up their premises and have these trespassing boxes removed. This is an expense of time and money that these property owners and businesses should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.

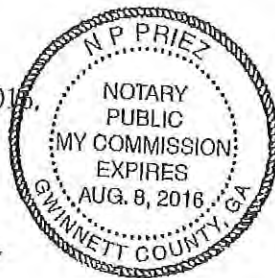

Glenn Wisdom
Director of Operations
Gwinnett Place Community Improvement District

Sworn to and subscribed before me

this 9 day of March, 2015.


Notary Public

My Commission Expires: 8/8/16





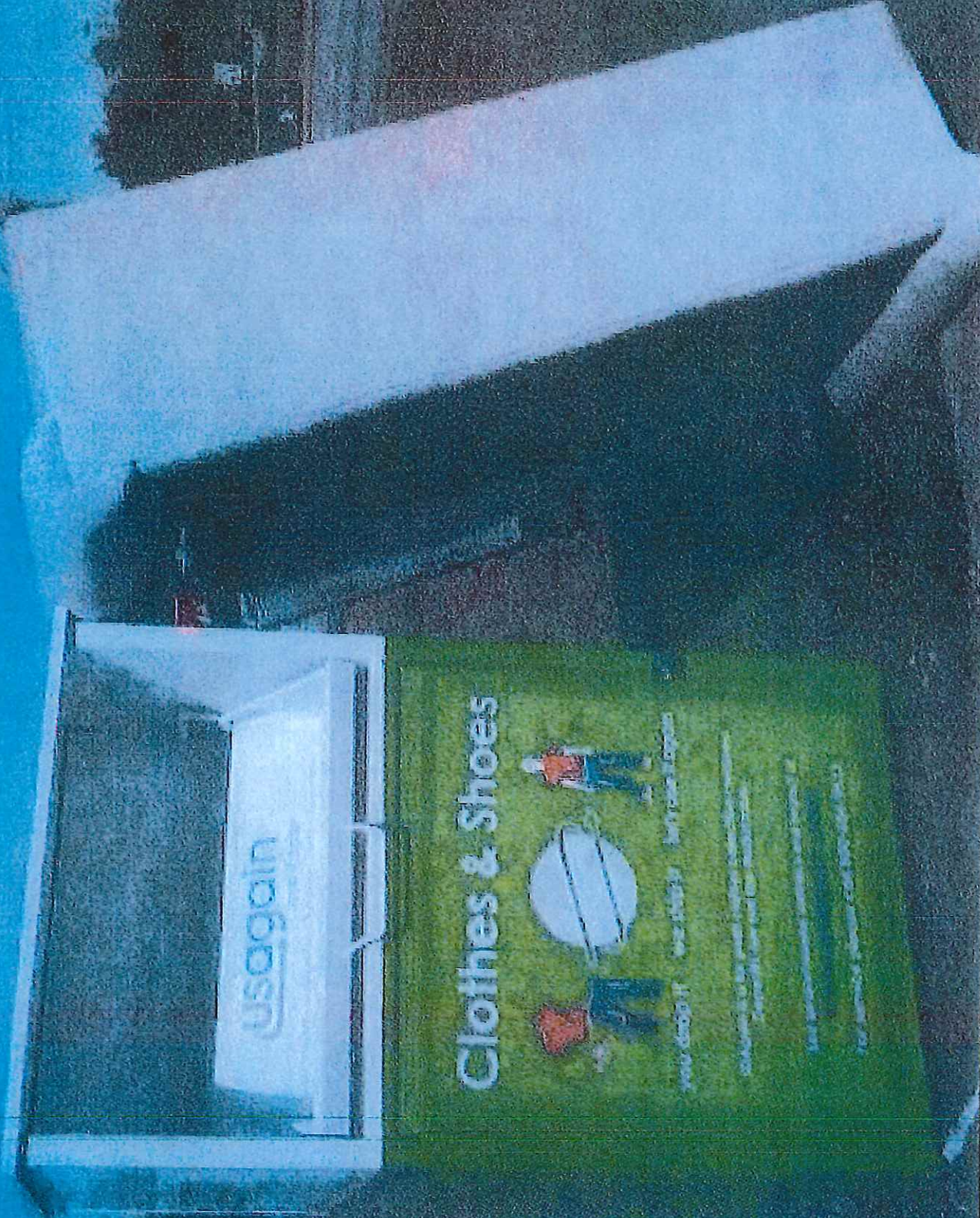
CLOTHING
DROP OFF



DEFENDANT'S
EXHIBIT

1000000

DEFENDANT'S
EXHIBIT
2



Clothes & Shoes



usagain



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF PHILLIP AHN

Personally appeared before the undersigned officer duly authorized to administer oaths Phillip Ahn, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Phillip Ahn. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am a property owner in the Gwinnett Place Community Improvement District. My property is located at 1630 Pleasant Hill Road Duluth, GA 30097.

3.

I am familiar with the "drop box" industry. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Gwinnett Place Community Improvement District.

4.

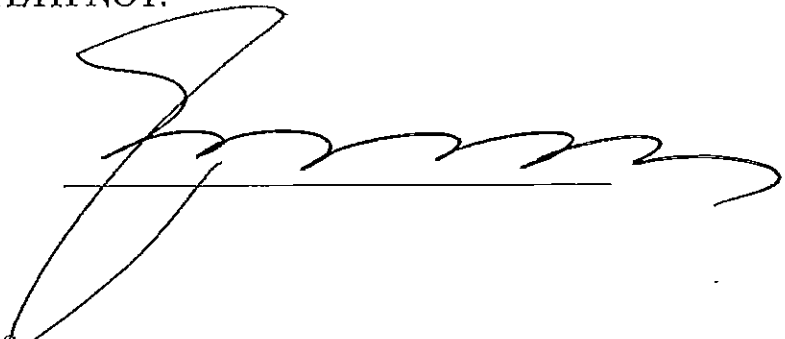
Drop boxes are placed on my property without my permission. These drop boxes become places where trash and other debris are left, with no regard to the

property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of my property.


5.

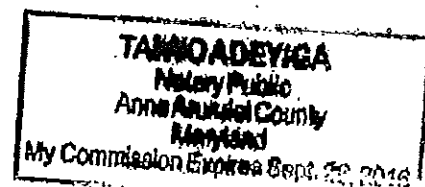
I expend my own time and money to clean up my property and have these trespassing boxes removed. This is an expense of time and money that I should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.



Sworn to and subscribed before me
this 7th day of MARCH, 2016.


Notary Public
My Commission Expires: Sept 26, 2016



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF EMORY MORSBERGER

Personally appeared before the undersigned officer duly authorized to administer oaths **Emory Morsberger**, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Emory Morsberger. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the Executive Director for the Lilburn Community Improvement District. As Executive Director, my duties include supervising the day-to-day functions of the Lilburn Community Improvement District. I routinely interact with staff, property owners, and members of the Lilburn Community Improvement District.

3.

I am familiar with the "drop box" industry. As part of my day-to-day duties with the Lilburn Community Improvement District, I have had interactions with property owners within the Lilburn Community Improvement District and

members of the Lilburn Community Improvement District regarding drop boxes. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Lilburn Community Improvement District.

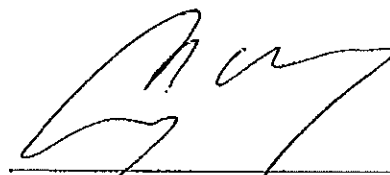
4.

Lilburn Community Improvement District property owners and businesses routinely have drop boxes placed on their properties without their permission. These drop boxes become places where trash and other debris are left, with no regard to the property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of the property.

5.

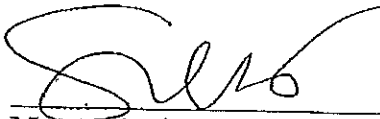
Property owners and businesses routinely expend their own time and money to clean up their premises and have these trespassing boxes removed. This is an expense of time and money that these property owners and businesses should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.



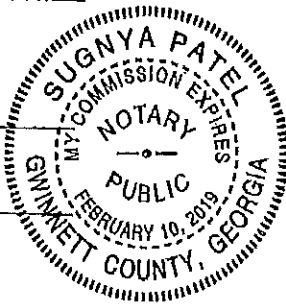
Emory Morsberger
Executive Director
Lilburn Community Improvement District

Sworn to and subscribed before me
this 1st day of March, 2016.



Notary Public

My Commission Expires: _____



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF LEO WIENER

Personally appeared before the undersigned officer duly authorized to administer oaths **Leo Wiener**, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Leo Wiener. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am a property owner in the Gwinnett Place Community Improvement District. My property is located at 2131 Pleasant Hill Road, Duluth, GA 30096 (commonly known as Mall Corners Shopping Center).

3.

I am familiar with the "drop box" industry. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Gwinnett Place Community Improvement District.


4.

Drop boxes are placed on my property without my permission. These drop boxes become places where trash and other debris are left, with no regard to the property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of my property.

5.

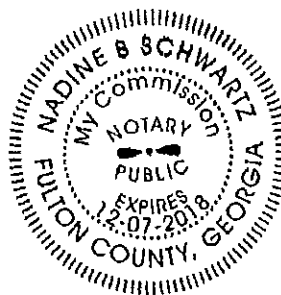
I expend my own time and money to clean up my property and have these trespassing boxes removed. This is an expense of time and money that I should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.



Sworn to and subscribed before me
this 25th day of February, 2016.

Nadine B. Schwartz
Notary Public
My Commission Expires: 12/07/2018



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF JIM BROOKS

Personally appeared before the undersigned officer duly authorized to administer oaths **Jim Brooks**, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Jim Brooks. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the Executive Director for the Evermore Community Improvement District. As Executive Director, my duties include supervising the day-to-day functions of the Evermore Community Improvement District. I routinely interact with staff, property owners, and members of the Evermore Community Improvement District.

3.

I am familiar with the "drop box" industry. As part of my day-to-day duties with the Evermore Community Improvement District, I have had interactions with property owners within the Evermore Community Improvement District and

members of the Evermore Community Improvement District regarding drop boxes. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Evermore Community Improvement District.

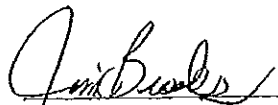
4.

Evermore Community Improvement District property owners and businesses routinely have drop boxes placed on their properties without their permission. These drop boxes become places where trash and other debris are left, with no regard to the property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of the property.

5.

Property owners and businesses routinely expend their own time and money to clean up their premises and have these trespassing boxes removed. This is an expense of time and money that these property owners and businesses should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.

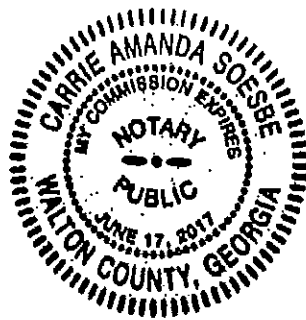


Jim Brooks
Executive Director
Evermore Community Improvement District

Sworn to and subscribed before me
this 25th day of February, 2016.

Carrie Amanda Soesbe
Notary Public

My Commission Expires: June 17, 2017



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF CHUCK WARBINGTON

Personally appeared before the undersigned officer duly authorized to administer oaths **Chuck Warbington**, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Chuck Warbington. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the Executive Director for the Gwinnett Village Community Improvement District. As Executive Director, my duties include supervising the day-to-day functions of the Gwinnett Village Community Improvement District. I routinely interact with staff, property owners, and members of the Gwinnett Village Community Improvement District.

3.

I am familiar with the "drop box" industry. As part of my day-to-day duties with the Gwinnett Village Community Improvement District, I have had interactions with property owners within the Gwinnett Village Community

Improvement District and members of the Gwinnett Village Community Improvement District regarding drop boxes. I have personal knowledge of the impact that drop boxes have on the property owners and businesses within the Gwinnett Village Community Improvement District.

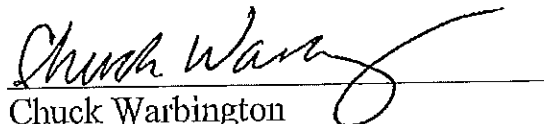
4.

Gwinnett Village Community Improvement District property owners and businesses routinely have drop boxes placed on their properties without their permission. These drop boxes become places where trash and other debris are left, with no regard to the property owners or nearby businesses. These drop boxes also result in loitering and diminish the aesthetic appeal of the property.

5.

Property owners and businesses routinely expend their own time and money to clean up their premises and have these trespassing boxes removed. This is an expense of time and money that these property owners and businesses should not have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.

A handwritten signature in cursive script, appearing to read "Chuck Warbington", written over a horizontal line.

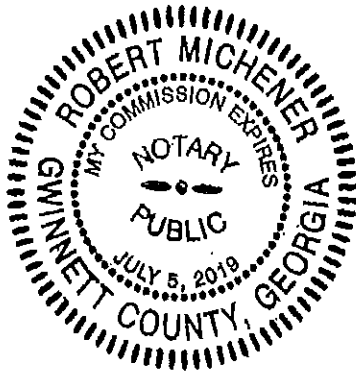
Chuck Warbington

Executive Director

Gwinnett Village Community Improvement
District

Sworn to and subscribed before me
this 23rd day of February, 2016.

Robert Michener
Notary Public
My Commission Expires: 7/5/19



STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF DEBBIE ELLINGTON

Personally appeared before the undersigned officer duly authorized to administer oaths **Debbie Ellington**, who, after being duly sworn, states under oath that she has personal knowledge that the following facts are true and correct:

1.

My name is Debbie Ellington. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the property manager for a property owner in the Gwinnett Place Community Improvement District. The property I manage is located at 1625 Pleasant Hill Road, Duluth GA 30096.

3.

I am familiar with the "drop box" industry. I have personal knowledge of the serious impact that drop boxes have on the property owners and businesses within the Gwinnett Place Community Improvement District.

4.


Drop boxes are placed on my property without my permission. These drop boxes become places where trash and other debris are left, using available parking and impacting parking ratios with potential lease driven actions, and with no regard to the property owners or nearby businesses including lease excluded activity. These drop boxes also result in loitering and diminish the aesthetic appeal of my property.

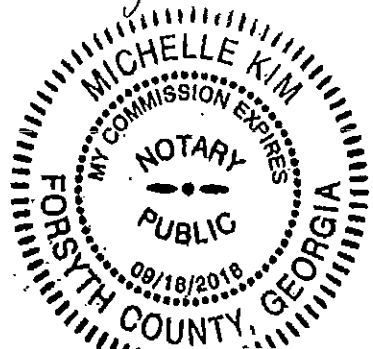
5.


I expend my own time trying to manage and remove the unauthorized bins, in addition to significant amounts of money for cleanup, removal and other mitigations. Such costs are passed to the tenants, an unwarranted negative impact, as they are included in their common area maintenance fees. This is an expense of time and money that neither the property owner nor the tenants should have to bear, as the majority of these drop boxes are not permitted and are placed without the permission of the property owner.

FURTHER AFFIANT SAYETH NOT.

Sworn to and subscribed before me
this 2nd day of MARCH, 2016.


NOTARY PUBLIC





STATE OF GEORGIA
COUNTY OF GWINNETT

AFFIDAVIT OF KEITH COLQUITT

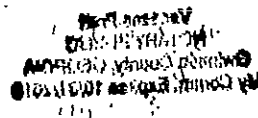
Personally appeared before the undersigned officer duly authorized to administer oaths **Keith Colquitt**, who, after being duly sworn, states under oath that he has personal knowledge that the following facts are true and correct:

1.

My name is Keith Colquitt. I am over 21 years of age, am competent to make this Affidavit, and have personal knowledge that the facts stated herein are true and correct.

2.

I am the Code Enforcement Supervisor of the Gwinnett County Police Department's Quality of Life Unit (hereinafter "Quality of Life"). My duties include supervising the day-to-day operations of the Code Enforcement Division of the Gwinnett County Police Department which includes enforcing all of Gwinnett County's Code of Ordinances, including the Gwinnett County Unified Development Ordinance. I am responsible for overseeing code complaints, supervising staff, and meeting with members of the community to code compliance.



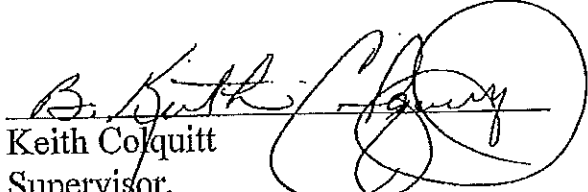
3.

In 2014, the Quality of Life began receiving complaints from property owners about "drop boxes" being left on their property without permission. Quality of Life investigated these complaints and issued citations and warnings when appropriate. Since February of 2014, Quality of Life has handled ninety (90) complaints regarding drop boxes.


4.

These complaints range from drop boxes being placed on private property without permission from the property owner, trash accumulating around the drop boxes, and unpermitted drop boxes.

FURTHER AFFIANT SAYETH NOT.


Keith Colquitt
Supervisor,

Sworn to and subscribed before me
this 10th day of March, 2016.


Notary Public
My Commission Expires: 10/31/2019

Veronica Pratt
NOTARY PUBLIC
Winndy County, GEORGIA
My Comm. Expires 10/31/2019

IN THE MATTER OF

In Re: USAgain, LLC, et al

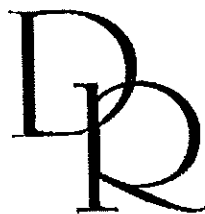
TRANSCRIPT OF

Transcript of Hearing

Volume I

On November 12, 2015

Joel P. Moyer
Certified Court Reporter



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ZONING BOARD OF APPEALS
CITY COUNCIL MEETING

In Re: USAgain, LLC
and Mid-Atlantic Clothing Recycling, LLC

- - -

Transcript of Hearing,

Reported by Joel P. Moyer,
Certified Court Reporter,

At the Gwinnett Justice &
Administration Center,
Lawrenceville, Georgia,

On Thursday, November 12, 2015,
Beginning at 11:21 a.m. & ending at 2:09 p.m.

- - -

1 APPEARANCES OF COUNSEL

2 For USAgain, LLC and Mid-Atlantic Clothing
3 Recycling, LLC:

4 G. DOUGLAS DILLARD
5 JULIE L. SELLERS
6 JILLIAN S. ARNOLD
7 Pursley Friese Torgrimson
8 Promenade, Suite 1200
9 1230 Peachtree Street, NE
10 Atlanta, GA 30309
11 404.665.1241

12 For Gwinnett County Zoning Board Of Appeals:

13 MICHAEL V. STEPHENS II
14 Gwinnett County Law Department
15 75 Langley Drive
16 Lawrenceville, GA 30046-6935
17 770.822.8700

18 For Gwinnett County:

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20 Jenkins & Bowen PC
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Jim Nash, Vice Chairman
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Alex Silva
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ALSO PRESENT:

Bryan Lackey
Cyndi Sloan
Keith Colquitt
Glenn Wisdom
Lauren Tidwell
Susan Owen

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18	(REPORTER'S NOTE: The above-referenced		
19	exhibits were retained by the County per		
	agreement and are therefore not available for		
20	inclusion in the transcript. The descriptions		
	listed above are taken from the deposition text		
21	and not from the reporter's view of the		
	exhibit.)		
22			
23	(End of Index)		
24			
25			

<p>5</p> <p>1 November 12, 2015</p> <p>2 11:21 a.m.</p> <p>3 MR. STEPHENS: Well, let me go ahead</p> <p>4 and go through a couple of things since we're</p> <p>5 not all together on the procedure.</p> <p>6 MR. KNOX: Okay. Fine.</p> <p>7 MR. STEPHENS: Just to make sure</p> <p>8 that we're all together, we've got several</p> <p>9 appeals that are to be heard. And have you</p> <p>10 guys agreed upon the order in which you want to</p> <p>11 present the appeals?</p> <p>12 MS. SELLERS: We agreed to the 30</p> <p>13 minute per side --</p> <p>14 MR. DILLARD: Per case.</p> <p>15 MS. SELLERS: -- per case. Okay.</p> <p>16 MR. STEPHENS: Okay.</p> <p>17 MS. SELLERS: That was the scope of</p> <p>18 the discussions.</p> <p>19 MR. STEPHENS: Okay. And so the</p> <p>20 first case that you're talking about would be</p> <p>21 the two USAgain cases?</p> <p>22 MR. DILLARD: Right.</p> <p>23 MR. STEPHENS: Is that the way that</p> <p>24 y'all were contemplating doing this?</p> <p>25 MR. DILLARD: That's correct.</p>	<p>6</p> <p>1 MR. STEPHENS: And then so you'd get</p> <p>2 30 minutes from each side for that. The board</p> <p>3 would make a decision. We'd move on to the</p> <p>4 Mid-Atlantic cases as a group. Is that what</p> <p>5 everybody's contemplating?</p> <p>6 MR. JENKINS: Yeah. When we say 30</p> <p>7 minutes each side, you mean for each -- 30</p> <p>8 minutes for Mid-Atlantic and 30 minutes for</p> <p>9 USAgain?</p> <p>10 MS. ARNOLD: Uh-huh (affirmative).</p> <p>11 MR. JENKINS: Okay.</p> <p>12 MR. DILLARD: You're the ones with</p> <p>13 the evidence. I mean, we --</p> <p>14 MR. JENKINS: That's fine.</p> <p>15 MR. DILLARD: Both sides are</p> <p>16 arguing. I felt like we could get it done 30</p> <p>17 minutes a case.</p> <p>18 MR. JENKINS: Yeah.</p> <p>19 MR. DILLARD: But I don't know what</p> <p>20 you got in mind for evidence.</p> <p>21 MR. JENKINS: Well, it would be --</p> <p>22 the evidence will be very short, so I can</p> <p>23 manage the 30 minutes for Mid-Atlantic and --</p> <p>24 actually, it's going to be, just do it</p> <p>25 altogether.</p>
<p>7</p> <p>1 MR. DILLARD: Yeah. Okay.</p> <p>2 MR. STEPHENS: And the way -- is it</p> <p>3 agreeable with everybody that the appellants</p> <p>4 would go first in the procedure, let the</p> <p>5 appellants have a chance to give an opening</p> <p>6 statement, let Frank have a chance to do the</p> <p>7 same, then the appellants would present</p> <p>8 whatever evidence, arguments they have, Frank</p> <p>9 would do the same, close that, and have a</p> <p>10 decision by the board or have some type of</p> <p>11 action by the board, then move on to the</p> <p>12 Mid-Atlantic case? Is that --</p> <p>13 MR. DILLARD: Yeah. I think we want</p> <p>14 rebuttal.</p> <p>15 MR. STEPHENS: Sure.</p> <p>16 MR. DILLARD: I think we would want</p> <p>17 rebuttal. We want the right to close under</p> <p>18 each case.</p> <p>19 MR. STEPHENS: Right. And we've got</p> <p>20 that provided for you as well.</p> <p>21 MR. KNOX: Okay. The question that</p> <p>22 I have is that, if we close the public hearing</p> <p>23 and vote, now we're going to do that twice?</p> <p>24 MR. STEPHENS: I think so, since</p> <p>25 we --</p>	<p>8</p> <p>1 MR. KNOX: Okay. Is that agreed?</p> <p>2 MR. DILLARD: Yeah.</p> <p>3 MR. KNOX: Okay. We'll do it twice?</p> <p>4 MR. DILLARD: There will be two</p> <p>5 records.</p> <p>6 MR. LACKEY: Van, it's not a public</p> <p>7 hearing.</p> <p>8 MR. KNOX: Okay.</p> <p>9 MR. DILLARD: Fine to me.</p> <p>10 MR. LACKEY: Van needs to know that.</p> <p>11 It's not a public hearing.</p> <p>12 MR. STEPHENS: This is just the --</p> <p>13 this is the appeal procedure.</p> <p>14 MR. KNOX: Yeah, yeah.</p> <p>15 MR. LACKEY: You referenced public</p> <p>16 hearing. I just want to make sure that --</p> <p>17 MR. KNOX: True. What I want to do</p> <p>18 though is close it.</p> <p>19 MR. LACKEY: Sure, sure, I</p> <p>20 understand.</p> <p>21 MR. KNOX: And then discuss it,</p> <p>22 because I don't want anybody else involved in</p> <p>23 our discussion.</p> <p>24 MR. STEPHENS: Right. Closing the</p> <p>25 evidence.</p>

<p style="text-align: right;">9</p> <p>1 MR. KNOX: The question with that</p> <p>2 though has to do, if we do it twice, then a lot</p> <p>3 of what we say will then become known, and you</p> <p>4 can comment on it, and so I think it needs</p> <p>5 some commonality.</p> <p>6 MR. DILLARD: Well, and a lot of</p> <p>7 what we're going to do is going to be</p> <p>8 repetitive.</p> <p>9 MR. KNOX: Yes, agreed.</p> <p>10 MR. DILLARD: I mean, they're</p> <p>11 similar issues. There's a little bit of</p> <p>12 difference between Mid-Atlantic and USAgain,</p> <p>13 but --</p> <p>14 MR. THORNBERRY: Well, there's the</p> <p>15 question then what we say, what we talk about</p> <p>16 after is available for the next case? Is that</p> <p>17 correct?</p> <p>18 MR. STEPHENS: I think that actually</p> <p>19 that they will wind up being two different</p> <p>20 cases, and they're different issues that are</p> <p>21 involved in each one of them, so there may be a</p> <p>22 chance to repeat a few things, but the issues</p> <p>23 in the cases will be different.</p> <p>24 MR. THORNBERRY: I guess what I'm</p> <p>25 saying is, are we closing and then we're going</p>	<p style="text-align: right;">10</p> <p>1 to discuss?</p> <p>2 MR. STEPHENS: Yes.</p> <p>3 MR. KNOX: Right.</p> <p>4 MR. THORNBERRY: Yeah. Is that</p> <p>5 discussion available for the next case?</p> <p>6 MR. STEPHENS: Well, they will have</p> <p>7 heard it before.</p> <p>8 MR. THORNBERRY: Yeah.</p> <p>9 MR. KNOX: So that was my point. So</p> <p>10 I want to make sure that nothing restrains us</p> <p>11 from being able to comment and have it show up</p> <p>12 again for the next one.</p> <p>13 MR. JENKINS: Why don't we just</p> <p>14 combine, just have --</p> <p>15 MR. KNOX: That's -- now you're</p> <p>16 getting there. That's what I would rather do.</p> <p>17 MR. JENKINS: Let's just combine the</p> <p>18 two together.</p> <p>19 MS. SELLERS: Well --</p> <p>20 MR. JENKINS: Use the same for both.</p> <p>21 MR. DILLARD: Well, the facts, the</p> <p>22 facts are a little different on Mid-Atlantic,</p> <p>23 primarily based on what they do with some of</p> <p>24 their collections, and that is at the heart of</p> <p>25 the issue here, is profit versus nonprofit. So</p>
<p style="text-align: right;">11</p> <p>1 the facts are a little different in</p> <p>2 Mid-Atlantic versus USAgain. So we could do</p> <p>3 them together, but we're going to need two</p> <p>4 separate decisions.</p> <p>5 MR. JENKINS: That's fine.</p> <p>6 MR. KNOX: Okay. Well, then --</p> <p>7 MR. DILLARD: Do that?</p> <p>8 MR. KNOX: How about this? What we</p> <p>9 do is we hear both, we close, and then we vote</p> <p>10 on the two at the same time with discussion,</p> <p>11 which is not open then to --</p> <p>12 MR. JENKINS: I think that's good.</p> <p>13 The evidence I'm going to present is applicable</p> <p>14 to both, so.</p> <p>15 MR. DILLARD: I guess the concern</p> <p>16 I've got is that if we wind up in superior</p> <p>17 court, I want the judge to be able to look at a</p> <p>18 clean record under each of the appeals.</p> <p>19 MR. KNOX: Understand. What I'm</p> <p>20 concerned about is that I don't want to</p> <p>21 restrain our discussions knowing that it, in</p> <p>22 effect, opens up discussions from you for the</p> <p>23 next case.</p> <p>24 MR. DILLARD: Right.</p> <p>25 MR. KNOX: If there's a lot of</p>	<p style="text-align: right;">12</p> <p>1 repetition --</p> <p>2 MR. DILLARD: I think -- and I want</p> <p>3 to be efficient in all this too.</p> <p>4 MR. KNOX: Right.</p> <p>5 MR. DILLARD: We've all got other</p> <p>6 things to do this afternoon. But as long as we</p> <p>7 can make two good, separate records to go up on</p> <p>8 in the event there is an appeal, hopefully,</p> <p>9 there won't be, but if there is an appeal, I</p> <p>10 think we just need to have two separate records</p> <p>11 for the court. And some of it, a good bit of</p> <p>12 it, will be repetitive.</p> <p>13 But the Mid-Atlantic is a little bit</p> <p>14 different than the USAgain.</p> <p>15 MR. KNOX: Right, right. I</p> <p>16 understand.</p> <p>17 MR. STEPHENS: So --</p> <p>18 MR. DILLARD: And we will -- as we</p> <p>19 argue it, we'll want to try to do that. But</p> <p>20 then we do need two separate findings of</p> <p>21 facts --</p> <p>22 MR. KNOX: Yes, yes, agreed.</p> <p>23 MR. DILLARD: -- by you and two</p> <p>24 separate decisions.</p> <p>25 MR. KNOX: Agreed.</p>

<p style="text-align: right;">13</p> <p>1 MR. DILLARD: Yeah.</p> <p>2 MR. STEPHENS: And how about this?</p> <p>3 And, of course, I'm hearing two different</p> <p>4 things here, we'll have to decide, but at least</p> <p>5 as to the board's action, whichever way we do</p> <p>6 it, if we have one presentation by each or two,</p> <p>7 we could probably have those presentations,</p> <p>8 have y'all close the evidence and the argument</p> <p>9 on those before the board takes any action.</p> <p>10 Is that all right with y'all?</p> <p>11 MR. KNOX: Yeah. I'd like both of</p> <p>12 them closed and discuss this because we are</p> <p>13 being recorded, and I don't want to restrain</p> <p>14 anything anybody would say. It's not -- just</p> <p>15 in the sake of fairness, don't want to discuss</p> <p>16 it, particularly with repetition.</p> <p>17 MR. DILLARD: And right. I don't</p> <p>18 want to -- we don't want to drag it out when</p> <p>19 it's the same issue, either.</p> <p>20 MR. KNOX: Yeah. Right.</p> <p>21 MR. DILLARD: But we do, I think,</p> <p>22 want two separate decisions.</p> <p>23 MR. STEPHENS: Sure.</p> <p>24 MR. DILLARD: I think that --</p> <p>25 MR. STEPHENS: That's fine.</p>	<p style="text-align: right;">14</p> <p>1 MR. DILLARD: That's what needs to</p> <p>2 happen for clarity for everyone. You need</p> <p>3 to -- if there is a distinction between the two</p> <p>4 cases that you find, I think you need that</p> <p>5 opportunity to do that.</p> <p>6 MR. HUGHES: That's what you're just</p> <p>7 saying.</p> <p>8 MR. DILLARD: So I don't have a</p> <p>9 problem in trying do them together. I've got</p> <p>10 two outlines that are separate that I'm going</p> <p>11 to go through that will be somewhat repetitive.</p> <p>12 But the issue is very, very important to these</p> <p>13 applicants.</p> <p>14 MR. KNOX: Right, right. I</p> <p>15 understand.</p> <p>16 MR. DILLARD: So I think that that's</p> <p>17 good.</p> <p>18 So, Van, we would have -- we would</p> <p>19 have the opening. Is Bryan going to do</p> <p>20 anything as far as the opening is concerned?</p> <p>21 We open and Frank opens, and then we put the</p> <p>22 evidence up?</p> <p>23 MR. STEPHENS: Right.</p> <p>24 MR. DILLARD: And then we close?</p> <p>25 MR. STEPHENS: Right. That's the</p>
<p style="text-align: right;">15</p> <p>1 way I --</p> <p>2 MR. DILLARD: And then we have</p> <p>3 rebuttal and closing argument.</p> <p>4 MR. STEPHENS: Yes.</p> <p>5 MR. DILLARD: Okay.</p> <p>6 MR. KNOX: Okay. So make sure that</p> <p>7 I'm fully on board then. We will deliberate</p> <p>8 one time on both sets of cases. Is that</p> <p>9 correct?</p> <p>10 MR. HUGHES: Yeah.</p> <p>11 MR. KNOX: And we will do vote on</p> <p>12 each one individually?</p> <p>13 MR. DILLARD: Yes.</p> <p>14 MR. KNOX: That's agreed?</p> <p>15 MR. JENKINS: That's agreeable.</p> <p>16 MR. DILLARD: Yeah. You good?</p> <p>17 MR. KNOX: Okay. Let the record</p> <p>18 show everyone agreed.</p> <p>19 MR. DILLARD: Good.</p> <p>20 MR. KNOX: Okay, then. The way we</p> <p>21 open then, Bryan has an opportunity. I assume</p> <p>22 Mr. Jenkins will do this in your stead, or are</p> <p>23 you going to take it?</p> <p>24 MR. LACKEY: I will briefly set it</p> <p>25 up, then we'll --</p>	<p style="text-align: right;">16</p> <p>1 MR. KNOX: Okay. Let me read from</p> <p>2 you --</p> <p>3 MR. STEPHENS: Actually, yeah.</p> <p>4 MR. THORNBERRY: Yeah. They'll</p> <p>5 start with the appellant.</p> <p>6 MR. STEPHENS: Let's do this. Let's</p> <p>7 let Bryan talk about what the application</p> <p>8 entailed and what the decision was, and then</p> <p>9 we'll start with the appellant going first as</p> <p>10 far as argument.</p> <p>11 MR. KNOX: Yeah. Well, that says,</p> <p>12 the cheat sheet is so structured, and as I read</p> <p>13 initially when you first came in. So I will</p> <p>14 reread: You have an opportunity to present a</p> <p>15 statement that addresses what the applicants</p> <p>16 for the permits requested, what decision you</p> <p>17 made in response to the request, and why you</p> <p>18 made the decision.</p> <p>19 Mr. Lackey?</p> <p>20 MR. LACKEY: All right. Thank you.</p> <p>21 MR. KNOX: The floor is yours.</p> <p>22 MR. LACKEY: I apologize for our</p> <p>23 tardiness, but we will get the ball rolling</p> <p>24 here.</p> <p>25 The first situation that we're</p>

<p style="text-align: right;">17</p> <p>1 dealing with today is an appellate 2 administrative decision on two temporary 3 accessory structure permit applications made by 4 USAgain LLC. They want to put donation bins 5 at, I think two bins at one location. Both 6 permits that were submitted were denied. 7 I think you'll find in the evidence 8 today there were multiple reasons why. I do 9 believe the main point of contention today is 10 the fact that they could not provide if they 11 were a 501(c)(3) organization, and therefore, 12 they were denied. And then they are appealing 13 the administrative decision of the director for 14 that. And then, hence, they are here today to 15 come before you to state their case. 16 And unless you have questions for 17 me, I'll be glad to turn it over to the 18 appellant. 19 MR. KNOX: Okay. You're ready to 20 proceed? 21 MR. JENKINS: You can go ahead and 22 mention Mid-Atlantic too. 23 MR. LACKEY: On the Mid-Atlantic as 24 well. I do apologize. 25 And the second set of eight cases is</p>	<p style="text-align: right;">18</p> <p>1 very similar. Mid-Atlantic Clothing filed for 2 eight temporary accessory structure permit 3 applications at various locations, and I think, 4 as will be stated in the record, all eight of 5 those were denied for one reason, which is, 6 again, that they could not demonstrate that 7 they were a 501(c)(3) organization, which is 8 required by our Unified Development Ordinance, 9 and therefore, those permits were denied. And 10 again, they have filed eight separate appeal 11 administrative decisions for those locations. 12 MR. JENKINS: Good enough. 13 MR. KNOX: Okay. Thank you. 14 Appellants? 15 MR. DILLARD: Sure. 16 MR. KNOX: Ready for an opening 17 statement. 18 MR. DILLARD: Thank you, 19 Mr. Chairman and members of the board. We 20 really appreciate you giving these issues 21 special attention. I think it's very, very 22 important, not only to our clients, but we 23 think that they're important governmental 24 issues that relate to, that go to the real 25 heart of why we have rules and regulations to</p>
<p style="text-align: right;">19</p> <p>1 live by. So we thank you for that opportunity. 2 I'm Doug Dillard with Pursley Friese 3 Torgrimson, and I have with me my lawyer 4 partner Julie Sellers and Jill Arnold. And 5 I'll just tell you these two women have done a 6 lot of work on this, so I really appreciate 7 their effort. 8 As Bryan said, this is an appeal of 9 an administrative decision. Specifically, 10 we're appealing the County's August the 13th, 11 2015, denial of USAgain's temporary structure 12 permit application. And that's in that part of 13 the UDO that requires that you get a permit for 14 a temporary structure. 15 And the reason these are temporary 16 structures is these are bins. They're not 17 permanently affixed. They're movable. The 18 client comes in and picks them up, empties 19 them, puts another one down, and that kind of 20 thing, sort of like a compactor kind of 21 situation we have. 22 We've submitted several materials 23 into the record, and I know Frank has given you 24 a good bit of it. But for the record, and we 25 want to be sure it's included, is all the</p>	<p style="text-align: right;">20</p> <p>1 appeals that we're here talking about, the 2 supplemental brief in support of our appeal, 3 which we gave to you earlier in the week. I'm 4 sorry that it sort of put you to sleep, but we 5 understand. We understand. The applications 6 and the denial letters. 7 We attached a trade association 8 model ordinance that has been approved 9 throughout the country by many states and local 10 jurisdictions. We have attached that as sort 11 of an alternative. And we've also got a 12 certified copy of the Unified Development Code. 13 Our appeal is both a challenge to 14 the denial of the permit and a facial attack on 15 the ordinance itself. The ordinance 16 distinction between nonprofit and for-profit 17 organizations is in our opinion facially 18 unconstitutional. We have set forth our legal 19 position in our briefs, although we're going to 20 discuss further in this oral argument. 21 We're here to talk about the 22 donation and recycling of clothing and other 23 textiles. USAgain's business is the recycling 24 of clothing and textiles. We think this is 25 something to be encouraged and championed and</p>

<p style="text-align: right;">21</p> <p>1 something not to be prohibited, and we will be 2 interested in hearing from the County relative 3 to why these distinctions that they make are 4 important. 5 Why would the County want to clutter 6 landfills with 350,000 pounds of clothes, which 7 is what they collected typically in one of 8 these bins on an annual basis. USAgain's 9 business is a valuable resource, we think. 10 Used clothes and textiles are being diverted 11 from the county's landfill at no cost to the 12 County. 13 So as we go forward, we respectfully 14 request that this appeal be granted, the 15 permits be issued. 16 Let me give you some of the facts 17 that we've got here. USAgain was founded in 18 1999 to divert waste from landfills by 19 providing consumers with a convenient 20 eco-friendly alternative to donating clothing 21 and other textiles. 22 As a part of its mission to divert 23 waste from the landfills -- and by the way, we 24 have handed you some additional materials which 25 gives you a picture of the typical bin and the</p>	<p style="text-align: right;">22</p> <p>1 disclaimer and all that's on it that I will 2 talk about here in a minute. 3 USAgain has been operating in 4 Georgia since 2000 and currently has over 900, 5 and this is important, it currently has over 6 970 bins in metro Atlanta. USAgain operated 7 bins in unincorporated Gwinnett County prior to 8 the UDO taking effect. So we've been here 9 before, and we're here today. There's some 10 municipalities in Gwinnett County that allow 11 the bins. 12 Individuals are able to donate used 13 clothing, shoes, and other textiles at these 14 locations by placing items in the bin. Each 15 week, USAgain recycling efforts divert 16 approximately a million pounds of textiles from 17 landfills. In Gwinnett County alone, USAgain 18 collected and diverted 354,680 pounds of 19 clothing and textiles prior to April of 2015. 20 USAgain monitors the collection of all bins and 21 schedules services before the bins reach 22 capacity to prevent any overflowing. 23 USAgain is transparent in its -- 24 that its business operates for profit. And I'm 25 going to talk about that in a little bit,</p>
<p style="text-align: right;">23</p> <p>1 probably more in closing here. But they comply 2 with it by putting specific language on their 3 bins warning people the bin -- that the bins 4 supports a for-profit business and that 5 donations are not tax deductible. 6 USAgain is a member of the Secondary 7 Materials and Recycled Textiles organization 8 called SMART. The international trade 9 organization is dedicated to promoting high 10 standards and practices in the field of used 11 and recycled textiles. As a member of SMART, 12 USAgain strictly adheres to SMART's code of 13 conduct. 14 In February of 2014, the County 15 adopted new regulations for donation collection 16 boxes. At issue here is whether the provision 17 for the -- of the UDO permitting only 501(c)(3) 18 organizations to apply for a permit -- and 19 that's important, to apply. If you're not a 20 501(c)(3) organization, you can't even apply. 21 Now, we've got denials. But, 22 technically, the way the ordinance is written 23 is, you can't even apply for a permit if you're 24 not a 501(c)(3). 25 And the code provides as follows:</p>	<p style="text-align: right;">24</p> <p>1 "Donation bins shall be clearly marked with the 2 names and telephone numbers of the sponsoring 3 organization and/or charity receiving benefit. 4 Only entities or organizations that have a tax 5 status under the 501(c)(3) of the Internal 6 Revenue Code as amended are eligible. 7 "Proof of such tax status must 8 accompany an application for a permit to 9 include a current letter of determination from 10 the Internal Revenue Service indicating a valid 11 501(c)(3) tax status." 12 And that comes from -- and I think 13 we pulled that out. That's UDO Section 14 230-130.4.C.4. I think we pulled that out for 15 you. 16 MS. SELLERS: Tab 3. 17 MR. DILLARD: Yeah, okay. 18 MS. SELLERS: Tab 3. 19 MR. DILLARD: It's attached to the 20 handout we have. 21 In May of 2015, USAgain submitted a 22 temporary accessory structure permit 23 application to Gwinnett County for the donation 24 bins. The County denied the application 25 because USAgain was a for-profit company and</p>

<p style="text-align: right;">25</p> <p>1 the ordinance requires donation bin operators 2 to be 501(c)(3) organizations. 3 Therefore, we've got four reasons, 4 and we've laid those out in our handout, as to 5 why this ordinance provision is invalid and 6 unenforceable. 7 First, the ordinance is an 8 unconstitutional restriction on free speech in 9 violation of the First Amendment to the United 10 States Constitution and the Georgia 11 Constitution. And we're pushing your 12 quasi-judicial capacity here, we realize, with 13 all these constitutional arguments, but that's 14 basically where the heart of this case is. And 15 we appreciate your indulgence on that. 16 The ordinance violates USAgain's 17 commercial speech rights. 18 Three, the ordinance violates the 19 equal protection clause in the US and Georgia 20 Constitution. 21 And, four, the local ordinance is 22 preempted by state law. And I'm going to talk 23 about state law a little bit in a few minutes 24 because the state law doesn't make the 25 distinctions that the local ordinance makes.</p>	<p style="text-align: right;">26</p> <p>1 One, the ordinance is 2 unconstitutional as a restriction on freedom of 3 speech. The First Amendment to the US 4 Constitution states that Congress shall make no 5 law respecting the establishment of religion or 6 prohibiting free exercise thereof or abridging 7 the freedom of speech or of the press or of the 8 right of the people peaceably to assemble and 9 to petition the government for a redress of 10 grievances. 11 It's the First Amendment for a 12 reason. Freedom of religion and freedom of 13 speech is at the heart of why we formed this 14 country. And this area of the law is inviolate 15 and should be protected at all costs. We're 16 part of the Bill of Rights in 1791. 17 The freedom of speech allows 18 individuals to communicate and express messages 19 without constraint by government. It's a 20 fundamental right afforded to all in the Bill 21 of Rights. It's the First Amendment for a 22 reason of its such critical importance to our 23 basic rights and freedoms as American citizens. 24 When government attempts to regulate 25 protected speech, the government, this is</p>
<p style="text-align: right;">27</p> <p>1 important, the government must provide 2 substantial justification for doing so. Else, 3 the regulation is unconstitutional and invalid. 4 And that's where we will get into this, what is 5 the difference between 501(c)(3) and a 6 for-profit, because the function is absolutely 7 the same. 8 Federal courts have held that 9 outdoor, unattended receptacle bins -- this is 10 important because I hadn't realized this till 11 we sort of got into this. The federal courts 12 have held that outdoor, unattended receptacle 13 bins which solicit donations constitute 14 protected forms of free speech. 15 Solicitation is characteristically 16 intertwined with informative and perhaps 17 persuasive speech seeking support for 18 particular causes or for particular views on 19 economic, political, or social issues. And the 20 reality is that, without solicitation, the flow 21 of such information and advocacy would likely 22 cease. The way USAgain gets its message out 23 for donations is by these donation bins stated 24 on the front of the bin. 25 We comply with the state law, and</p>	<p style="text-align: right;">28</p> <p>1 therefore, the County cannot justify its 2 regulation on the grounds that the bins are 3 misleading or confusing to the public. 4 Two, unconstitutional restrictions 5 on commercial speech. And there are different 6 types of speech that the Supreme Court has 7 identified. We're in what they call commercial 8 speech. For commercial speech to come within 9 the First Amendment, the speech must, one, 10 concern a lawful activity, and, two, not be 11 misleading or untruthful. 12 If the commercial speech is truthful 13 and not misleading, then the government, three, 14 the government must prove that its regulations 15 directly advance a substantial governmental 16 interest and, four, be no more extensive than 17 necessary to serve that interest. 18 So they can't -- they got to talk 19 about why they think it's important to make the 20 distinction. And then in regulating that 21 distinction, they can't go further than is 22 reasonably necessary to do so. And we think 23 they've gone by totally prohibiting something 24 based on the fact it's profit versus nonprofit, 25 has no protection of the public whatsoever.</p>

<p style="text-align: right;">29</p> <p>1 Safety, welfare, they don't even mention it. 2 Again, the County is unable to 3 justify the distinction between for-profit and 4 non-for-profit bin operators because the 5 regulation does not further or promote any 6 substantial governmental interest. 7 The code bans all for-profit 8 organizations from even applying to place 9 donation bins on the property within the county 10 but freely allows nonprofit organizations to 11 obtain permits to place nonprofit donation bins 12 throughout the county. 13 The same function, the collection of 14 textiles, old clothing, and the like, the 15 non-for-profit and the for-profit are doing the 16 exact same thing. Why is for-profit versus 17 nonprofit important? 18 Three, the equal protection clause 19 of the Fourteenth Amendment requires that 20 governments treat similarly situated persons in 21 a like manner. The code treats USAgain and all 22 for-profit collection bin operators and 23 organizations on less than equal terms compared 24 to charitable collection bin operators and 25 organizations.</p>	<p style="text-align: right;">30</p> <p>1 By prohibiting all for-profit 2 organizations from operating collection bins in 3 the county and the city but allowing nonprofit 4 organizations to do the same, the County 5 intentionally, intentionally on the face of the 6 ordinance, discriminates against USAgain and 7 all other for-profit organizations who are 8 necessarily prohibited from even applying for a 9 permit to operate collection bins under the 10 code. 11 Here the equal protection interest 12 of USAgain are closely intertwined with First 13 Amendment interests because the ordinance 14 prohibits for-profit entities from even 15 applying to place donation bins, protected 16 speech, within the county. And that's the 17 fundamental right that's at issue here. 18 Again, no relationship between the 19 government interest and the code provision. 20 There's no evidence to support the County's 21 purported interest in enacting this 22 legislation. Traffic safety, aesthetic 23 appearance are not in any way advanced by the 24 prohibition for for-profit donation bin 25 operators.</p>
<p style="text-align: right;">31</p> <p>1 The County has failed to present any 2 evidence. Maybe they're going to do something 3 today. I don't know. The County has failed to 4 present any evidence showing the impact 5 for-profit donation bin operators pose to 6 traffic safety, aesthetic appearance, is any 7 more harmful than the non-for-profit donation 8 bin operators. As such, the code fails 9 constitutional scrutiny and is, therefore, 10 invalid. 11 The last interest -- okay. State 12 preemption. I'm going to revisit the First 13 Amendment argument with some additional points 14 here in a minute. 15 State preemption. There's a state 16 law that talks about donation bins. No general 17 law doesn't authorize, and it doesn't authorize 18 the enactment of the kind of ordinance that 19 Gwinnett's adopted. 20 Generally speaking, when you've got 21 a state law that allows for something, it 22 doesn't give local government the authority to 23 come in and prohibit that right that's 24 otherwise given by the state constitution and 25 by the state law. It gives local governments</p>	<p style="text-align: right;">32</p> <p>1 the power to regulate it, but the state law 2 does not make a distinction between profit and 3 nonprofit here. 4 And where the state law allows it, a 5 county or city can't come in and take that 6 right away arbitrarily with no justification 7 for it. There's no substantial public purpose 8 being advanced here. And where the state law 9 allows it, a local government can't come in and 10 take it away. 11 They can further regulate it. They 12 could put hours of operation. They could put 13 zoning classifications where you got to put it. 14 They got to put how big the bins are going to 15 be. They can say how close they can be to 16 property lines and all that. 17 But they can't come in and totally 18 prohibit it. The zoning power doesn't 19 authorize the silencing or the prohibition of 20 what is otherwise guaranteed to us all as free 21 speech. And there's a conflict. You know, the 22 state law allows it and the local law fails to 23 do it. 24 The state law requires that 25 for-profit bins include specific language to</p>

<p style="text-align: right;">33</p> <p>1 let the public know that a portion of the 2 proceeds from the donation will be given to a 3 501(c)(3) organization, if that's the case. If 4 it's not, then they say there's no taxation and 5 no donation available. 6 In this particular situation, the 7 County's regulation here is a content-based 8 regulation based on free speech. Now, 9 content-based laws are those that target speech 10 based on its communicative content. 11 Content-based regulations are presumptively 12 unconstitutional. 13 Through this ordinance, the County 14 has chosen to promote speech, i.e., these 15 donation bins promoting a nonprofit message, 16 and this is important, promoting a nonprofit 17 message while prohibiting for-profit bin 18 operators from communicating a similar message 19 about recycling and donations. 20 This is unconstitutional. The 21 government is choosing which speech it will 22 allow and which it will prohibit. Local 23 governments have no power to restrict 24 expression because of its message, its ideas, 25 its subject matter, or its content.</p>	<p style="text-align: right;">34</p> <p>1 The County is also unable to justify 2 its regulation because it doesn't further or 3 promote any substantial governmental interest. 4 What's being accomplished here by making this 5 prohibition? 6 We anticipate the County will argue 7 that the regulation is meant to protect the 8 public from misinformation or that it's meant 9 to promote traffic safety or aesthetics. But 10 how is a for-profit donation bin any more 11 dangerous or any more harmful to traffic safety 12 and aesthetics than a nonprofit donation bin? 13 It's not. 14 How is a for-profit donation bin any 15 more detrimental to the aesthetic appearance of 16 the County than a non-for-profit donation bin? 17 It's not. And we've given you pictures of our 18 bins, of both Mid-Atlantic and USAgain, and I 19 think from what I've seen of Goodwill and other 20 folks, they're all about the same. 21 This donation bin is not misleading 22 or harmful to the public. State law already 23 requires that we put a message on the face of 24 the donation bin that states that the items 25 donated will not be tax deductible. We comply</p>
<p style="text-align: right;">35</p> <p>1 with the state law, and therefore, the County 2 cannot justify its regulation on the grounds 3 that the bins are misleading or confusing to 4 the public. 5 So, Mr. Chairman, that's sort of our 6 opening case. We would like to reserve some 7 time for rebuttal and close. 8 MR. KNOX: Thank you, Mr. Dillard. 9 Mr. Jenkins? 10 MR. JENKINS: Mr. Chairman, I 11 thought we were going to do both of them at the 12 same time. 13 MR. DILLARD: Well, we are. We can 14 do them all, we can do them all at the same 15 time. 16 MS. SELLERS: So you want us to do 17 Mid-Atlantic? 18 MR. DILLARD: But I don't want to do 19 Mid-Atlantic right now. You just, you respond. 20 Is the response going to be the same for both 21 of them? 22 MR. KNOX: My understanding, and let 23 me make sure that we're on the same playing 24 field, my understanding was we were going to 25 hear both cases before we deliberate it and</p>	<p style="text-align: right;">36</p> <p>1 before we open our discussion for public 2 consumption. 3 MR. DILLARD: And what I would -- 4 MR. KNOX: How you do that is 5 entirely up to you. My understanding, very 6 repetitious with some minor tweaks. Is that 7 your case as well? 8 MR. JENKINS: That's my 9 understanding. I was thinking instead of going 10 back through the constitutional argument that 11 you just make them as to both and show the 12 distinction between the two factually, and, you 13 know, we just -- 14 MR. DILLARD: Thank you, but I'm a 15 little more concerned as well. I don't want to 16 confuse the board, first of all. Secondly, I 17 think as it relates to the making of the 18 record, I think it's going to be cleaner if you 19 respond to that. 20 MR. KNOX: I agree with that. 21 MR. DILLARD: And then come back. 22 MR. KNOX: I'd rather that we go 23 ahead and finish the USAgain. I was going to 24 call it USA. 25 MR. DILLARD: Well, I want to call</p>

<p style="text-align: right;">37</p> <p>1 it, yeah, USA Again.</p> <p>2 MR. JENKINS: I thought it was US</p> <p>3 Again.</p> <p>4 MR. DILLARD: Yeah, I know.</p> <p>5 MR. KNOX: Yeah, I was sitting</p> <p>6 here trying to see exactly what is it. It's</p> <p>7 US, okay, USAgain. But any rate, I agree with</p> <p>8 you, Mr. Dillard.</p> <p>9 MR. DILLARD: Okay.</p> <p>10 MR. KNOX: I think we need to make a</p> <p>11 clean record, and then we'll go into the next</p> <p>12 one.</p> <p>13 MR. JENKINS: Okay.</p> <p>14 MR. KNOX: Mid-Atlantic.</p> <p>15 MR. JENKINS: Thank you,</p> <p>16 Mr. Chairman, and members of the Zoning Board</p> <p>17 of Appeals.</p> <p>18 (Whereupon a document was identified</p> <p>19 as Exhibit 1.)</p> <p>20 MR. JENKINS: I have, and I want to</p> <p>21 mark this as Exhibit 1, if we can, Mr. Court</p> <p>22 Reporter. Actually, we have combined for our</p> <p>23 purposes the applications and the denials for</p> <p>24 all eight Mid-Atlantic applications and both</p> <p>25 of the USAgain applications. And so I'd like</p>	<p style="text-align: right;">38</p> <p>1 to -- you've got exhibit stickers?</p> <p>2 I'll just mark this as Exhibit 1 for</p> <p>3 the record, and this will be the certified copy</p> <p>4 of all of those. Included for each one and as</p> <p>5 each application is a check list that is made a</p> <p>6 part of the record by the County for each one</p> <p>7 and also the letter denying the applications.</p> <p>8 So that will be part of Exhibit 1.</p> <p>9 And I'd like to combine both the Mid-Atlantic</p> <p>10 and the USAgain into this one exhibit, if</p> <p>11 that's not a problem.</p> <p>12 MR. DILLARD: That's no problem.</p> <p>13 (Whereupon a document was identified</p> <p>14 as Exhibit 2.)</p> <p>15 MR. JENKINS: I also have, and I</p> <p>16 will make this Exhibit 2, a certified copy of</p> <p>17 the specific ordinance from the County, adopted</p> <p>18 by the County, that regulates the donation</p> <p>19 bins. And I'll mark this Exhibit 2.</p> <p>20 Now, one of the key points,</p> <p>21 Mr. Dillard has brought this out under the</p> <p>22 ordinance, is certainly the interest of the</p> <p>23 County in regulating the use of these movable</p> <p>24 storage bins. They are, you will see from the</p> <p>25 photographs that we will submit, here's a</p>
<p style="text-align: right;">39</p> <p>1 photograph, and I'll make these part of the</p> <p>2 record too. There is a photograph of the</p> <p>3 USAgain.</p> <p>4 (Whereupon a document was identified</p> <p>5 as Exhibit 3.)</p> <p>6 MR. JENKINS: That one has a lot of</p> <p>7 stuff on the -- in the parking lot. This is a</p> <p>8 copy.</p> <p>9 We don't make any issue about what</p> <p>10 language they put on the bins or that they have</p> <p>11 violated state law in any way by virtue of the</p> <p>12 language that they put on the bins. But here</p> <p>13 are several pictures of the for-profit bins,</p> <p>14 including Mid-Atlantic and the USAgain, and we</p> <p>15 may point some of those out specifically as we</p> <p>16 go along.</p> <p>17 The County was experiencing a number</p> <p>18 of problems concerning the regulation of these</p> <p>19 bins. They're easily movable. And several</p> <p>20 things that the County was finding that was a</p> <p>21 problem is that these companies would just come</p> <p>22 in the stealth of night and plop these things</p> <p>23 down in strip malls, on parking lots, without</p> <p>24 owner's approval. And so the County was having</p> <p>25 to deal with problems of these bins being</p>	<p style="text-align: right;">40</p> <p>1 placed without proper approval from the owner.</p> <p>2 Another problem the County</p> <p>3 encountered was the maintenance of the bins.</p> <p>4 I've got, for example, this picture -- and let</p> <p>5 me, if I can, give that to you over there.</p> <p>6 MS. SELLERS: Do you have copies?</p> <p>7 MR. DILLARD: You have copies for</p> <p>8 us?</p> <p>9 MR. JENKINS: I do.</p> <p>10 MR. DILLARD: What's the number?</p> <p>11 Which exhibit?</p> <p>12 MR. JENKINS: This is 2, Exhibit 2.</p> <p>13 And we've got, for example, the second picture</p> <p>14 shows a USAgain bin in a parking lot. And you</p> <p>15 can see from that picture another problem the</p> <p>16 County was experiencing, and that is that</p> <p>17 people were driving up to these bins and</p> <p>18 dumping their things.</p> <p>19 If the bins were full or they</p> <p>20 couldn't get them in there, then they would</p> <p>21 just dump them on the side. And things such as</p> <p>22 mattresses that wouldn't fit in or couches or</p> <p>23 other things were becoming a problem for the</p> <p>24 County and the maintenance of these bins.</p> <p>25 So the County, in trying to decide</p>

<p style="text-align: right;">41</p> <p>1 how do we regulate this problem, because there 2 were many, many complaints -- and I will have a 3 code enforcement officer tell you a little bit 4 about that as well. How do we regulate these? 5 And it was believed based on 6 experience by the County that the charitable 7 bins that were placed were better maintained. 8 They obtained -- more likely to obtain the 9 permission of the property owner to put the 10 bins out, and that the for-profit bins were not 11 as well maintained and were a problem. 12 Failing to give us a proper person 13 to contact, going in in the stealth of night 14 and plopping the bins down on the property and 15 complaints from property owners about the bins 16 being placed on their property. And you will 17 hear some more evidence about that. 18 It was believed and reasonably 19 believed by the County that the charitable 20 organizations took much better care to make 21 sure they have property owner approval and to 22 make sure that they maintained them in a way, 23 whereas the experience with the for-profit was 24 such that it was believed by the County in 25 adopting the ordinance, which I have marked</p>	<p style="text-align: right;">42</p> <p>1 here, that in order to get a permit, which was 2 required under the ordinance to get a permit, 3 the applicant had to show evidence of its 4 501(c)(3) status, that is, under the Internal 5 Revenue Code, that it was a nonprofit 6 organization. 7 And Mr. Dillard is right. Without 8 that particular certification from the IRS, a 9 permit would not be granted to an applicant. 10 Now, it raises a very interesting 11 question for this board. The appellants are 12 asking this board to declare an ordinance 13 unconstitutional and, by virtue of that, then 14 to reverse the decision by the planning 15 director, Bryan Lackey, in denying these 16 applications. 17 And, of course, our first contention 18 is that there are certainly decisions to be 19 made by this board within its jurisdiction, but 20 one of those that is not within the 21 jurisdiction or the province of this board is 22 to declare ordinances unconstitutional. Only 23 the courts can do that. 24 So we would right off the bat say it 25 would be beyond, beyond the pale of your</p>
<p style="text-align: right;">43</p> <p>1 jurisdiction to say this ordinance is 2 unconstitutional and, therefore, the permits 3 shouldn't be granted. 4 And I can say this. The reason 5 that -- I don't know that Mr. Dillard would 6 disagree. He can say whether he would or not. 7 But I know that he's making these arguments in 8 anticipation of an appeal to the superior 9 court, and that's one of the reasons he's 10 making these arguments. I don't know that he 11 really believes, but I'll let him respond, that 12 you can declare an ordinance unconstitutional. 13 We'll show and the evidence is in 14 Exhibit 1 that USAgain, for example, was not 15 able to present the 501(c)(3) certification. 16 And Mid-Atlantic, there are eight cases in 17 here, eight applications for Mid-Atlantic. 18 Mid-Atlantic also as a profit corporation was 19 unable to present the 501(c)(3). 20 And, obviously, Mr. Lackey and his 21 staff are bound by what the ordinance provides, 22 and that is a requirement. So when it's 23 presented, the application's presented without 24 the certificate, they have no choice but to 25 deny the application. That is the sole reason</p>	<p style="text-align: right;">44</p> <p>1 as to the applications that they were denied as 2 to Mid-Atlantic. 3 Now, we have as part of Exhibit 1, 4 and I'll give this to you as well, a checklist 5 that was prepared by the staff. And I'll ask 6 Ms. Sloan to tell you about that briefly when 7 we present our evidence. 8 But there's a checklist on 9 deficiencies in the applications of USAgain. 10 Remember, Mid-Atlantic, they didn't have the 11 501(c)(3) certification. Their eight 12 applications were denied for that reason. 13 As to USAgain, there were several 14 deficiencies in their two applications. For 15 example, the 501(c)(3) certification was not 16 there. They had failed to draw site plans that 17 were required under the ordinance that 18 specified the location where the donation bins 19 were to go. They had failed to mark the bin 20 with the same contact person information, as 21 required by the ordinance, and to show by label 22 and dimension the proposed donation bins not to 23 exceed five-by-five nor be more than six feet 24 in height, which are the restrictions under the 25 ordinance.</p>

<p style="text-align: right;">45</p> <p>1 And I'll let Ms. Sloan just very 2 briefly explain that to you, but those were 3 deficiencies in the USAgain, not just the 4 501(c)(3). And having failed to comply with 5 the ordinance requirements, then the planning 6 and development staff in reviewing these was 7 duty bound under its ordinance to deny the 8 applications. 9 Now, I'll mention in response to the 10 constitutional arguments, not that I'm trying 11 to say that you do have the jurisdiction to 12 make that decision, but I think it does need a 13 response on the record here. And I'm going to 14 respond very briefly to those. 15 The appellants have submitted briefs 16 and very, very good briefs with a detailed 17 examination of the constitutional law. A lot 18 of those, a number of those cases that they 19 cite, the courts are dealing with whether 20 charitable organizations had a right, had the 21 freedom of speech, not whether a commercial 22 company had the right or the freedom of speech. 23 It is certainly our position that in 24 this case the County has a substantial reason 25 for barring or requiring that these bins be</p>	<p style="text-align: right;">46</p> <p>1 placed and maintained by charitable 2 organizations and that this statute is narrowly 3 designed to exercise its police powers in 4 deciding not to allow the for-profit companies, 5 based in large part because of the experience 6 of the County with the profit companies. 7 So even if there is some form of 8 scrutiny that the courts would inquire into 9 whether this was constitutional or not, I think 10 the County would prevail in that because there 11 is sufficient basis and reason with this 12 narrowly-drawn statute or ordinance in which to 13 regulate these donation bins. 14 I know that one of the arguments 15 that was made, I'm not trying to conjure up 16 arguments, but they were made in the brief, 17 that there was prior restraint in speech, and 18 we deny that that is the case. There is an 19 application process. And commercial endeavors 20 for-profit purposes are not subject to the 21 prior restraint provisions that are argued by 22 the appellants in the case. 23 We contend that it advances a 24 substantial government interest in aesthetics 25 because of the maintenance of these and the</p>
<p style="text-align: right;">47</p> <p>1 problems of dumping, not only dumping these 2 against the will of the property owner, but 3 also dumping items outside the bins. And if 4 they're not properly maintained, and I know 5 Mr. Dillard argued that every week they go pick 6 them up, maybe they do, but they still are a 7 mess and a problem. And many complaints come 8 in from property owners about the maintenance 9 of the bins. 10 So it is in part to protect the 11 property owners from these bins being placed 12 without warrant or permission on their property 13 and to ensure that the bins are collected. 14 The County's experience is that the 15 charitable organizations have been more 16 responsive when complaints have been made, that 17 they have identified people in a way that the 18 profit companies have not to maintain these, 19 another reason that the County determined to 20 allow the charitable organizations to have 21 those. 22 So in sum of that, this ordinance 23 does not violate the First Amendment or free 24 speech provisions of the Constitution, either 25 the federal Constitution or the Georgia</p>	<p style="text-align: right;">48</p> <p>1 Constitution. 2 Mr. Dillard had eloquently argued an 3 equal protection claim, unconstitutional claim 4 based on equal protection. And we contend that 5 there is certainly a reasonable and rational 6 basis on which the County drew the distinction 7 between the profit and not-for-profit 8 organizations. 9 I, for example, have a case that I 10 found was supportive of that, and that's -- 11 this is an 11th Circuit case. And, 12 incidentally, the cases that were cited for the 13 proposition relating to recycling bins were 14 not -- they were outside the 11th Circuit. 15 But 11th Circuit case, a case in 16 which there was a challenge by for-profit 17 cemetery owners to the constitutionality of a 18 Georgia statute which exempted church, 19 fraternal, and community cemeteries from the 20 rules and regulations imposed on other 21 cemeteries. 22 And they said, hey, what's the deal 23 here? This is a violation of equal protection. 24 You can't make a distinction, at least a 25 constitutional distinction, between those that</p>

<p style="text-align: right;">49</p> <p>1 are exempted, they don't have to comply, and 2 those that do. 3 And the 11th Circuit said, well, the 4 County or, in this case, the Georgia statute 5 had in mind that cemeteries cared for by 6 churches and fraternal organizations and 7 communities rather than for-profit would be 8 better maintained and that that was a 9 reasonable basis for drawing the distinction in 10 requiring one group, the profit, to have a 11 permit and exempting others, the charitable. 12 So we're saying we are in the same 13 boat. We have a basis for contending that 14 these donation bins are not well cared for by 15 the profit companies, and there is a reasonable 16 basis for our making that distinction. 17 We would also argue that there was 18 no substantive due process issues. There's 19 nothing that shocks the conscience or is so 20 irregular as to raise any substantive due 21 process issues as giving you the reasonable 22 basis. 23 The ordinance is not capricious. It 24 is not arbitrary. It is based on the 25 experience of the County in dealing with the</p>	<p style="text-align: right;">50</p> <p>1 two types of entities that place these bins. 2 Mr. Dillard had argued that it was 3 taking private property in violation of the 4 Fifth Amendment, and this is not private 5 property that's being taken or real property 6 that's being taken, and, therefore, the taking 7 clause would not apply. 8 The last thing which he argued is 9 what is generally referred to as the preemption 10 doctrine. And it basically is that if the 11 state statutes are drawn in such a way that 12 they regulate an area or a field of regulation 13 and it's so extensive or the State specifically 14 says we are preempting any local government 15 from doing any regulation in this field, we 16 preempted that so that the local government 17 can't actually regulate an area that the state 18 has preempted. 19 And it can be either determined by 20 explicit to reference within a statute that 21 they are preempting the local governments from 22 regulating within a particular field or area, 23 or it can be by implication. 24 This statute, the state statutes 25 that regulate these or that have this</p>
<p style="text-align: right;">51</p> <p>1 regulation of the bins, is not so extensive. 2 It does not explicitly say that we are 3 preempting local governments. And, in fact, 4 the only thing that regulates is the sign that 5 goes on the bin. That's all. 6 It doesn't regulate where they can 7 be placed. It doesn't regulate matters such as 8 requirements of cleaning the bins or the size 9 of the bins. It doesn't regulate any of those 10 things. So our argument in response is, we're 11 not preempted by state law which is so narrow 12 only as to require certain language on the bin 13 by a for-profit company, that the whole area of 14 regulation and policing of these items remains 15 with the local governments to regulate. And 16 that's what we've done. So we take issue with 17 that. 18 I close by saying that we have a 19 substantial basis. I intend to introduce some 20 evidence that will show these things I've 21 talked about. And we would ask that this board 22 uphold Bryan Lackey and the planning and 23 development department's decision in denying 24 these permits. Thank you. 25 MR. KNOX: Thank you, Mr. Jenkins.</p>	<p style="text-align: right;">52</p> <p>1 Mr. Dillard, do you have any -- 2 MR. DILLARD: So you're going to put 3 your evidence up? 4 MR. KNOX: That's the opening 5 statement. 6 MR. DILLARD: All right. I've made 7 my opening. 8 MR. KNOX: Yes, opening statement. 9 Do you have some additional documentary 10 evidence or witnesses to present, Mr. Dillard? 11 MR. DILLARD: Not until we hear what 12 they're going to put up on their side. 13 MR. KNOX: So you'll -- 14 MR. DILLARD: We'll reserve our 15 rebuttal to close. 16 MR. KNOX: Mr. Jenkins, you want to 17 present your documentary evidence or your 18 witnesses? 19 MR. JENKINS: Okay. 20 MR. STEPHENS: One thing, I think 21 that Doug had asked for sequestration of the 22 witnesses earlier. Is that, you want to ask 23 for that? 24 MR. DILLARD: Yeah. Well, I had 25 asked for it before we ever made our opening</p>

<p>53</p> <p>1 statement.</p> <p>2 MR. KNOX: I think it --</p> <p>3 MR. DILLARD: I don't know how good</p> <p>4 that's going to be at this point, but --</p> <p>5 MR. KNOX: Who is in charge of the</p> <p>6 witnesses?</p> <p>7 MR. DILLARD: How many witnesses are</p> <p>8 you going to have?</p> <p>9 MR. JENKINS: There will be three.</p> <p>10 MR. DILLARD: So we'd like to invoke</p> <p>11 the rule.</p> <p>12 MR. JENKINS: Cyndi Sloan will be</p> <p>13 one who I'm going to call first, Mr. Glenn</p> <p>14 Wisdom, and Mr. Keith Colquitt.</p> <p>15 MR. KNOX: Mr. Wisdom and</p> <p>16 Mr. Colquitt, will you excuse yourselves from</p> <p>17 the room?</p> <p>18 MR. JENKINS: I gather you're not</p> <p>19 going to have any witnesses?</p> <p>20 MR. DILLARD: No, we're not going to</p> <p>21 have any witnesses.</p> <p>22 MR. JENKINS: Okay.</p> <p>23 MR. DILLARD: Where do you want her</p> <p>24 to sit?</p> <p>25 MR. JENKINS: Why don't we have her</p>	<p>54</p> <p>1 sit right over there.</p> <p>2 MR. KNOX: Mr. Stephens, is it</p> <p>3 appropriate to swear in the witness?</p> <p>4 MR. STEPHENS: Yeah, I think it is.</p> <p>5 MR. KNOX: Would you handle that?</p> <p>6 MR. STEPHENS: Sure. Would you</p> <p>7 raise your right hand, please.</p> <p>8 CYNDI SLOAN,</p> <p>9 being first duly sworn, was examined and</p> <p>10 testified as follows:</p> <p>11 DIRECT EXAMINATION</p> <p>12 BY MR. JENKINS:</p> <p>13 Q Ms. Sloan, let me hand you what's</p> <p>14 been marked as Exhibit 1. And will you tell</p> <p>15 the board what Exhibit 1 is, please.</p> <p>16 A It's ten applications, eight from</p> <p>17 MAC Recycling and two from USAgain, for</p> <p>18 temporary use permits to put donation bins at a</p> <p>19 total of five locations, two bins at each</p> <p>20 location.</p> <p>21 Also is the review checklist that we</p> <p>22 prepared, the staff prepared, in reviewing</p> <p>23 those applications and a copy of the letter</p> <p>24 denying the applications.</p> <p>25 Q Okay. That would be for each of the</p>
<p>55</p> <p>1 ten that are an issue before the board today?</p> <p>2 A That is correct.</p> <p>3 Q All right. What were the -- in</p> <p>4 fact, I think you actually wrote the denial</p> <p>5 letter, did you not?</p> <p>6 A I did.</p> <p>7 Q On behalf of the planning</p> <p>8 department?</p> <p>9 A I did.</p> <p>10 Q What were the reasons -- and refer</p> <p>11 to your checklist if you need to. Let's take</p> <p>12 the Mid-Atlantic. Was the reason for denial of</p> <p>13 the eight Mid-Atlantic applications the same</p> <p>14 for each one?</p> <p>15 A It was.</p> <p>16 Q And what was the reason for the</p> <p>17 denial?</p> <p>18 A A letter verifying the nonprofit</p> <p>19 status of the 501(c)(3) was not provided with</p> <p>20 the application.</p> <p>21 Q Is it your understanding under the</p> <p>22 ordinance that that's a requirement for grant</p> <p>23 of a permit?</p> <p>24 A That is listed as a requirement.</p> <p>25 Q Okay. And that was the reason that</p>	<p>56</p> <p>1 it was denied?</p> <p>2 A Correct.</p> <p>3 Q All right. Let's take a look at</p> <p>4 the -- there are two USAgain applications that</p> <p>5 are an issue, I believe, on appeal; is that</p> <p>6 correct?</p> <p>7 A There are two, uh-huh (affirmative).</p> <p>8 Q And are the reasons for denial, are</p> <p>9 those -- did you write the denial letter --</p> <p>10 A I did.</p> <p>11 Q -- for those two? Were the reasons</p> <p>12 for denial of the two applications by USAgain</p> <p>13 the same for both of them, or are they</p> <p>14 different?</p> <p>15 A I believe they are the same for both</p> <p>16 of those applications.</p> <p>17 Q Okay. If you could please tell this</p> <p>18 board the reasons for the denial of the USAgain</p> <p>19 applications for a permit.</p> <p>20 A Verification of 501(c)(3) status is</p> <p>21 not provided.</p> <p>22 Q Let me ask you before you go on.</p> <p>23 You have a checklist there as part of this</p> <p>24 exhibit?</p> <p>25 A I do.</p>

<p style="text-align: right;">57</p> <p>1 Q And was it prepared by you?</p> <p>2 A The checklist was actually prepared</p> <p>3 by a staff member and then reviewed by me.</p> <p>4 Q And reviewed by you, so you know it</p> <p>5 to be accurate as to the reasons for the</p> <p>6 denial?</p> <p>7 A Yes.</p> <p>8 Q Okay. Go ahead, please.</p> <p>9 A A complete site plan was not</p> <p>10 provided for both of them. Contact information</p> <p>11 was not provided in the application. The</p> <p>12 location of the donation bins was not shown on</p> <p>13 the site plan. Dimensions of the donation bins</p> <p>14 was not shown on the site plan. And no fee was</p> <p>15 provided for either application.</p> <p>16 Q No fee was provided?</p> <p>17 A Correct.</p> <p>18 Q And as you understand, are those</p> <p>19 things you just listed as the reason for</p> <p>20 denial, that they are required under the</p> <p>21 applicable Unified Development Ordinance</p> <p>22 provision of donation collection boxes?</p> <p>23 A They are.</p> <p>24 Q Okay. And we've provided, I think,</p> <p>25 a certified copy of that.</p>	<p style="text-align: right;">58</p> <p>1 MR. KNOX: Mr. Jenkins, may I ask a</p> <p>2 question at this point? I want to be</p> <p>3 absolutely certain that we're fair in this.</p> <p>4 Mr. Dillard, both applications from</p> <p>5 two different -- and we have unrepresented</p> <p>6 evidence at this point from your perspective,</p> <p>7 and I think that's the Mid-Atlantic</p> <p>8 applications have been mentioned.</p> <p>9 MR. DILLARD: Right.</p> <p>10 MR. KNOX: Are you planning to</p> <p>11 address that?</p> <p>12 MR. DILLARD: Yeah, I'm going to</p> <p>13 address -- I will.</p> <p>14 MR. KNOX: In questions to the</p> <p>15 witness? I want to be --</p> <p>16 MR. DILLARD: Right.</p> <p>17 MR. KNOX: -- sure the record is</p> <p>18 clean on both sets of applications.</p> <p>19 MR. DILLARD: Right. We'll do that.</p> <p>20 MR. KNOX: So your --</p> <p>21 MR. DILLARD: I assume that if for</p> <p>22 record purposes --</p> <p>23 MR. KNOX: Yes.</p> <p>24 MR. DILLARD: -- this testimony</p> <p>25 would be included in both records.</p>
<p style="text-align: right;">59</p> <p>1 MR. KNOX: Okay. Fair.</p> <p>2 MR. JENKINS: Yeah.</p> <p>3 MR. KNOX: Yes. Fair enough. Fair.</p> <p>4 MR. JENKINS: I think, I just wanted</p> <p>5 to sort of short-circuit the time.</p> <p>6 MR. DILLARD: Right.</p> <p>7 MR. KNOX: Yes. I want to make sure</p> <p>8 that everything we do is copacetic.</p> <p>9 MR. JENKINS: Okay. All</p> <p>10 right. Those are all the questions I have --</p> <p>11 MR. DILLARD: Okay.</p> <p>12 MR. JENKINS: -- of Ms. Sloan.</p> <p>13 CROSS-EXAMINATION</p> <p>14 BY MR. DILLARD:</p> <p>15 Q Ms. Sloan, so on the Mid-Atlantic</p> <p>16 applications, the only reason for the denial is</p> <p>17 501(c)(3)?</p> <p>18 A Correct.</p> <p>19 Q Okay. And then on the USAgain, we</p> <p>20 also had 501(c)(3), but we also had site plan,</p> <p>21 no contact info, particular location of the</p> <p>22 bin. When you say location of the bin, you're</p> <p>23 talking about --</p> <p>24 A On the site plan.</p> <p>25 Q On a site plan showing a plat and</p>	<p style="text-align: right;">60</p> <p>1 exact location where the bin would be?</p> <p>2 A Correct.</p> <p>3 Q Okay. Did it have a street address?</p> <p>4 A A street address was included for</p> <p>5 the -- for the shopping center.</p> <p>6 Q And then no fee --</p> <p>7 A Correct.</p> <p>8 Q -- was attached. Now, that's not</p> <p>9 totally uncommon for initial applications to</p> <p>10 come in and need some cleaning up, to say the</p> <p>11 word. Would you under normal circumstances, if</p> <p>12 they came in with this information, you would</p> <p>13 approve it if they came in with a site plan, if</p> <p>14 they came in with the contact info? Does the</p> <p>15 contact info have to be local?</p> <p>16 A I don't -- I'd have to refer to the</p> <p>17 UDO. I don't --</p> <p>18 Q Okay. And the site plan that you</p> <p>19 referred to would also show the location of the</p> <p>20 bin and, obviously, a fee. All of those are --</p> <p>21 all of these are curable, are they not, curable</p> <p>22 issues?</p> <p>23 A Yeah, uh-huh.</p> <p>24 Q Okay. But if there is a for-profit,</p> <p>25 other than the requirement of the 501(c)(3)</p>

<p style="text-align: right;">61</p> <p>1 information, all the criteria for both 2 501(c)(3), and you don't even permit a 3 for-profit bin; is that correct? 4 A The ordinance requires that it be 5 501(c)(3). 6 Q Okay. So if they're not a 7 501(c)(3), do you even process the application? 8 A We did process the applications. 9 Q Okay. 10 A We reviewed them. 11 Q Okay. And send it back to them? 12 All right. How many permits have been issued 13 for collection bins in the county? Do you 14 know? 15 A There have been none issued. 16 Q There have been none issued? 17 A None issued. 18 Q None issued to 501(c)(3) folks or 19 otherwise? 20 A These -- no, none have. 21 Q Okay. And let me ask you about the 22 photographs that were taken and introduced 23 here by Mr. Jenkins a few minutes ago. Have 24 you seen these photographs before? 25 A I have not.</p>	<p style="text-align: right;">62</p> <p>1 Q Okay. So you don't know who took 2 them or when they were taken or -- 3 A No. 4 Q -- where they're located or anything 5 like that? 6 A (Shakes head negatively.) 7 Q Okay. Let me understand, so there's 8 been no 501(c)(3) applications either; is that 9 correct? 10 A That's correct. 11 Q To your knowledge, best of your 12 knowledge? 13 A To the best of my knowledge. 14 Q Okay. All right. Do you know how 15 many bins are in the incorporated areas of the 16 county? 17 A I do not. 18 Q Have you seen them? 19 A I've seen some here and there, yes. 20 Q In some of the cities around the 21 county? 22 A Yes. 23 Q Okay. Mr. Jenkins talked about a 24 maintenance issue. Is there anything in the 25 ordinance that talks about maintenance? Is</p>
<p style="text-align: right;">63</p> <p>1 there anything on your checklist that talks 2 about maintenance? 3 A It asks for the contact person 4 responsible for the maintenance. 5 Q But that would be -- 6 A This is our review checklist. 7 Q Yeah. 8 A This isn't the full ordinance. 9 Q But Mr. Jenkins was talking about 10 trash and things being around there. Is there 11 anything in the ordinance that defines how that 12 needs to occur? 13 A I do not know. 14 Q Okay. So you don't have, part of 15 the sanitation department is not empowered to 16 monitor collection bins throughout the county? 17 A It's beyond the scope of the review 18 that we do in development and planning. 19 Q Okay. So you would not require any 20 of that kind of regulation to approve a permit? 21 That's not a part of your checklist? 22 A No, it's not. Just the contact 23 person for the -- that is responsible for. 24 Q So to the best of your knowledge and 25 belief, there are no standards of how these</p>	<p style="text-align: right;">64</p> <p>1 ought to be maintained contained anywhere in 2 the UDO? 3 A Not the -- I'm not saying that. I'm 4 saying that we didn't review anything. There 5 may be something. I would have to -- 6 Q Okay. 7 A -- look through the UDO for those 8 sections. 9 Q But you're not aware of any of those 10 kinds of standards of your own knowledge? 11 A I don't recall them. 12 MR. DILLARD: Okay. All right. 13 Nothing further, Mr. Chairman. 14 MR. KNOX: Does anybody on the board 15 have questions for Ms. Sloan before she's 16 dismissed? Anyone have any questions? 17 Mr. Jenkins? 18 MR. JENKINS: I don't have any more 19 questions. May she, if she desires, stay in 20 the room? 21 MR. KNOX: Yes. 22 MR. DILLARD: As long as you don't 23 recall her. 24 MR. JENKINS: You're free to stay. 25 MS. SLOAN: Okay.</p>

<p style="text-align: right;">65</p> <p>1 MR. KNOX: Yeah. That's okay with 2 you? 3 MR. DILLARD: Yeah, sure. As long 4 as she doesn't get recalled, that's fine. 5 MR. JENKINS: Okay. I'd like to 6 call Mr. Keith Colquitt, who I believe is 7 outside. 8 MR. KNOX: Okay. He's being 9 summoned as we speak. 10 (Whereupon off-the-record discussions 11 ensued.) 12 MR. KNOX: After Mr. Colquitt's 13 testimony, a short break? 14 MR. JENKINS: Sure, that would be 15 fine. 16 MR. KNOX: Okay. 17 MR. STEPHENS: If you would raise 18 your right hand. 19 KEITH COLQUITT, 20 being first duly sworn, was examined and 21 testified as follows: 22 DIRECT EXAMINATION 23 BY MR. JENKINS: 24 Q Mr. Colquitt, would you please give 25 the board some information about you, your</p>	<p style="text-align: right;">66</p> <p>1 name, your position with the County, how long 2 you've been with the County, and generally your 3 job responsibility? 4 A Sure. My name is Keith Colquitt. 5 I'm a civilian supervisor with the Gwinnett 6 County Police in the Quality of Life Unit code 7 enforcement. I supervise a section of 8 non-sworn individuals that enforce the local 9 county ordinances, code enforcement. 10 We do both residential and 11 commercial. I've been with the County 12 ten-and-a-half years in this -- not in the same 13 position but with code enforcement. I've been 14 the supervisor for the past eight years. 15 Q Okay. Thank you. As you know, 16 we're here concerning the use of the donation 17 bins in the county. And would you tell us what 18 your involvement generally has been in 19 connection with donation bins in the county, 20 please? 21 A With my experience, helping my 22 subordinates reach out to the bin owners to try 23 to get compliance and then also make sure, if 24 citations are issued, that they're routed to 25 the right person and the right place, and then</p>
<p style="text-align: right;">67</p> <p>1 I also represent our unit in court on our 2 monthly court dates. 3 Q Have there been any citations issued 4 to either Mid-Atlantic, one of the appellants 5 in this case, or USAgain? 6 A Yes, there have. 7 Q And tell us about that, generally, 8 if you would. 9 A Right now I'm showing that we've 10 issued three citations to USAgain out of 19 11 cases that we've had on them and five citations 12 to Mid-Atlantic out of the eight cases that 13 we've had on them. 14 Q And when you say 19 cases you've had 15 on them, what do you mean by that? 16 A We track -- 17 MR. DILLARD: I want to object to 18 this line of questioning, Mr. Chairman. I 19 think he needs to identify where these bins 20 are, what jurisdictions they're in, and under 21 what basis he issued these citations, were they 22 in the county. 23 MR. KNOX: I uphold that. That's 24 fair to identify. 25 MR. JENKINS: Well, Mr. Chairman, he</p>	<p style="text-align: right;">68</p> <p>1 can ask those questions. 2 MR. DILLARD: Well, I don't want his 3 testimony in at all. 4 MR. KNOX: This is initially being 5 introduced. I think in fairness he needs to 6 identify the specifics. It's too general. I 7 agree with that. 8 Q Okay. Do you understand the 9 question? 10 A Okay. So we're looking for 11 locations? 12 MR. KNOX: Yes. 13 THE WITNESS: Okay. 14 MR. KNOX: Yeah. In fairness, 15 you're making accusations -- 16 THE WITNESS: Sure. 17 MR. KNOX: -- that are so general as 18 to be blanketing the county, so be specific. 19 A Okay. For USAgain, we've had one 20 citation that was issued at 3334 Langley Road 21 in Loganville. 22 MR. DILLARD: Is that in the city? 23 THE WITNESS: That -- everything 24 that I'm quoting off here is going to be 25 unincorporated Gwinnett. We do not have</p>

<p style="text-align: right;">69</p> <p>1 jurisdiction within city limits. 2 MR. DILLARD: Okay. 3 A The second one is at 3752 Stone 4 Mountain Highway, Snellville; 3750 Lenora 5 Church Road in Snellville. For MAC Recycling, 6 I've got 3675 Satellite Boulevard, Duluth. 7 MR. DILLARD: MAC Recycling is not 8 in this case. 9 THE WITNESS: That's Mid-Atlantic. 10 I'm sorry. 11 MR. DILLARD: Oh, okay. 12 A Again, for Mid-Atlantic, 3750 13 Venture Drive, Duluth; Mid-Atlantic again at 14 910 Athens Highway, Loganville; Mid-Atlantic 15 again at 1705 Mall of Georgia Boulevard, 16 Buford. 17 MR. DILLARD: Just for the time, 18 would you give us the dates of these citations? 19 THE WITNESS: That, I do not have 20 with me, sir. 21 MR. DILLARD: Okay. 22 Q Now, what you're reading on the 23 citations is location of the bins on which you 24 issued citations -- 25 A Yes, sir.</p>	<p style="text-align: right;">70</p> <p>1 Q -- right? Okay. Go ahead. 2 MR. DILLARD: Well, let me just 3 object. Well, okay. I'll take care of it. 4 I guess I'm going to have to object. 5 If they don't know the date -- 6 THE WITNESS: I can give you a case 7 number which tells me what year it was in, 8 which was -- what I read off has been 2015 9 going into 2014. This would only encompass the 10 area in which the ordinance was in effect. 11 MR. DILLARD: So all of these were 12 after the ordinance was in effect? 13 THE WITNESS: Yes, sir. 14 MR. DILLARD: And they had permits? 15 THE WITNESS: No, no permits. 16 MR. DILLARD: They didn't have 17 permits? 18 THE WITNESS: That's one of the 19 reasons that the citation was issued. 20 MR. DILLARD: Because it didn't have 21 a permit? 22 THE WITNESS: Correct. 23 MR. DILLARD: Okay. What else? 24 MR. KNOX: Well, let's not get -- 25 MR. DILLARD: Okay. I'm sorry. I</p>
<p style="text-align: right;">71</p> <p>1 don't want to get into that. I'm sorry. 2 MR. KNOX: You asked for the 3 location. 4 MR. DILLARD: I did. 5 MR. KNOX: The location was 6 provided. Yes. 7 MR. DILLARD: My fault, yeah. 8 A All right. Continuing, 9 Mid-Atlantic, 3885 Venture Drive, Duluth; 10 continuing, 3675 Satellite Boulevard, Duluth; 11 and again at 3750 Venture Drive, Duluth. 12 Q Mr. Colquitt, as to those you have 13 just told us the address that citations were 14 issued to Mid-Atlantic and to USAgain, how is 15 it generally that you're alerted to the 16 presence of the bins and your response to them? 17 A We have a complaint system that 18 comes in through our department, or the 19 officers do self-generated or officer-generated 20 activity. 21 Q Okay. Now, what about those that 22 you've just told us the citations were issued? 23 Did those come from complaints from the 24 property owner where the bins were placed? 25 A I would have to do a little more</p>	<p style="text-align: right;">72</p> <p>1 research on that, sir. 2 Q You're not sure about that? 3 A Correct. 4 Q Do you have occasion where you 5 respond to a complaint as to, say, USAgain or 6 Mid-Atlantic where the complaint has been made 7 by the property owner regarding the placement 8 of a donation bin? 9 A To be a hundred percent sure, I 10 would -- I would be guessing at this point as 11 to where they came from. But like I said, we 12 do have complaints that do come in from 13 citizens, from the property owners, either 14 themselves or through one of the local CIDs, 15 and then the officer-generated activity. 16 Q Are you aware of instances where a 17 property owner or a bin placed by Mid-Atlantic 18 or placed by USAgain was without the permission 19 of the property owner where the bin was placed? 20 A Each one of these citations that was 21 listed, that was one of the violations. 22 Q That is, they didn't have permission 23 from the property owner? 24 A Right. If they didn't have 25 permission, they didn't have the permit, it's</p>

<p style="text-align: right;">73</p> <p>1 all under the same citation. 2 MS. SELLERS: Can I ask a 3 clarification on that? 4 THE WITNESS: Sure. 5 MS. SELLERS: Are you saying it was 6 either/or? It was either that they didn't have 7 permission or that it was that they didn't have 8 a permit? 9 THE WITNESS: With these, it would 10 be both. 11 MS. SELLERS: So you have 12 verification -- 13 MR. THORNBERRY: Are we going to 14 have questions on one side -- 15 MS. SELLERS: Okay. Sorry. 16 MR. THORNBERRY: -- and then 17 questions on the other? I mean, I'm getting a 18 little bit confused here -- 19 MS. SELLERS: Sorry. 20 MR. THORNBERRY: -- trying to focus 21 on one set of questions and the next. 22 MR. KNOX: Hold, please. 23 MR. JENKINS: Can we proceed? 24 MR. KNOX: Yes. 25 Q Now, you mentioned that there were</p>	<p style="text-align: right;">74</p> <p>1 other violations that you're aware of where 2 citations were not issued; is that correct? 3 A We've had a total of 89 cases since 4 the ordinance went into effect, and the 5 majority of them have been complied with 6 removing the bins. To my knowledge, I don't 7 think any permits have been issued, but the 8 ones where I'm showing complied, the bins were 9 removed. 10 Q Okay. And when you say they were 11 removed, were they removed because they didn't 12 have a permit, or were they removed because 13 they didn't have property owner permission or 14 both? 15 A Either or both. 16 Q Either or both? 17 A Yes. 18 Q Now, these 89, you said 89 19 violations -- 20 A Yes, sir. 21 Q -- that you're aware of and have a 22 record of? 23 A Yes, sir. 24 Q By the way, could we mark that 25 exhibit, and could you explain what that shows,</p>
<p style="text-align: right;">75</p> <p>1 please, and let's put that in the record? 2 A Fine. The one I just read from was 3 a spreadsheet from our database Excela where we 4 track our cases through a CBU case number. 5 What I did was I pulled a report showing all 6 the violations from the beginning of the 7 ordinance pertaining to donation bins. 8 Q Okay. Now, when you mention the 9 violations -- I gather there were violations of 10 other companies other than USAgain? 11 A Yes, yes. 12 Q And you mentioned that there were 89 13 violations? 14 A Yes, sir. 15 Q And are they shown on those 16 spreadsheets that you're referring to? 17 A Yes, sir. I did that, and I also 18 pulled a basic report of the violation accounts 19 from Excela which shows under Section 20 230-130.4.C under Donation Boxes for a total of 21 89 cases. 22 MR. JENKINS: Can I have some more 23 exhibit numbers? 24 MR. DILLARD: Is that going to be 4? 25 MR. JENKINS: I believe so.</p>	<p style="text-align: right;">76</p> <p>1 MR. DILLARD: Okay. We'll object 2 for the record, Mr. Chairman. We'll object to 3 the introduction of this exhibit. First of 4 all, it's hearsay. And, secondly, it's 5 irrelevant relative to the enforcement of 6 the current ordinance. If all of these 7 citations were as a result of the current 8 ordinance, I don't know what purpose it's 9 really going to serve because we challenge 10 whether or not they had the right to deny the 11 permits. 12 So the fact that they were not 13 there -- they were citing these folks based on 14 the fact that they didn't have a permit is sort 15 of irrelevant to us, but you can -- 16 MR. KNOX: I'm going to allow that. 17 This gets at the heart of why the ordinance is 18 what it is and the history behind the adoption 19 of the UDO. 20 MR. JENKINS: Let's put exhibit -- 21 make the spreadsheet separate and put an 22 Exhibit 4, the spreadsheet you were reading 23 from. 24 THE WITNESS: Very good. 25 MR. JENKINS: Yeah. That's fine.</p>

<p style="text-align: right;">77</p> <p>1 (Whereupon a document was identified as 2 Exhibit 4.) 3 Q What would be your office, not your 4 position, but your office with the County, what 5 is it referred to as? 6 A We're referred to as the Quality of 7 Life Unit. 8 Q Quality of Life Unit? 9 A Yes, sir. 10 Q And you are an employee of the 11 Gwinnett County; is that correct? 12 A Gwinnett County Police. 13 Q Police. And the office that you 14 serve in is also a part of Gwinnett County? 15 A Yes, sir. 16 Q Now, does this document, Number 4, 17 does it accurately reflect on those entries 18 that are made there the actual location and 19 citations or responses to the different 20 donation bins for which there have been 21 complaints? 22 A Yes, sir. 23 Q So that's an accurate record that's 24 maintained by your office; is that correct? 25 A Yes, sir.</p>	<p style="text-align: right;">78</p> <p>1 MR. JENKINS: All right. Let's put, 2 make the other one Number 5. 3 (Whereupon a document was identified as 4 Exhibit 5.) 5 Q And tell us again what Exhibit 5 is. 6 A All right. This again is an overall 7 report from our Excela database. This shows 8 all of the ordinance violations in a certain 9 time period. This is from, I pulled it from 10 January 1st of 2013 to 11-6 of 2015, which 11 would encompass the area of the ordinance being 12 in effect. 13 Q And that's an accurate record of 14 those violations; correct? 15 A Yes, sir. 16 Q And are these entries that are made 17 maintained by your office, are they made as 18 part of a database -- 19 A Yes. 20 Q -- that's entered? 21 A Yes, sir. 22 MR. KNOX: Mr. Jenkins, this 23 testimony is taking longer than I thought it 24 would. I see too much shuffling in the room. 25 How about a 15-minute break?</p>
<p style="text-align: right;">79</p> <p>1 MR. JENKINS: Oh, okay. 2 MR. KNOX: Is that appropriate? 3 MR. JENKINS: Sure. 4 MR. KNOX: Or are you in the middle 5 of a line that you want to get to? 6 MR. JENKINS: No. That would be 7 perfectly all right. 8 MR. KNOX: 15 minutes. Let's meet 9 back at, let's see, five till. 10 (Proceedings in recess, 12:39 p.m. to 11 12:55 p.m.) 12 Q Let me ask you about Exhibit 5, 13 Mr. Colquitt. These appear to be violations, 14 looks like a list of all violations in the 15 County. 16 A Yes, sir. I just pulled the time 17 frame here, and it gives us a list of all 18 violations. 19 Q Which ones would be for the donation 20 bins? 21 A It would be on page eight of ten. 22 MS. SELLERS: The pages we got 23 aren't double sided, so we don't have it. 24 MR. LACKEY: I didn't realize they 25 were double sided. Oops.</p>	<p style="text-align: right;">80</p> <p>1 MR. JENKINS: Okay. You're right. 2 (Whereupon off-the-record discussions 3 ensued.) 4 Q All right. It's on 8 of 10. Is it 5 230-130.4, Donation Boxes. 6 A Yes, sir. 7 Q That's the one that applies to the 8 donation boxes? 9 A Yes, sir. You see there, the reason 10 for that, at that time, the zoning resolution 11 was still in effect and then transferred over 12 to the Unified Development Ordinance. 13 Q Okay. And this too is an 14 accurate -- I'm interested, of course, in the 15 donation boxes, but it is an accurate count 16 maintained in your office? 17 A Yes, sir. 18 Q And were the entries on the database 19 for both four and five made near or 20 contemporaneously with the actual actions that 21 were taken? 22 A Yes. 23 MR. JENKINS: If you need to look at 24 those. 25 MS. SELLERS: That's okay.</p>

<p style="text-align: right;">81</p> <p>1 MR. JENKINS: Okay. We'll get the</p> <p>2 copies of those later.</p> <p>3 Q Now, the photographs that are in</p> <p>4 front of you there, which I think have an</p> <p>5 exhibit number --</p> <p>6 A No, sir. You've got the exhibit.</p> <p>7 I've got copies here.</p> <p>8 Q All right. Let me put these</p> <p>9 together and we'll -- that's Exhibit 3.</p> <p>10 A Okay.</p> <p>11 Q Are you familiar with those</p> <p>12 photographs that are in Exhibit 3?</p> <p>13 A Yes, sir. These came from some of</p> <p>14 our cases.</p> <p>15 Q Some of your cases?</p> <p>16 A Yes.</p> <p>17 Q So they were maintained in your</p> <p>18 office?</p> <p>19 A Yes. They're attached to the case</p> <p>20 in the database.</p> <p>21 Q Okay. All right. Now, I want to</p> <p>22 ask you about your experience with the profit</p> <p>23 versus the nonprofit donation bins. Would you</p> <p>24 give us an idea, approximation, or perhaps you</p> <p>25 can be very specific, but at least an</p>	<p style="text-align: right;">82</p> <p>1 approximation of the complaints and code</p> <p>2 enforcement that you've been involved in as to,</p> <p>3 of the 89 violations, what percentage, as an</p> <p>4 estimate, dealt with the for-profit bins and</p> <p>5 what percentage dealt with the nonprofit?</p> <p>6 A From what I can figure from the</p> <p>7 list, we had 10 of the 89 cases that were</p> <p>8 actually nonprofits, which would be about 11</p> <p>9 percent of the total cases, and the other 89</p> <p>10 percent would be the for-profit.</p> <p>11 Q Okay. Have you had more problems</p> <p>12 with the profit donation bins than the</p> <p>13 nonprofit?</p> <p>14 A I would say yes. We've had better</p> <p>15 responses from the nonprofits.</p> <p>16 Q And what are some problems that</p> <p>17 you've experienced with the profit donation</p> <p>18 bins?</p> <p>19 A The time it takes to get the</p> <p>20 exterior stuff cleaned up and then also to</p> <p>21 remove the bins because they're not to be</p> <p>22 allowed there without the permit.</p> <p>23 Q Okay.</p> <p>24 A So --</p> <p>25 Q And I may have asked you this. Have</p>
<p style="text-align: right;">83</p> <p>1 there been responses to the profit bins because</p> <p>2 they were placed on property without the</p> <p>3 owner's permission?</p> <p>4 A Right.</p> <p>5 Q And did you have a problem with</p> <p>6 that, with the nonprofits being placed on</p> <p>7 property without permission?</p> <p>8 A They did as well. They were given</p> <p>9 notice and removed their bins in the proper</p> <p>10 time given by the officer that was handling the</p> <p>11 case.</p> <p>12 Q Okay. And how many of those, of the</p> <p>13 nonprofit, would you say involve placement of a</p> <p>14 bin without permission?</p> <p>15 A All of them.</p> <p>16 Q All of them?</p> <p>17 A Yes, sir.</p> <p>18 Q So that would be approximately 11?</p> <p>19 A It was 10.</p> <p>20 Q 10?</p> <p>21 A Uh-huh (affirmative), for 11</p> <p>22 percent.</p> <p>23 Q For 11 percent. I'm sorry.</p> <p>24 A Yes, sir.</p> <p>25 Q And were the nonprofits prompt in</p>	<p style="text-align: right;">84</p> <p>1 removing them from the location?</p> <p>2 A The nonprofits, yes.</p> <p>3 Q The nonprofits. What about, have</p> <p>4 you had any problems with either USAgain or</p> <p>5 with Mid-Atlantic in responding to notices that</p> <p>6 are being given?</p> <p>7 A Yes. That's the reason for the</p> <p>8 citations. They've had many other cases other</p> <p>9 than the ones where citations were issued, but</p> <p>10 they are very reluctant to remove their bins.</p> <p>11 Q And that would be the two we're</p> <p>12 talking about?</p> <p>13 A Yes.</p> <p>14 Q Mid-Atlantic and USAgain?</p> <p>15 A Yes.</p> <p>16 Q Now, just overall, if you would</p> <p>17 state generally, what has been the response of</p> <p>18 the profits' bins versus the nonprofits, if you</p> <p>19 could just give us a general?</p> <p>20 A Well, again, again we have better</p> <p>21 response from the nonprofits than the</p> <p>22 for-profits in getting compliance, removing the</p> <p>23 bin. The nonprofits, to my knowledge, again,</p> <p>24 no permits have been issued. So to avoid</p> <p>25 further legal action, they just remove their</p>

<p style="text-align: right;">85</p> <p>1 bins from the properties, whereas the</p> <p>2 for-profits, they're a little more reluctant to</p> <p>3 remove their bins even though we know they</p> <p>4 don't have the permit or the permission of the</p> <p>5 property owners.</p> <p>6 Q What about the maintenance of the</p> <p>7 collection bins? Do you know of a difference</p> <p>8 in the way they're maintained?</p> <p>9 A The ones that I've been associated</p> <p>10 with and talking to my subordinates with, we</p> <p>11 seem to have a little bit longer time of</p> <p>12 compliance with that, with the nonprofits</p> <p>13 versus the profits, or the profits being --</p> <p>14 taking longer.</p> <p>15 Q Profits taking longer --</p> <p>16 A Yes.</p> <p>17 Q -- to maintain the bins?</p> <p>18 A Yes.</p> <p>19 MR. JENKINS: Okay. That's all I</p> <p>20 have. Thank you.</p> <p>21 CROSS-EXAMINATION</p> <p>22 BY MR. DILLARD:</p> <p>23 Q How many of the -- you said 10 of</p> <p>24 the 89 were nonprofit on the citations?</p> <p>25 A Not on the citations. Total cases.</p>	<p style="text-align: right;">86</p> <p>1 Q Total cases?</p> <p>2 A Yes, sir.</p> <p>3 Q And were the 10 nonprofits because</p> <p>4 they didn't have a permit?</p> <p>5 A Right, no permit and the permission</p> <p>6 of the property owner.</p> <p>7 Q Property owner. And of that 10, do</p> <p>8 you know whether they went and got that</p> <p>9 permission to put the bins back?</p> <p>10 A No, sir. They were removed.</p> <p>11 Q They just removed them?</p> <p>12 A Yes, sir.</p> <p>13 Q Because they couldn't get</p> <p>14 permission, I guess? You don't know?</p> <p>15 A I couldn't testify.</p> <p>16 Q If they're nonprofit, they're</p> <p>17 501(c)(3); right?</p> <p>18 A Right, or should be.</p> <p>19 Q Okay. Do you know how many bins --</p> <p>20 all of this is in unincorporated Gwinnett?</p> <p>21 A Yes, sir. Every case that I've</p> <p>22 talked about here has been in unincorporated</p> <p>23 Gwinnett.</p> <p>24 Q Okay. Do you know how many total</p> <p>25 bins are in the county?</p>
<p style="text-align: right;">87</p> <p>1 A No, sir, I do not.</p> <p>2 Q And the number of -- and all of</p> <p>3 these citations have been since the effective</p> <p>4 date of the current ordinance?</p> <p>5 A Yes, sir.</p> <p>6 Q Do you have knowledge of -- were</p> <p>7 there any violations prior to the ordinance</p> <p>8 that you know of?</p> <p>9 A No, sir, because there wasn't an</p> <p>10 ordinance to have one.</p> <p>11 Q So there wasn't a general</p> <p>12 beautification ordinance or something along</p> <p>13 those lines that gave you authority to go in</p> <p>14 and ask them to clean them up?</p> <p>15 A No, sir. Sometimes we would</p> <p>16 probably have addressed it under outdoor</p> <p>17 storage, but not directly related to a donation</p> <p>18 bin, just to the property owner itself.</p> <p>19 Q Okay. On these citations with</p> <p>20 USAgain and Mid-Atlantic, was it just the</p> <p>21 501(c)(3) or was it a failure to have owner's</p> <p>22 authorization?</p> <p>23 A Again, it was failure to have</p> <p>24 owner's authorization or the permit.</p> <p>25 Q So it was either/or?</p>	<p style="text-align: right;">88</p> <p>1 A Yes.</p> <p>2 Q It wasn't necessarily both on either</p> <p>3 one? Some it might have both of those?</p> <p>4 A Yes, sir.</p> <p>5 Q Are you familiar with the permits</p> <p>6 that were denied that's the subject matter of</p> <p>7 this litigation or this appeal?</p> <p>8 A The first ones, I want to say, for</p> <p>9 Mid-Atlantic, the cases that were back in the</p> <p>10 early part of 2014, I believe we had tried to</p> <p>11 work with them to give them a time to be able</p> <p>12 to get the permit from the County. And when</p> <p>13 that was not going to happen and the bins still</p> <p>14 remained on the properties knowing they were in</p> <p>15 violation, that's when the citations were</p> <p>16 issued.</p> <p>17 Q Have they been removed now?</p> <p>18 A I would be lying if I said yes. I</p> <p>19 don't know since the citation was issued and</p> <p>20 it's already been recorded. I don't know.</p> <p>21 Q Are you aware of the reason the</p> <p>22 permit was denied, these eight permits? Are</p> <p>23 you aware the reasons that they were denied?</p> <p>24 A No, sir.</p> <p>25 Q Okay. If I told you they had all --</p>

<p style="text-align: right;">89</p> <p>1 that all of these applications had permission 2 of the owners, do you know that? 3 MR. JENKINS: I object to the -- 4 Q Are you familiar with that? 5 MR. JENKINS: I object to the form 6 of the question. 7 Q Do you know whether or not the 8 current applications of the subject matter of 9 this appeal had the owner's authorizations or 10 not? 11 A No, sir, I do not. 12 Q Okay. 13 MR. KNOX: Was that question phrased 14 satisfactorily? 15 MR. JENKINS: That was fine, yes. 16 MR. KNOX: Okay. 17 Q And all of these violations are 18 since the effective date of the current 19 ordinance? 20 A Yes, sir. 21 Q Okay. And to your knowledge, there 22 were no violations of any other type of 23 ordinance prior to the adoption of the current 24 ordinance and the current UDO? 25 A Not as it pertains here. Again, if</p>	<p style="text-align: right;">90</p> <p>1 there were issues like stuff outside the bins, 2 it would have been addressed with the property 3 owner as outdoor storage. 4 Q Okay. And they would have been 5 either cited or told to clean it up? 6 A Yes, sir. 7 MR. DILLARD: Okay. No further 8 questions. 9 MR. KNOX: Does anybody on the board 10 have questions of Mr. Colquitt? None. 11 MR. JENKINS: I don't have any more 12 questions. 13 MR. KNOX: Thank you, Mr. Colquitt. 14 MR. JENKINS: May he be excused? 15 MR. DILLARD: Sure. 16 MR. JENKINS: You're free to stay if 17 you want. 18 MR. COLQUITT: I'll hang out in the 19 vestibule just in case. 20 MR. LACKEY: We do need his -- 21 MR. COLQUITT: Get the exhibits? 22 MR. JENKINS: Yeah. We do have the 23 exhibits here. 24 MR. LACKEY: Well, we need to get 25 copies of his Number 5 because we don't have</p>
<p style="text-align: right;">91</p> <p>1 that. Do we have Number 5 come back? 2 MR. JENKINS: Yeah. 3 (Whereupon off-the-record discussions 4 ensued.) 5 MR. KNOX: Okay. Thank you, 6 Mr. Colquitt. Next witness? 7 MR. JENKINS: Mr. Glenn Wisdom who 8 is right outside. 9 MR. STEPHENS: Would you raise your 10 right hand, please. 11 GLENN WISDOM, 12 being first duly sworn, was examined and 13 testified as follows: 14 DIRECT EXAMINATION 15 BY MR. JENKINS: 16 Q Mr. Wisdom, would you please tell 17 the board your name, your position, how long 18 you've been in that position, please. 19 A Okay. My name is Glenn Wisdom. I 20 work for the Gwinnett Place Community 21 Improvement District, and I've been in the 22 position for about five years. 23 Q We often refer to these as CIDs. 24 That's Community Improvement District? 25 A Community Improvement District,</p>	<p style="text-align: right;">92</p> <p>1 that's correct. 2 Q And what is a Community Improvement 3 District? 4 A A Community Improvement District is 5 an organization, quick history on this, created 6 by the Georgia legislature that then allows a 7 county or a city to create an organization 8 where we have property owners, commercial 9 property owners, this does not include 10 residential, it's just commercial property 11 owners, that can voluntarily agree to tax 12 themselves in order to improve their situation 13 or in an area. 14 There are 21 of these Community 15 Improvement Districts in metro Atlanta now. 16 There are five in Gwinnett County, so we are 17 one of the five. 18 Q You mentioned that you're with -- or 19 what is your position with Gwinnett, please? 20 A I'm the director of operations. 21 Q All right. And tell the board, if 22 you will, where the Gwinnett Place District is 23 located. 24 A Okay. The boundaries, and then we 25 refer to our, to our -- the property owners</p>

<p style="text-align: right;">93</p> <p>1 within an area as a district, so our district 2 is bounded by Club Drive on the south and on 3 the north would be Old Norcross Road. And then 4 from east to west would be Satellite Boulevard 5 and then over to Steve Reynolds Boulevard. So 6 we encompass about a hundred -- I think it's 7 140 commercial property owners that represents 8 about 250 commercial businesses. 9 Q What generally have been your 10 dealings with the donation bins within the CID? 11 A Okay. I work -- I work on a regular 12 basis with the property owners and their 13 management, property management companies. And 14 one of their singular, biggest issues are bins 15 that are placed on their property without their 16 permission. It is a big issue. It happens, it 17 happens a lot. I know Mr. Jenkins referred to 18 this earlier as dropping these boxes off in the 19 stealth of the night, and it happens a lot. 20 And so my involvement with it has 21 been when property owners have called and 22 complained that, well, what's the remedy? 23 What's the remedy here for us to be able to get 24 rid of these boxes? You know, we're having to 25 go into our pocket to pick these boxes up and</p>	<p style="text-align: right;">94</p> <p>1 remove them. So that's how my involvement 2 actually began, was on these boxes being placed 3 on properties without their permission. 4 Q So property owners would be calling 5 you to say what can we do in -- 6 A Correct, asking for help, yeah. 7 Q Have these boxes that you are aware 8 of that have been placed without owner's 9 permission, are those boxes that are placed 10 there by for-profit companies? 11 A Predominantly. 12 Q Okay. 13 A Predominantly, yes. 14 Q Okay. 15 A In my experience, I haven't -- I 16 haven't had -- I can't recall any 17 not-for-profits doing that. It's just the 18 for-profit companies. 19 Q All right. And what do you normally 20 do, for example, when you get a call from the 21 property owner? Do you take some action 22 yourself on their behalf? 23 A I do. Only on their behalf. They 24 currently, currently, we -- these properties 25 generally have an arrangement with a towing</p>
<p style="text-align: right;">95</p> <p>1 company. And our -- and almost every 2 commercial property does, where if a car is 3 left, abandoned, you know, they can have a -- 4 they can have a towing company come in and 5 remove them. 6 We'll call the towing agent that has 7 actually signed the agreement, you know, with 8 the commercial property owner to remove those 9 boxes. So that's how they are removed in our 10 area. 11 (Whereupon a document was identified 12 as Exhibit 6.) 13 Q I have some photographs I collected 14 together as Exhibit 6, Mr. Wisdom. Are those 15 photographs that you took? 16 A Yes, sir. 17 Q All right. Would you tell the 18 board, please -- I only have that -- do we just 19 have that one copy? If you can tell the board, 20 please -- 21 A Okay. 22 Q Maybe hold it up -- 23 A Okay. 24 Q -- so they can see it, and tell us 25 what that is.</p>	<p style="text-align: right;">96</p> <p>1 A Yeah. This is just a couple of the 2 boxes that -- and this is the situation the 3 property owners have such a big issue with. 4 First of all, the boxes are placed on the 5 property without permission, and then, 6 secondly, they become, they become this dump 7 site. 8 The public generally just, just 9 perceives these, where these boxes are located, 10 as a place to come and put anything that's 11 unwanted. There are mattresses and 12 televisions. 13 MR. KNOX: Mr. Wisdom, will you show 14 that so that the appellant -- 15 MR. JENKINS: I've given them a -- 16 MR. KNOX: Oh, there's copies. 17 That's fine. 18 MR. JENKINS: I've shown it to them. 19 MR. KNOX: That's fine. 20 Okay. Fine. 21 A This is televisions, furniture. 22 Q Is that the Mid-Atlantic? 23 A These, the first -- these first few 24 are Mid-Atlantic. 25 MR. DILLARD: Mr. Chairman, we</p>

<p style="text-align: right;">97</p> <p>1 object. It's not a question of --</p> <p>2 MR. KNOX: What objection?</p> <p>3 MR. DILLARD: Well, it's irrelevant.</p> <p>4 It's after the fact. It's an enforceable</p> <p>5 issue. The ordinance could be drawn to take</p> <p>6 care of all this. They got permission -- do</p> <p>7 they have permission? He doesn't know whether</p> <p>8 they got permission or not. You know, he knows</p> <p>9 it's a not-for-profit.</p> <p>10 Obviously, these box -- I don't know</p> <p>11 when these photographs were taken, but if</p> <p>12 they're in unincorporated areas, they've been</p> <p>13 removed subject to this appeal. And I don't</p> <p>14 see the line of the questioning as going to the</p> <p>15 distinction that needs to be made here between</p> <p>16 profit and nonprofit because they're not --</p> <p>17 MR. KNOX: Mr. Jenkins --</p> <p>18 MR. DILLARD: -- going to have --</p> <p>19 MR. KNOX: -- you have any comment</p> <p>20 on that?</p> <p>21 MR. JENKINS: Well, I think he's</p> <p>22 testified that the for-profit are the ones that</p> <p>23 he's had to deal with the complaints on from</p> <p>24 property owners when they've been placed there</p> <p>25 without the property owner's permission.</p>	<p style="text-align: right;">98</p> <p>1 MR. KNOX: I think the foundation</p> <p>2 was laid, Mr. Dillard. I'll permit.</p> <p>3 MR. DILLARD: Okay.</p> <p>4 Q Let's hold those up again. That's</p> <p>5 the Mid-Atlantic?</p> <p>6 A Correct.</p> <p>7 Q And these would be, all these</p> <p>8 photographs would show within the district, the</p> <p>9 CID?</p> <p>10 A Correct.</p> <p>11 Q And it's all unincorporated</p> <p>12 Gwinnett?</p> <p>13 A Correct, correct.</p> <p>14 Q Okay. Do you have some USAgain</p> <p>15 photos in there?</p> <p>16 A I thought I gave you some of those.</p> <p>17 Q Yeah. I thought you did too.</p> <p>18 A This is only the --</p> <p>19 MR. THORNBERRY: Is that what</p> <p>20 you're --</p> <p>21 MR. JENKINS: No, that's not it.</p> <p>22 THE WITNESS: That was the other</p> <p>23 one. I thought I had some in that manila file</p> <p>24 folder.</p> <p>25 MR. JENKINS: Yeah, you did. I</p>
<p style="text-align: right;">99</p> <p>1 somehow left them out.</p> <p>2 Q Let me add those two, and I'll</p> <p>3 include those as part of that exhibit.</p> <p>4 A Okay.</p> <p>5 Q If you can --</p> <p>6 MR. KNOX: Okay. Mr. Jenkins, what</p> <p>7 differentiates the two that you just handed</p> <p>8 Mr. Wisdom from the package that you gave him</p> <p>9 previously?</p> <p>10 Q Can you tell, what's the difference?</p> <p>11 A Yeah. The difference is, this is</p> <p>12 the USAgain group, and this is the Mid-Atlantic</p> <p>13 group.</p> <p>14 MR. KNOX: Okay. These are the two?</p> <p>15 THE WITNESS: These are the two.</p> <p>16 MR. KNOX: Mr. Dillard, let's</p> <p>17 identify them --</p> <p>18 MR. JENKINS: Why don't we make that</p> <p>19 Exhibit 7.</p> <p>20 (Whereupon a document was identified as</p> <p>21 Exhibit 7.)</p> <p>22 MR. KNOX: Mr. Dillard, this goes to</p> <p>23 the point of trying to break these two up.</p> <p>24 MR. DILLARD: I agree. I think</p> <p>25 that's a good idea. Go ahead.</p>	<p style="text-align: right;">100</p> <p>1 MR. KNOX: So I would not allow that</p> <p>2 in this particular instance.</p> <p>3 MR. JENKINS: Would not allow?</p> <p>4 MR. KNOX: Not combining of the two.</p> <p>5 MR. JENKINS: Oh, okay. Well, I'll</p> <p>6 separate them out.</p> <p>7 MR. KNOX: Yeah.</p> <p>8 MR. JENKINS: Make that Exhibit 7.</p> <p>9 Q So tell us again, Mr. Wisdom, what</p> <p>10 is -- you need to look at them? Let them look</p> <p>11 at it.</p> <p>12 All right. Exhibit 7, if you'll</p> <p>13 tell us again what those two photographs are.</p> <p>14 A These are just USAgain boxes.</p> <p>15 Again, it's just examples of how they tend to</p> <p>16 gather the trash and other items. There's a</p> <p>17 sofa propped up against there, and, again, this</p> <p>18 is just the biggest complaint from the property</p> <p>19 owners in general is that this is the result of</p> <p>20 when these boxes are placed on their property,</p> <p>21 you know, particularly without their</p> <p>22 permission.</p> <p>23 Q And, again, your experience with</p> <p>24 that is from the for-profit companies that have</p> <p>25 been --</p>

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<p>1 A That's correct.</p> <p>2 Q Now, have you made effort to get in</p> <p>3 touch with either of those companies,</p> <p>4 Mid-Atlantic or USAgain, to deal with these</p> <p>5 issues?</p> <p>6 A I haven't made an effort to get in</p> <p>7 touch with them. When the property owner has</p> <p>8 said that they are not -- they're not -- they</p> <p>9 have not been approved to be on their property,</p> <p>10 they've asked that they be removed.</p> <p>11 Now, I did have a gentleman named</p> <p>12 Kevin Fitzgerald who approached us about this</p> <p>13 situation when some of the boxes were removed.</p> <p>14 Q Is he with USAgain?</p> <p>15 A He's with USAgain, that's correct.</p> <p>16 Q Okay.</p> <p>17 A Or he was at the time. I don't know</p> <p>18 if he is now or not. I mean, this was just the</p> <p>19 time when he came to our office to talk to us</p> <p>20 about this.</p> <p>21 And he had told us then that he had</p> <p>22 permission from the property owners for these</p> <p>23 boxes to be placed. When I asked him to show</p> <p>24 me the agreements, he said he'd forgotten those</p> <p>25 and he didn't have those with him that day.</p>	<p>1 MR. DILLARD: I object. This is all</p> <p>2 hearsay, Mr. Chairman.</p> <p>3 MR. KNOX: I agree. That should be</p> <p>4 thrown.</p> <p>5 THE WITNESS: Okay, okay.</p> <p>6 Q I mean, did you do anything after he</p> <p>7 told you --</p> <p>8 A No, sir. The boxes were --</p> <p>9 MR. DILLARD: Objection.</p> <p>10 MR. KNOX: I agree. That whole</p> <p>11 line, that whole line is hearsay. I agree.</p> <p>12 Q Okay. Did Mr. Fitzgerald ever</p> <p>13 provide you with anything in writing --</p> <p>14 A No, sir.</p> <p>15 Q -- that there was permission from</p> <p>16 the property owners?</p> <p>17 A No, sir.</p> <p>18 Q About when were those photographs</p> <p>19 taken?</p> <p>20 A I think it was sometime in the last</p> <p>21 year.</p> <p>22 Q And that would be, you say that's</p> <p>23 Exhibit 6 and 7 --</p> <p>24 A Yes, sir.</p> <p>25 Q -- photographs? Okay. Have you</p>
103	104
<p>1 taken action in contacting the County, the</p> <p>2 county enforcement officer or code</p> <p>3 provisions --</p> <p>4 A Yes, sir.</p> <p>5 Q -- in connection with these?</p> <p>6 A Yes, sir, we do. We work real</p> <p>7 closely with code enforcement. That's the arm</p> <p>8 of the Gwinnett County government that we</p> <p>9 work -- we work with on issues like this,</p> <p>10 particularly if -- if the property owner</p> <p>11 doesn't have an arrangement made with a towing</p> <p>12 service, we do work, we do work with the county</p> <p>13 code enforcement folks.</p> <p>14 MR. JENKINS: Okay. All right. I</p> <p>15 think that's all I have.</p> <p>16 CROSS-EXAMINATION</p> <p>17 BY MR. DILLARD:</p> <p>18 Q Were these photographs taken before</p> <p>19 May?</p> <p>20 A Mr. Dillard, I don't remember when</p> <p>21 they were taken. It was within the last year.</p> <p>22 I just don't remember a specific date.</p> <p>23 Q Are you familiar with the permits</p> <p>24 that were denied that is the subject matter of</p> <p>25 this appeal?</p>	<p>1 A No, sir. I mean, I'm not -- I'm not</p> <p>2 aware of who's been denied or who's been</p> <p>3 approved. I have not been --</p> <p>4 Q So you're not aware of the fact that</p> <p>5 all these applications had permission of the</p> <p>6 property owner?</p> <p>7 A I only know of the ones that -- that</p> <p>8 have been in my area.</p> <p>9 Q And those are in your CID?</p> <p>10 A Correct.</p> <p>11 Q That's all you --</p> <p>12 A That's all I can speak to.</p> <p>13 Q And you say you've had some similar</p> <p>14 experiences with nonprofits?</p> <p>15 A I said I couldn't remember any</p> <p>16 experiences where I've had nonprofits,</p> <p>17 not-for-profits. I can't recall any. I'm not</p> <p>18 saying that there aren't any. I'm just saying</p> <p>19 I can't recall any.</p> <p>20 Q Okay. But the main complaint was</p> <p>21 these were put there without permission?</p> <p>22 A That is the primary complaint, yes,</p> <p>23 sir.</p> <p>24 Q Okay. And they could have been put</p> <p>25 there prior to August of last year?</p>

<p style="text-align: right;">105</p> <p>1 A Could have been.</p> <p>2 Q Okay. All right. And what's the</p> <p>3 address of those particular boxes?</p> <p>4 A I'd have to get that for you. I'm</p> <p>5 not real sure on that.</p> <p>6 Q And are you aware that only</p> <p>7 nonprofits can put those boxes out?</p> <p>8 A I am now based on the ordinance,</p> <p>9 yes.</p> <p>10 Q Were you aware of that at the time</p> <p>11 those pictures were taken?</p> <p>12 A I was aware of that, yes.</p> <p>13 Q And who asked you to take those</p> <p>14 pictures?</p> <p>15 A No one asked me to take the</p> <p>16 pictures.</p> <p>17 Q You did that on your own?</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. And do you know whether or</p> <p>20 not any of the citations were issued as a</p> <p>21 result of the --</p> <p>22 A I do not know that, no, sir.</p> <p>23 Q Okay. And so how do you determine</p> <p>24 whether they're for-profit or not-for-profit?</p> <p>25 A Actually, I don't.</p>	<p style="text-align: right;">106</p> <p>1 Q So you really don't know. When I</p> <p>2 asked you that question, you were unsure?</p> <p>3 A No, no, I told you -- what I said</p> <p>4 was the property owners' primary complaint is</p> <p>5 boxes being placed on their property without</p> <p>6 permission. My first step, when they -- either</p> <p>7 they call me or I see a box, is to contact the</p> <p>8 property manager or the property owner and ask</p> <p>9 them do they have permission for these boxes to</p> <p>10 be on their property and do they want them</p> <p>11 there or would they like for them to be</p> <p>12 removed.</p> <p>13 Q And do you remember who those</p> <p>14 property owners are?</p> <p>15 A I could get you those.</p> <p>16 Q Do you have a diary? Do you keep a</p> <p>17 diary of some sort?</p> <p>18 A I don't, no, sir.</p> <p>19 Q Okay. All right. So they were</p> <p>20 concerned they were being placed there without</p> <p>21 their permission, first of all, and, secondly,</p> <p>22 they weren't being paid for that. Is that your</p> <p>23 understanding?</p> <p>24 A Again, I can communicate to you what</p> <p>25 the property owners have told me. The issue</p>
<p style="text-align: right;">107</p> <p>1 isn't about being paid for them. The issue is</p> <p>2 being placed there and they don't want them</p> <p>3 there.</p> <p>4 Q Okay.</p> <p>5 A That is the issue.</p> <p>6 Q Okay. Are you aware that the</p> <p>7 authorizations we have for those applications</p> <p>8 that have been denied did involve compensation</p> <p>9 paid to the property owner?</p> <p>10 A I did not know that.</p> <p>11 MR. DILLARD: Okay. Nothing</p> <p>12 further.</p> <p>13 MR. KNOX: Any member of the board</p> <p>14 have questions for Mr. Wisdom?</p> <p>15 MR. THORNBERRY: I do. I just want</p> <p>16 to clarify one piece. It sounds to me, so help</p> <p>17 me understand the process, if you have it</p> <p>18 removed or you help facilitate or the property</p> <p>19 owner has it removed via towing service, you</p> <p>20 are not then forwarding that on to code</p> <p>21 enforcement?</p> <p>22 THE WITNESS: Correct.</p> <p>23 MR. THORNBERRY: And there is no</p> <p>24 interaction --</p> <p>25 THE WITNESS: Correct.</p>	<p style="text-align: right;">108</p> <p>1 MR. THORNBERRY: -- as a result at</p> <p>2 that point?</p> <p>3 THE WITNESS: Correct.</p> <p>4 MR. THORNBERRY: So then it -- okay.</p> <p>5 I think that -- thank you.</p> <p>6 MR. KNOX: Any other questions?</p> <p>7 Mr. Jenkins?</p> <p>8 MR. JENKINS: I have no more</p> <p>9 questions. Thank you.</p> <p>10 MR. KNOX: Thank you. Thank you,</p> <p>11 Mr. Wisdom.</p> <p>12 MR. WISDOM: All right.</p> <p>13 MR. JENKINS: Thank you. May he be</p> <p>14 excused?</p> <p>15 MR. KNOX: Yes.</p> <p>16 MR. DILLARD: Sure, yeah.</p> <p>17 MR. KNOX: Mr. Jenkins?</p> <p>18 MR. JENKINS: That's all of our</p> <p>19 witnesses.</p> <p>20 MR. KNOX: Do you have any other</p> <p>21 documentary evidence to present?</p> <p>22 MR. JENKINS: Well, I do want to</p> <p>23 tender all of these exhibits that I've</p> <p>24 identified. I want to be sure they're made a</p> <p>25 part of the record, which would be Exhibits 1</p>

<p style="text-align: right;">109</p> <p>1 through 7, I believe. 1 through 7. So I would 2 like those to be part of the record. 3 MR. KNOX: Mr. Dillard, do you have 4 any objection? 5 MR. DILLARD: I do. I object to the 6 relevancy of them. They're all after the fact. 7 They don't go into any of the legislative 8 history that goes into why this ordinance was 9 adopted. They don't really show a fair 10 comparison between profit and nonprofit. 11 We know there are violations of the 12 nonprofit, but I think for your purposes 13 relative to what we're asking you to look at 14 today, I think all this, this whole line of 15 questions, is irrelevant. 16 MR. KNOX: So noted. It's admitted. 17 MR. JENKINS: I'm sorry? 18 MR. KNOX: Admitted. 19 MR. DILLARD: Okay. 20 MR. JENKINS: Okay. Yeah. Thank 21 you. 22 MR. KNOX: Okay, Mr. Dillard, do you 23 have -- 24 MR. DILLARD: So does he want to sum 25 up? I get the final word.</p>	<p style="text-align: right;">110</p> <p>1 MR. KNOX: You do, but do you have 2 anything to present? 3 MR. JENKINS: Well, I do -- 4 MR. DILLARD: No. We have no other 5 evidence. 6 MR. KNOX: Mr. Jenkins? 7 MR. DILLARD: Other than -- let me 8 say this, Mr. Chairman. We did, at my outset, 9 I did have a list of -- where is it? Here? On 10 this? 11 MS. SELLERS: On the first page. 12 MR. DILLARD: Just want to be sure 13 the record is complete. 14 MR. KNOX: Sure. 15 MR. DILLARD: Obviously, the record 16 of our appeal, our supplemental briefs in 17 support of our appeal, the applications, and 18 the denial letters. I think we have both 19 submitted that, and the County has submitted 20 that as well. The SMART trade ordinance, model 21 ordinance, and then a certified copy of the 22 UDO. And then the packet that we submitted, 23 which we show as Exhibit 8. 24 (Whereupon a document was identified as 25 Exhibit 8.)</p>
<p style="text-align: right;">111</p> <p>1 MR. KNOX: Mr. Jenkins, any 2 objection? 3 MR. JENKINS: Well, let me see what 4 Exhibit 8 is. 5 MR. DILLARD: It's this right here. 6 MS. ARNOLD: It's the packet that we 7 handed out. 8 MR. JENKINS: Okay. Let me see 9 that. 10 MR. KNOX: Mr. Dillard, you're going 11 to have another handout for us for the next 12 one? Is that included in the eight exhibits? 13 MR. DILLARD: It's not. It's not. 14 MS. ARNOLD: It's separate. 15 MR. KNOX: Do you intend to include 16 it? 17 MR. DILLARD: Yeah, I do. I do. We 18 can go ahead and mark it now if we want to. 19 MR. JENKINS: Well, I've got two 20 packets. 21 MS. SELLERS: Right. 22 MR. JENKINS: Are those both 23 Exhibit 8? 24 MS. SELLERS: No. 25 MR. DILLARD: No, no. One's on --</p>	<p style="text-align: right;">112</p> <p>1 MS. SELLERS: USAgain. 2 MR. DILLARD: -- Mid-Atlantic and 3 one's on -- 4 MR. KNOX: And one's Exhibit 9, 5 yeah. 6 MR. DILLARD: Yeah. 7 MR. JENKINS: So which one is 8? 8 MS. SELLERS: What we would propose 9 would be to mark USAgain as Exhibit 8. 10 MR. JENKINS: Okay. 11 MS. SELLERS: The USAgain handout. 12 We've got the certified copy of the UDO marked 13 as Exhibit 9. 14 (Whereupon a document was identified 15 as Exhibit 9.) 16 MR. KNOX: Okay. 17 MS. SELLERS: And for the record, 18 the USAgain supplemental brief marked as 19 Exhibit 10. 20 (Whereupon a document was identified as 21 Exhibit 10.) 22 MR. JENKINS: Supplemental brief? 23 MS. SELLERS: For USAgain. 24 MR. JENKINS: Okay. 25 MR. KNOX: This is the handout to</p>

<p style="text-align: right;">113</p> <p>1 us?</p> <p>2 MS. SELLERS: That's the handout,</p> <p>3 correct.</p> <p>4 MR. KNOX: That's 10. Okay.</p> <p>5 MS. SELLERS: No. I'm sorry. 10</p> <p>6 was what we emailed to you.</p> <p>7 MR. KNOX: Okay.</p> <p>8 MR. DILLARD: The handout was 8.</p> <p>9 MS. ARNOLD: So that's 8.</p> <p>10 MR. KNOX: Okay. This is USAgain.</p> <p>11 What's coming up will be what? 11?</p> <p>12 MS. SELLERS: Correct.</p> <p>13 MR. KNOX: Okay.</p> <p>14 (Whereupon documents were identified as</p> <p>15 Exhibit 11 and Exhibit 12.)</p> <p>16 MS. SELLERS: So the Mid-Atlantic</p> <p>17 handout would be marked as Exhibit 11. And</p> <p>18 the Mid-Atlantic supplemental brief that was</p> <p>19 previously emailed to everyone would be marked</p> <p>20 as Exhibit 12.</p> <p>21 And the UDO -- I guess if we're</p> <p>22 just using one record, do we need two UDOs?</p> <p>23 MR. DILLARD: No. We just ask that</p> <p>24 that be made a part of the record of</p> <p>25 Mid-Atlantic as well.</p>	<p style="text-align: right;">114</p> <p>1 MR. KNOX: Okay. Did Mr. Jenkins</p> <p>2 hear that, be sure there's agreement?</p> <p>3 Mr. Dillard just said something about the</p> <p>4 documents.</p> <p>5 MS. SELLERS: We were anticipating</p> <p>6 we would have two separate hearings, so we</p> <p>7 brought two certified copies of the UDO. But</p> <p>8 since we're combining all the exhibits, it</p> <p>9 seems like we just need to submit one certified</p> <p>10 copy of the UDO.</p> <p>11 MR. JENKINS: I think so.</p> <p>12 MS. SELLERS: An agreement.</p> <p>13 MR. JENKINS: That would be evidence</p> <p>14 in both cases.</p> <p>15 MR. KNOX: Okay.</p> <p>16 MR. JENKINS: That's fine.</p> <p>17 MR. KNOX: Okay. Agreement?</p> <p>18 MR. JENKINS: That's fine.</p> <p>19 MR. KNOX: Okay.</p> <p>20 MR. JENKINS: The only objection I</p> <p>21 have to the documents that they've identified</p> <p>22 is, the photographs have not been</p> <p>23 authenticated, but I --</p> <p>24 MS. SELLERS: I took them, Frank.</p> <p>25 I'll authenticate them.</p>
<p style="text-align: right;">115</p> <p>1 MR. JENKINS: Well, if she took</p> <p>2 them, put her on the stand.</p> <p>3 MR. KNOX: So no objection?</p> <p>4 MR. JENKINS: No objection.</p> <p>5 MR. KNOX: Okay. That's fine.</p> <p>6 That's good to know you're a good photographer.</p> <p>7 Okay. Anything else on the --</p> <p>8 MR. DILLARD: As far as the record</p> <p>9 is concerned, I think we're good. I think</p> <p>10 we're ready to --</p> <p>11 MR. KNOX: Ready for summary?</p> <p>12 MR. DILLARD: To sum up on USAgain,</p> <p>13 so you're up.</p> <p>14 MR. KNOX: Mr. Jenkins?</p> <p>15 MR. JENKINS: I mean, my summary</p> <p>16 really would apply to both in the interest of</p> <p>17 time. And it's just sort of a recapitulation</p> <p>18 of what I said earlier.</p> <p>19 The issue before the board is, under</p> <p>20 the ordinance, was the planning and development</p> <p>21 department justified and duty bound to deny the</p> <p>22 applications. I think we've shown that. The</p> <p>23 ordinance requires that they be a 501(c)(3)</p> <p>24 company to be entitled to a permit. They were</p> <p>25 unable to show that, so it was deficient in</p>	<p style="text-align: right;">116</p> <p>1 that way, all of them, all ten.</p> <p>2 There were additional reasons for</p> <p>3 USAgain including site maps and the other</p> <p>4 matters that you heard, proper identification</p> <p>5 of maintenance person.</p> <p>6 So that we would ask the board to</p> <p>7 uphold the planning and development department</p> <p>8 decision that the permits were properly and</p> <p>9 lawfully denied.</p> <p>10 MR. KNOX: Mr. Dillard?</p> <p>11 MR. DILLARD: Let me, first of all,</p> <p>12 Mr. Jenkins raised a question about your</p> <p>13 authority and the power that you've got to even</p> <p>14 hear this case and to deal with the</p> <p>15 constitutional issues. And I'm going to cite</p> <p>16 you the UDO which says the powers of the Zoning</p> <p>17 Board of Appeals in Section 270-80.6.A.1, "The</p> <p>18 Zoning Board of Appeals shall have the</p> <p>19 following powers: One, to hear and decide</p> <p>20 appeals when it is alleged that there is error</p> <p>21 in any order, requirement, decision, or</p> <p>22 determination made by the department of</p> <p>23 planning and development -- planning and</p> <p>24 development director in the enforcement of this</p> <p>25 UDO."</p>

<p style="text-align: right;">117</p> <p>1 We do think that's one of the 2 inherent powers that you've got. While it's 3 different this time in that we are asking you 4 to look at some constitutional requirements 5 versus just the requirements in a variance and 6 special use permit and those kind of things 7 that you normally hear, we realize this is 8 unusual and that we're asking you to do 9 something a little different, but we do believe 10 that you have the authority to make a decision 11 that can be -- that can be appealed, and you 12 can find facts and reach conclusions and then 13 make a decision based on whether or not you 14 think these permits were correctly denied. 15 And the question is not whether or 16 not they were authorized to be denied under the 17 ordinance. We recognize the ordinance requires 18 to be a 501(c)(3). But the question is whether 19 or not the ordinance is lawful which gives them 20 the authority to -- which we think arbitrarily 21 denies. So we think you got the power, okay, 22 to do that. 23 And we allege that there is error 24 that is created by the existence of the 25 ordinance which gives the planning department</p>	<p style="text-align: right;">118</p> <p>1 authority to deny these applications simply 2 because they're not a 501(c)(3). 3 All the site work and all this 4 stuff, as Ms. Sloan said, is amenable. I mean 5 it's all amenable. If we came in with a 6 501(c)(3) we'd be okay, but we're not. But as 7 far as site work and as far as location of the 8 bins, as far as authorizations of the owners, 9 which we have, we've got all the authorizations 10 from the owners, my guess is these bins went 11 out there, they were put out there, we don't 12 know, but probably because they weren't aware 13 of the ordinance. I would think that nobody 14 would go out there and put them out without 15 permission. 16 But having said that, the main thing 17 we're fighting over here today is the 18 constitutional issues surrounded by the 19 requirement of the 501(c)(3). 20 We can comply with other 21 regulations. And the County's got the 22 authority to put those kind of regulations in 23 place; hours of operations, where they've got 24 to be located, require the site plan. They 25 could require distances from property lines,</p>
<p style="text-align: right;">119</p> <p>1 require it being industrial, commercial, or 2 nonresidential areas. That kind -- all that 3 kind of stuff could be regulated which is not 4 regulated by the state law. 5 But they can't go in the face of the 6 state law when state law doesn't make the 7 distinction, gives the nonprofits the same, 8 equal treatment as nonprofits and gives 9 for-profits the same rights, they can't go in 10 and take away that right that's been given by 11 the State. They can further regulate it, but 12 they can't just go in and arbitrarily take it 13 away from us. 14 So having said that, I think you've 15 heard the case. We think that it's unlawful 16 for the reasons that we have -- that we have 17 stated, and we would ask that you overturn the 18 decision of the planning department and ask 19 that they issue these permits. 20 MR. KNOX: Thank you. Moving into 21 the next -- 22 MR. DILLARD: Good. 23 MR. KNOX: -- case. Mid-Atlantic. 24 MR. DILLARD: First of all, for the 25 record, we incorporate, and I assume you want</p>	<p style="text-align: right;">120</p> <p>1 to incorporate, Frank, all of the evidence in 2 the record that has been made in the USAgain 3 case. 4 MR. JENKINS: Yes, I intended for 5 that evidence to be applicable and entered in 6 record on both of the cases before the board 7 today. All the evidence and also the testimony 8 will be equally applicable to both the USAgain 9 and the Mid-Atlantic appeals, and so we'd like 10 to make our evidence a part of the Mid-Atlantic 11 appeal to be incorporated into that record. 12 MR. KNOX: So granted. Do you 13 intend to make an opening statement summarizing 14 the difference between the two? 15 MR. DILLARD: I do, yeah. 16 MR. KNOX: That's good. 17 MR. DILLARD: I'm just going to 18 briefly lay it out for you, Mr. Chairman. 19 The issue in Mid-Atlantic relative 20 to the 501(c)(3) credit requirement and not is 21 the same argument, and we ask on the record 22 that the current record that's been made in the 23 USAgain be incorporated and made a part of the 24 record for the Mid-Atlantic appeal, which are 25 eight in number, and the USAgain was two in</p>

<p style="text-align: right;">121</p> <p>1 number.</p> <p>2 Let us first point out that the</p> <p>3 Mid-Atlantic application, as Ms. Sloan</p> <p>4 testified, satisfied the ordinance in all</p> <p>5 respects except for the 501(c)(3) situation.</p> <p>6 So site plan, all that stuff can be cured and</p> <p>7 is curable so as to 501(c)(3). Here,</p> <p>8 Mid-Atlantic complied with the ordinance to the</p> <p>9 letter of the law except for the 501(c)(3)</p> <p>10 requirement.</p> <p>11 The County in this instance failed</p> <p>12 to follow its own guidelines in the approval</p> <p>13 process. We think this is important to know.</p> <p>14 On August the 1st, 2014, Mid-Atlantic submitted</p> <p>15 all temporary structure permit applications,</p> <p>16 all eight, to the County via overnight mail.</p> <p>17 All the properties selected for bin placement</p> <p>18 were appropriately zoned so as to allow for</p> <p>19 donation collection bins. They all had</p> <p>20 authorizations from the property owners.</p> <p>21 Mid-Atlantic went through the permit</p> <p>22 review process for a year with the County. In</p> <p>23 addition to the constitutional violations, the</p> <p>24 County has failed to follow its own plan review</p> <p>25 process guidelines, and this is important,</p>	<p style="text-align: right;">122</p> <p>1 which establishes a 30-day review period for</p> <p>2 the planning department to respond to an</p> <p>3 application.</p> <p>4 So this was filed in August 1st of</p> <p>5 2014. We should have had a response by</p> <p>6 September the -- well, by August the 31st of</p> <p>7 2014, but did not get that response until</p> <p>8 August the 13th of 2015, a year later. The</p> <p>9 County denied its pending permit. And the only</p> <p>10 reason they denied it was because of the</p> <p>11 501(c)(3).</p> <p>12 Now, the problem with the 30-day</p> <p>13 requirement, unlike most ordinances that have</p> <p>14 that kind of requirement that says it shall be</p> <p>15 approved, most of the time, that situation does</p> <p>16 not exist here. But I think that that would</p> <p>17 give you another reason to say Mid-Atlantic</p> <p>18 ought to be approved because they were not</p> <p>19 timely processed by the staff.</p> <p>20 The problem is, it still doesn't get</p> <p>21 you around the fundamental issue of the fact</p> <p>22 that Mid-Atlantic is not a 501(c)(3). So the</p> <p>23 way the ordinance is worded, the staff is</p> <p>24 really prohibited from issuing the ordinance --</p> <p>25 issuing the permit if you're not a 501(c)(3).</p>
<p style="text-align: right;">123</p> <p>1 Everything else we complied with.</p> <p>2 Mid-Atlantic is a professional</p> <p>3 clothing recycling company. It contributes to</p> <p>4 the environment by helping to keep millions of</p> <p>5 pounds of solid waste out of our nation's</p> <p>6 landfills and making it safe, easy, and</p> <p>7 convenient for communities to recycle used</p> <p>8 clothing.</p> <p>9 They receive approval to place</p> <p>10 clothing collection bins in parking lots or</p> <p>11 shopping centers, business owners, schools,</p> <p>12 churches to accept used clothing, shoes,</p> <p>13 stuffed animals, and household textiles, such</p> <p>14 as linens, towels, curtains, and blankets that</p> <p>15 otherwise might end up in landfills.</p> <p>16 And we've seen these photographs</p> <p>17 about the stuff being stacked around these</p> <p>18 bins. We realize that's an enforcement issue.</p> <p>19 We also realize that the County's got ways to</p> <p>20 enforce that through fine and otherwise, and</p> <p>21 that -- and that the responsible parties can be</p> <p>22 held accountable.</p> <p>23 That is not in and of itself in our</p> <p>24 opinion a sufficient justification to take away</p> <p>25 a valuable property right from someone. I</p>	<p style="text-align: right;">124</p> <p>1 mean, the fact that I got a car lot and I've</p> <p>2 parked junk cars out there, you know, that</p> <p>3 doesn't mean I can't have a car lot. We might</p> <p>4 not like the way it looks, we might not like</p> <p>5 the way it's enforced, but I suggest to you</p> <p>6 that the few photographs that have been sent</p> <p>7 here today are not -- should not be gathered as</p> <p>8 an indictment of the whole issue.</p> <p>9 The other thing that I think is</p> <p>10 important, particularly as we look at the</p> <p>11 Mid-Atlantic situation, is that of the</p> <p>12 citations that they tried to introduce into</p> <p>13 evidence, of the 89, he thought that 10 were</p> <p>14 nonprofit.</p> <p>15 So while you might have 79 versus</p> <p>16 10, the issue is the same relative to</p> <p>17 enforcement of these bins. You know, and the</p> <p>18 fact that you'll tolerate a nonprofit just</p> <p>19 because they're fewer of them to me is not</p> <p>20 satisfactory justification for the denial or</p> <p>21 the making of the distinction.</p> <p>22 The bins are attractive. For the</p> <p>23 most part, they're well kept. They're always</p> <p>24 neat and clean. The bins occupy less than one</p> <p>25 parking space. The bins are fully insured and</p>

<p style="text-align: right;">125</p> <p>1 serviced as often as necessary to maintain a 2 neat and orderly appearance. But, as I raise 3 again, that's not in and of itself enough to 4 deny or to justify the unconstitutionality of 5 these ordinances.</p> <p>6 The donated materials are taken back 7 to Mid-Atlantic's factory and prepared for 8 shipment. Since 2005, Mid-Atlantic has been 9 partnering with DARE, DARE America. If you're 10 familiar with DARE, it's the highly acclaimed 11 national program that gives kids the skills 12 they need to avoid involvement in drugs, gangs, 13 and violence.</p> <p>14 DARE is a 501(c)(3) organization. 15 DARE receives a fixed amount from each bin from 16 the sales proceeds. Now, I'm going to tell 17 you, DARE doesn't receive all of it. They 18 receive a percentage of each one.</p> <p>19 In 2014, Gwinnett adopted this 20 new ordinance. And as of February of 2014, 21 anyone who wanted to place a donation bin 22 within the unincorporated county had to obtain 23 these temporary structure permits.</p> <p>24 On August the 1st, we submitted all 25 of the temporary structure permit applications.</p>	<p style="text-align: right;">126</p> <p>1 We satisfied every requirement required except 2 the 501(c)(3). We went through this for a year 3 before we got a decision. In addition to the 4 constitutional violations, we urge that they 5 failed to follow their own ordinance.</p> <p>6 In the interest of time, and we 7 appreciate the tolerance of the board in 8 hearing these cases, the same legal arguments 9 that are in the USAgain is in this.</p> <p>10 First, the ordinance is an 11 unconstitutional restriction of free speech. 12 Second, the ordinance violates Mid-Atlantic's 13 commercial speech rights. Third, the ordinance 14 violates equal protection clause in the US 15 Constitution and the Georgia Constitution, and 16 the local law is preempted by state law.</p> <p>17 To me, to me, these are pretty 18 simple, forthright issues. The government has 19 come forward only, only with a sample of a few 20 bins where there has been material laying 21 around the bins. That is a curable, 22 enforceable issue for which the property owner 23 and the bin operator can be held accountable. 24 There are fines in place. If they fail to 25 remove it, they can confiscate the bin</p>
<p style="text-align: right;">127</p> <p>1 themselves.</p> <p>2 And there are ways of enforcing the 3 aesthetic, other quality issues of these bins 4 without prohibiting them. And I think it's one 5 thing to say, oh, Mr. Dillard, you got to tear 6 your house down because you've got some code 7 violation, you're sitting too close to the 8 street, or you violated the driveway curb cut 9 laws, or you got too much irrigation in your 10 front yard.</p> <p>11 You know, the punishment, I guess, 12 for lack of a better term, has got to follow 13 the crime. And we think here, to make that 14 distinction is arbitrary and capricious, it's 15 unconstitutional, and it really does not 16 address a compelling governmental interest that 17 needs to be addressed.</p> <p>18 So with that, we ask that you 19 overturn the decision by the planning 20 department to deny these applications. And I'd 21 like -- I'll reserve a little bit of time for 22 rebuttal if I need it.</p> <p>23 MR. DILLARD: Mr. Jenkins, do you 24 have an opening statement? 25 MR. JENKINS: I just have a response</p>	<p style="text-align: right;">128</p> <p>1 to that.</p> <p>2 Number one, I'd like to incorporate 3 my arguments or my opening statement that I 4 made on the USAgain case. Eloquent or 5 ineloquent as it may be, I want to incorporate 6 it and make it applicable equally to the 7 USAgain case, without having to restate. I'm 8 sure you don't want to hear all that again.</p> <p>9 MR. KNOX: Are you drawing any 10 distinction between the for-profit exclusive or 11 the agency for-profit?</p> <p>12 MR. JENKINS: No. I think the 13 arguments are the same for both.</p> <p>14 MR. KNOX: Okay.</p> <p>15 MR. JENKINS: The other thing I'll 16 respond to is what Mr. Dillard said about DARE 17 is not in evidence. You don't have any 18 evidence about what DARE's connection is with 19 the company.</p> <p>20 The point being especially, though, 21 is the applicant was not a 501(c)(3) company. 22 That's the critical element. And that's what 23 the ordinance prohibits the grant of a permit 24 for.</p> <p>25 And the last thing, Mr. Dillard's</p>


<p style="text-align: right;">129</p> <p>1 arguments really should be made to the Board of 2 Commissioners because they're the ones who 3 craft the ordinances, and they would be good 4 arguments to the Board of Commissioners, you 5 know, to change your ordinance so this is not a 6 requirement, but it is, 7 And, of course, it being a 8 legislative act by the Board of Commissioners, 9 the planning department is bound, duty bound, 10 lawfully bound, under their commitment to the 11 County to deny permits that don't satisfy 12 ordinance provisions. And I think the evidence 13 is clear about that. 14 That's all I have. 15 MR. KNOX: Thank you. 16 MR. DILLARD: In response to that, 17 you know, we recognize the Board of 18 Commissioners could change the ordinance, and 19 that's really not why we're here today. Your 20 jurisdiction is limited to be, you're a 21 quasi-judicial body. You sit in a 22 quasi-judicial capacity to interpret what the 23 Board of Commissioners has done. 24 You know, maybe one of the ways to 25 get the Board of Commissioners to do something</p>	<p style="text-align: right;">130</p> <p>1 realistic is to find that these permits should 2 have been granted. And if the Board of 3 Commissioners wants to do something about the 4 regulation of donation bins, they can do so 5 through any number of ways but without just 6 absolutely taking the right to have them away 7 from a particular property owner. 8 So I would say that Mr. Jenkins is 9 right, the board can change it, but I think 10 what we're asking you today as you sit in a 11 quasi-judicial capacity is to interpret whether 12 or not there was an error committed by the 13 planning department in interpreting what is 14 otherwise an invalid law. 15 There's no question that they've got 16 the right. They've got the understanding as 17 the law is currently written to deny these 18 applications if they weren't a 501(c)(3). 19 There's no question about that. 20 MR. THORNBERRY: Can I make a 21 clarification maybe earlier -- 22 MR. DILLARD: Yeah. 23 MR. THORNBERRY: -- and so just 24 trying to clarify, make sure I'm understanding 25 this, because you said, you went to 270-80-6.</p>
<p style="text-align: right;">131</p> <p>1 That's what you're referencing again. And you 2 made emphasis on, if there's any error in any 3 order. I understand the sentence to continue, 4 "made by," so if I skip requirement, decision, 5 and determination, "if there's any error in any 6 order made by the department of planning and 7 development director in the enforcement of the 8 UDO," not -- the sentence does not read to me 9 when there's alleged there's any error in the 10 UDO. 11 MR. DILLARD: Well -- 12 MR. THORNBERRY: So am I mis -- are 13 you interpreting the sentence to mean an error 14 in the UDO? Because I read the sentence, and I 15 did get some B-pluses in grammar, so, you know, 16 an error in any order or determination made by 17 the department of planning and development 18 director. Is that -- 19 MR. DILLARD: No. 20 MR. THORNBERRY: Do you interpret 21 the sentence differently? 22 MR. DILLARD: Yeah, yeah, yeah. The 23 way the ordinance is written, they had to deny. 24 Okay. We're not -- we understand that. I'm 25 asking --</p>	<p style="text-align: right;">132</p> <p>1 MR. THORNBERRY: I'm getting to the 2 quasi-judicial power that you're saying that -- 3 MR. DILLARD: I'm saying -- I'm 4 saying -- 5 MR. THORNBERRY: -- we have, so 6 that's what I'm trying to understand. 7 MR. DILLARD: I'm saying how we get 8 to the error of the requirement and the 9 decision that was made, because they were 10 forced to make an unconstitutional decision 11 because the law itself from which they made 12 that decision is facially unconstitutional. 13 MR. THORNBERRY: And you believe 14 that sentence gives us power to correct that? 15 MR. DILLARD: I think it does. I 16 think it absolutely does. And I think -- 17 MR. THORNBERRY: That's what I 18 wanted to clarify. 19 MR. DILLARD: -- it gives you the 20 opportunity -- 21 MR. THORNBERRY: Thank you. 22 MR. DILLARD: I think it gives you 23 the opportunity to recommend back to the Board 24 of Commissioners they need to change the 25 ordinance.</p>

<p style="text-align: right;">133</p> <p>1 MR. KNOX: Thank you, Mr. Dillard. 2 Mr. Stephens, that's an issue that I would ask 3 you to address whenever we close the hearing. 4 MR. STEPHENS: Okay. 5 MR. KNOX: You will have an 6 opportunity for you to brief the board on the 7 interpretation -- 8 MR. STEPHENS: Sure. 9 MR. KNOX: -- as per our attorney. 10 Mr. Dillard, do you have any 11 evidence or witnesses to offer -- 12 MR. DILLARD: No, we're fine. 13 MR. KNOX: -- in addition to what 14 we've already seen? 15 MR. DILLARD: We want to be sure the 16 things in the record that we've -- Exhibits 1 17 through, what is it, 12, just to be sure that 18 the record is replete with that. 19 MR. KNOX: We'll ask the court 20 reporter to read back exactly what you said 21 prior to that. 22 MR. DILLARD: That will be fine. 23 MR. KNOX: What did he ask be in the 24 record? 25 THE COURT REPORTER: It will take a</p>	<p style="text-align: right;">134</p> <p>1 minute. 2 MR. KNOX: Okay. And then while 3 you're doing that, Mr. Jenkins, do you have any 4 witnesses to -- 5 MR. JENKINS: No, I do not. 6 MR. KNOX: -- offer or any 7 additional documents? 8 MR. JENKINS: I did want to refer 9 the board to Exhibit 1. In particular 10 reference, we need to look at all of them, but 11 reference to the first application of 12 Mid-Atlantic, Mr. Dillard said they submitted 13 their application in August of 2014 and they 14 didn't get a decision until the summer. 15 The record would show that under the 16 checklist, this would be, for example, 17 immediately following the application by 18 Mid-Atlantic, number 00190. And the record 19 shows that the date it submitted was 20 12-19-2014. It was resubmitted January the 21 29th, 2015 and May the 4th, 2015, and 22 re-reviewed by the planning department on June 23 the 23rd, 2015. 24 And I don't need to go through all 25 the others, but --</p>
<p style="text-align: right;">135</p> <p>1 MR. KNOX: So your argument at this 2 point is that what Mr. Dillard characterizes as 3 being abnormally slow is based on incomplete or 4 unfactual information? 5 MR. JENKINS: That's right. This 6 would reflect when those applications were made 7 or resubmitted and when they were reviewed and 8 a decision's finally made. 9 MR. KNOX: And what you would ask 10 then is that any decision based on that be put 11 aside because of the dates being inaccurate? 12 MR. JENKINS: Yes. 13 MR. KNOX: Mr. Dillard, do you have 14 any comments? 15 MR. DILLARD: It still wasn't done 16 within 30 days. Even under the dates he gave, 17 they still didn't do it within a 30-day period. 18 MR. KNOX: Thank you. You have the 19 readback? 20 (Whereupon off-the-record discussions 21 ensued.) 22 MR. KNOX: Mr. Dillard, would you go 23 through your exhibits again and be certain that 24 the court reporter has those? And then with 25 that, does that conclude your case?</p>	<p style="text-align: right;">136</p> <p>1 MR. DILLARD: It does. We're 2 finished. 3 MR. JENKINS: Yeah. We're tendering 4 or identifying for the record, I think they've 5 been tendered and accepted, but Exhibit 1 is 6 the ten applications with the department 7 record. 8 Exhibit 2 is the donation collection 9 box ordinance which is at Section -- at chapter 10 230, and 130.4.C. 11 3 are the photographs that were 12 taken of boxes, donation boxes. 13 4 is the spreadsheet identified by 14 Mr. Colquitt with cases that were made for 15 violation of the ordinance, the donation box 16 ordinance. 17 Number 5 are all of the cases but 18 specifically it lists the number of violations 19 under 230-130.4.C, Donation Boxes, as being 89. 20 6 are photographs taken by 21 Mr. Wisdom who identified those. And 7 -- 22 actually, 6 are the Mid-Atlantic boxes. 23 Exhibit 7 are the USAgain boxes and 24 photographs that were taken by Mr. Wisdom. 25 So those are what we would submit</p>

<p style="text-align: right;">137</p> <p>1 into evidence.</p> <p>2 MR. DILLARD: And let me go through</p> <p>3 ours.</p> <p>4 Number 8 is the handout with three</p> <p>5 tabs in it on USAgain.</p> <p>6 Number 9 is a certified copy of the</p> <p>7 UDO.</p> <p>8 Number 10 is a brief of our case in</p> <p>9 USAgain.</p> <p>10 Number 11 is the handout with three</p> <p>11 tabs in the Mid-Atlantic Clothing Recycling</p> <p>12 appeal.</p> <p>13 Number 12 is the brief that we</p> <p>14 prepared for Mid-Atlantic Recycling, which</p> <p>15 includes the applications of Mid-Atlantic.</p> <p>16 So that is the 12 exhibits.</p> <p>17 MR. KNOX: And you've concluded the</p> <p>18 case?</p> <p>19 MR. DILLARD: Yes.</p> <p>20 MR. KNOX: Mr. Jenkins, do you have</p> <p>21 anything to offer? Mr. Dillard concluded his</p> <p>22 case a bit early.</p> <p>23 MR. JENKINS: No, I haven't.</p> <p>24 MR. KNOX: So your case is</p> <p>25 concluded? Mr. Dillard?</p>	<p style="text-align: right;">138</p> <p>1 MR. DILLARD: I'm fine. We're fine,</p> <p>2 Your Honor.</p> <p>3 MR. KNOX: All right, then.</p> <p>4 MR. JENKINS: With the exception</p> <p>5 that we are incorporating the evidence and the</p> <p>6 arguments from the first case.</p> <p>7 MR. KNOX: Yes, yes, so stipulated.</p> <p>8 So stipulated. Exactly right.</p> <p>9 With that, finally, I declare the</p> <p>10 public hearing for the administrative appeals</p> <p>11 as outlined closed.</p> <p>12 Now, Mr. Stephens, the ball is to</p> <p>13 you. What we're looking at here is a series of</p> <p>14 issues.</p> <p>15 Would you tell us, first and</p> <p>16 foremost, as I'm sure you're waiting to do,</p> <p>17 what authority do we actually have?</p> <p>18 MR. STEPHENS: I'm looking at a</p> <p>19 couple of sections in the Unified Development</p> <p>20 Ordinance. One is 270. It all comes from</p> <p>21 Section 270-80.6.</p> <p>22 The first one has been read to</p> <p>23 you-all. You've heard it a few times. It sets</p> <p>24 forth the powers of the Zoning Board of</p> <p>25 Appeals. There's only one of those powers that</p>
<p style="text-align: right;">139</p> <p>1 applies to our hearing today, and that one is</p> <p>2 A.1.</p> <p>3 It says The Zoning Board of Appeals</p> <p>4 shall have the following powers. The first one</p> <p>5 is to hear and decide appeals in one</p> <p>6 circumstance, and that's when it's alleged that</p> <p>7 there's an error in any order, requirement,</p> <p>8 decision, or determination made by the</p> <p>9 department of planning and development</p> <p>10 director.</p> <p>11 So we're looking at allegations that</p> <p>12 there's been some error made by Mr. Lackey or</p> <p>13 his staff on his behalf in the enforcement of</p> <p>14 the UDO. So we're talking about errors that</p> <p>15 the planning and development director would</p> <p>16 have made in enforcement of the UDO. You have</p> <p>17 the ability to hear that case, and that's the</p> <p>18 case that is being heard today. That's the</p> <p>19 allegation that you have the power to hear.</p> <p>20 Further, in that same section,</p> <p>21 Subsection B says, in exercising your power in</p> <p>22 this situation, you may reverse the decision or</p> <p>23 determination from which the appeal is taken,</p> <p>24 so you can reverse Mr. Lackey's decision, and</p> <p>25 to that end -- or you can affirm it. You can</p>	<p style="text-align: right;">140</p> <p>1 affirm or reverse the decision.</p> <p>2 And if you reverse the decision, you</p> <p>3 have all the powers of the director of planning</p> <p>4 and development from which the appeal is taken.</p> <p>5 So you have the powers that Mr. Lackey would</p> <p>6 have. And you may issue or revoke or direct</p> <p>7 the issuance or revocation of the appropriate</p> <p>8 permit. So those are your powers under the</p> <p>9 UDO.</p> <p>10 MR. KNOX: Mr. Stephens, does</p> <p>11 Mr. Lackey have the power to change the UDO?</p> <p>12 MR. STEPHENS: No, he doesn't have</p> <p>13 that power.</p> <p>14 MR. KNOX: Did Mr. Lackey have any</p> <p>15 say or vote in the adoption of the UDO?</p> <p>16 MR. STEPHENS: I'm sure that there</p> <p>17 are recommendations that are made by the</p> <p>18 department.</p> <p>19 MR. KNOX: Did he have any final say</p> <p>20 or vote?</p> <p>21 MR. STEPHENS: No. It's the</p> <p>22 decision of the Board of Commissioners, and</p> <p>23 it's a legislative decision of the Board of</p> <p>24 Commissioners in adopting the UDO.</p> <p>25 The issue that you're able to hear,</p>

<p style="text-align: right;">141</p> <p>1 that you have power to hear, is enforcement of 2 the UDO and what actions the director or his 3 staff had taken there. 4 And so really what you've got in 5 this proceeding is an ability to determine 6 whether the action taken by the director was 7 appropriate or not appropriate, in other words, 8 whether to affirm it or to find that there was 9 an error. 10 If you affirm it, you would not 11 issue any other permit because the decision in 12 this case was to deny the permit. If you were 13 to find that there was an error, you would have 14 the power to order the issuance of the permit 15 in this case. 16 MR. KNOX: Mr. Stephens, what is 17 your recommendation on the manner of voting on 18 the individual applications? 19 MR. STEPHENS: We do want to have 20 two separate motions, one for each set of 21 cases. The first set of cases was -- I now 22 think I know to pronounce it, USAgain cases, 23 and the other was the Mid-Atlantic cases. 24 In the USAgain cases, I believe the 25 parties would confirm that there, there were</p>	<p style="text-align: right;">142</p> <p>1 issues in addition to the 501(c)(3) issue. 2 There were issues of providing site plans, 3 contact information, dimensions, locations of 4 bins, and fee. So that's the USAgain. 5 And Mid-Atlantic cases was the 6 501(c)(3) issue only. 7 MR. KNOX: So there will be two 8 votes. As per your recommendation, there will 9 be two votes either to affirm or deny the 10 decision as made to not grant permits -- 11 MR. STEPHENS: Right. 12 MR. KNOX: -- for USAgain and 13 Mid-Atlantic? 14 MR. STEPHENS: That's right. 15 MR. KNOX: And that's it. 16 So what we'll do at this point is 17 we'll ask, we'll poll each of the members and 18 see their feelings at this point. 19 Mr. Thornberry, you have comments? 20 MR. THORNBERRY: Yeah, I do. I 21 think it's clearly outlined that it's not our 22 jurisdiction. I think if you run it to its 23 conclusion, if we were to issue permits and be 24 on its face in violation of the UDO, it would 25 be really us versus the legislative powers of</p>
<p style="text-align: right;">143</p> <p>1 the commissioners. I really don't know how 2 that plays out on a broader scale, although 3 we're just talking about -- I just can't -- 4 As far as the substantive, I guess 5 we should comment on that, issues that 6 Mr. Dillard brought up on behalf of his client, 7 I really -- I think it's within the county 8 commissioners' -- yes, we saw things after the 9 fact, as far as the negatives, but I think it's 10 within the county commissioners' and all the 11 bodies that would inform them, the planning and 12 development department, making a conclusion 13 about profit versus nonprofit and what the 14 expected experience, I think that's perfectly 15 within the purview of a municipality. 16 I just wrote down some examples for 17 myself, corporations versus nonprofits. 18 There's advantages and disadvantages. 19 Corporations can raise capital. They can 20 securitize. They have a variety of entity 21 protections and liability protections not 22 available to nonprofits, executive meeting, 23 directors. They have options. 24 There's things that favor charities. 25 They're tax exempt. There's other things like</p>	<p style="text-align: right;">144</p> <p>1 municipalities that also have advantages; 2 issue bonds and things without taxes. 3 Cemetery regulations I thought was a 4 good example. The Good Samaritan Law they just 5 recently passed for charities, I can pick 6 somebody up and not have liability. That's not 7 afforded to me as a nonprofit -- excuse me -- 8 as a for-profit. 9 So I think there's a lot of 10 differences. You know, for us to try to decide 11 this particular one based on substantive issues 12 versus all these other things that show that 13 there are differences, I don't know how the 14 heck the five of us, even given two to three or 15 four hours, however many it's been, could do 16 that. 17 There's also just things that are 18 different. There are different audit 19 standards, ERISA law, accounting standards. 20 So I just, you know, my world butts 21 up against a lot of this stuff, so I'm just 22 going to put in there, I don't think we're 23 nearly equipped, and I'd like that we have this 24 issue of our jurisdiction to get out of the 25 window and leave it to the courts to decide the</p>

<p style="text-align: right;">145</p> <p>1 substantive parts. So that's my opinion. 2 MR. KNOX: Okay. What we're voting 3 on here is, did the director of planning and 4 development act within his authority as per the 5 UDO. And at this point -- 6 MR. STEPHENS: I think -- 7 MR. KNOX: -- what I'm gathering -- 8 MR. STEPHENS: Well, and let me add 9 to that. The issue is whether he committed 10 error. 11 MR. KNOX: Yes, yes, yes. You are 12 worth your money. That lawyer is worth his 13 money. I'm sure. 14 (Whereupon off-the-record discussions 15 ensued.) 16 MR. KNOX: Mr. Nash, do you have 17 some comments? Do you believe that Mr. Lackey 18 acted within authority? 19 MR. NASH: Yes, sir, I do. 20 MR. KNOX: Mr. Hughes, do you have 21 any comments on this? 22 MR. HUGHES: No comment. 23 MR. KNOX: No comment. Mr. Silva, 24 you've got a couple of comments? 25 MR. SILVA: Well, I kind of echo</p>	<p style="text-align: right;">146</p> <p>1 what Tim pointed out. It's clear that, as far 2 as Mr. Lackey goes, he made the right decision. 3 It's pretty clear, the ordinance is very clear 4 that the permits should be denied. 5 As far as our jurisdiction, I think 6 that's also pretty clear. It's not our job to 7 decide the ordinance and what they say. I 8 mean, it's the commissioners'. 9 That being said, what I heard, 10 there's a lot of discussion here as far as 11 whether it's right or wrong, and I don't know 12 that that's our -- 13 MR. KNOX: You can editorialize how 14 you think it should be done for sure, though 15 it's different in that regard, so. 16 MR. SILVA: Yeah. 17 MR. KNOX: I think in this case that 18 you were -- from what you just said, apparently 19 you don't draw a distinction between boxes 20 quite the same way? 21 MR. SILVA: Oh, from my personal 22 opinion, I mean, as far as the box is 23 concerned, whether it's profit or nonprofit is 24 irrelevant. I mean, a box is a box, and 25 there's enforcement issues that need to be</p>
<p style="text-align: right;">147</p> <p>1 taken care of regardless. 2 MR. KNOX: Okay. Well, I too feel 3 that Mr. Lackey acted within his authority 4 given the UDO and what the requirements are. 5 In fact, Mr. Dillard admitted as much. 6 If we don't have the authority to 7 supercede the UDO, and it's very clear that we 8 do not, then very little is left to us except 9 to confirm Mr. Lackey. 10 Therefore, Mr. Hughes, do you want 11 to make the motion? 12 MR. HUGHES: You can go ahead. 13 MR. KNOX: Mr. Nash, you want to do 14 the motion? 15 MR. NASH: Yes. 16 MR. KNOX: All right. Do the two 17 motions? You want to do the two motions? 18 MR. NASH: That's fine. 19 MR. KNOX: Okay. 20 MR. NASH: I make a motion in the 21 case AAD 2015-00001 and 00002, y'all may need 22 to help me with the wording, we affirm 23 Mr. Lackey's decision in denying this 24 application. 25 MR. KNOX: And the finding of fact</p>	<p style="text-align: right;">148</p> <p>1 in this case would be that this is what the UDO 2 says very clearly. 3 MR. NASH: Yes, sir. 4 MR. THORNBERRY: Second. 5 MR. KNOX: Okay. I have a motion 6 made and properly seconded for the affirmation 7 of the decision made by Mr. Lackey in the -- 8 actually, I think this is for the temporary use 9 permit 2015 00140 and temporary use permit 2015 10 00141, which is being heard today as 11 administrative Appeal 8AD 2015 0001 and 8AD 12 2015 0002. 13 Is there a change or modification to 14 motion or any further discussion? 15 All in favor? 16 Motion is approved five to zero. 17 The decision made on those two temporary use 18 permits is affirmed. 19 Now, next motion? 20 MR. NASH: Yes, sir. Make a motion 21 that cases number AAD 2015-00003 through and 22 inclusive of case AAD 2015-00010 -- 23 MR. KNOX: Be affirmed? 24 MR. NASH: -- be affirmed by the 25 planning director's decision.</p>

<p>149</p> <p>1 MR. KNOX: The finding of fact here</p> <p>2 is that this is within our purview and there's</p> <p>3 very little else we can do.</p> <p>4 MR. NASH: Yes, sir.</p> <p>5 MR. KNOX: Do I have a second?</p> <p>6 MR. THORNBERRY: Second.</p> <p>7 MR. KNOX: Okay. I have a motion</p> <p>8 for the affirmation of the decision and, in</p> <p>9 effect, the approval of temporary use permit --</p> <p>10 the approval of the decision that was made to</p> <p>11 deny temporary use permit 2015 00190 through</p> <p>12 and including temporary use permit 2015 00015,</p> <p>13 heard today as administrative appeal AAD 2015</p> <p>14 0003 through and including AAD 2015 0001.</p> <p>15 Is there an amendment to motion, or</p> <p>16 are there any -- is there any other</p> <p>17 discussions?</p> <p>18 Seeing none, all in favor?</p> <p>19 Motion passes five to zero. The</p> <p>20 decision Mr. Lackey made on these temporary use</p> <p>21 permit applications is affirmed.</p> <p>22 Okay. Is there anything else,</p> <p>23 Mr. Stephens, before I call for a motion to</p> <p>24 adjourn?</p> <p>25 MR. STEPHENS: No. That's it.</p>	<p>150</p> <p>1 MR. KNOX: Do I have a motion to</p> <p>2 adjourn?</p> <p>3 MR. STEPHENS: First of all, did the</p> <p>4 parties have anything else?</p> <p>5 MR. KNOX: Oh, yeah, yeah. That's</p> <p>6 right.</p> <p>7 MR. DILLARD: The record's closed.</p> <p>8 MR. KNOX: Yeah, yeah. The meeting</p> <p>9 is closed. Do I have a second to adjourn?</p> <p>10 MR. THORNBERRY: Second.</p> <p>11 MR. KNOX: Okay. All in favor?</p> <p>12 Okay. We're adjourned.</p> <p>13 (Proceedings adjourned, 2:09 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>151</p> <p>1 CERTIFICATE</p> <p>2 GEORGIA</p> <p>3 COBB COUNTY</p> <p>4 I hereby certify that the above and</p> <p>5 foregoing pages 1 through 151 are a true,</p> <p>6 complete, correct and exact transcript of</p> <p>7 my shorthand notes taken in the</p> <p>8 above-referenced matter;</p> <p>9 That same constitutes a true,</p> <p>10 complete, correct and exact record of the</p> <p>11 above-referenced matter;</p> <p>12 That same was transcribed through</p> <p>13 computer-assisted transcription;</p> <p>14 That I am not of kin or counsel to</p> <p>15 any of the attorneys or parties, nor am I</p> <p>16 in the regular employ of any of the</p> <p>17 attorneys or parties;</p> <p>18 This 3rd day of December 2015.</p> <p>19</p> <p>20</p> <p>21</p> <p>22  JOEL P. MOYER, CCR 2745</p> <p>23 Certified Court Reporter</p> <p>24</p> <p>25</p>	

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