



Mayor & City Council
Regular Meeting Agenda

Monday, November 8, 2021, 6:30 PM

Tucker City Hall

1975 Lakeside Pkwy, Ste 350B, Tucker, GA 30084

Members:

Frank Auman, Mayor

Pat Soltys, Council Member District 1, Post 1

Matt Robbins, Council Member District 2, Post 1

Michelle Penkava, Council Member District 3, Post 1

Virginia Rece, Council Member District 1, Post 2

Noelle Monferdini, Council Member District 2, Post 2

Anne Lerner, Council Member District 3, Post 2

ZOOM Link: <https://us02web.zoom.us/j/86551864625> or Phone 877 853 5247 (Toll Free) ID: 865 5186 4625

Pages

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J.2.	Ordinance O2021-10-21	19

Courtney.Smith

Second Read and Public Hearing of an Ordinance to the Mayor and City Council for a text amendment to the City of Tucker Code Chapter 46: Zoning (TA-21-0007).

J.3. Ordinance O2021-10-20 Courtney.Smith 115

Second Read and Public Hearing of an Ordinance to the Mayor and City Council for a text amendment to the City of Tucker Code Chapter 46: Zoning for Sidewalk cafes and entertainment district (TA-21-0006).

K. BUSINESS

K.1. Resolution R2021-11-21 Robert.Porche 123

A Resolution to Adopt the 401(a) Defined Contribution Plan as amended to stay in compliance with the current federal regulations.

K.2. Resolution R2021-11-22 Tami.Hanlin 149

A Resolution to adopt the January 2022 Calendar and Holidays.

K.3. Contract TO34-2018-016-SP2203 152
Ken.Hildebrandt

Contract award for the Engineering Design for MIB at Tuckerstone Intersection Improvement Project.

K.4. Contract C2021-017-SP2112 160
Carlton.Robertson

Contract award for bid 2021-017 Cofer Park Pool Plastering to remove the existing plaster and tiles and replaster and replace the tiles along the rim of the pool.

K.5. Contract Amendment C2021-04-SP2012A 168
Carlton.Robertson

Contract Amendment for the approval for Henderson Field #6 Lighting – Change Order #1 for footers.

K.6. Ordinance O2021-11-23 173
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for major modification to approved conditions of zoning for CZ-15-19934 (RZ-21-0002) for a townhome development at 3281 Tucker Norcross Road for Rocklyn Homes, Inc. c/o Dennis J. Webb, Jr. – Smith, Gambrell & Russell, LLP at Spring Valley Townhomes.

K.7. Ordinance O2021-11-24 266
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a Major modification to approved conditions of zoning for RZ-19-0006 (RZ-21-0003) for a drive through facility at 4650 Hugh Howell Road for Branch Hugh Howell Associates, LP c/o Laurel David.

K.8. Ordinance O2021-11-25 309
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for Special Land Use Permit (SLUP-21-0005) to allow a massage/health spa establishment at 2088 Idlewood Road Suite #6 for Phoenix Wellness Center c/o Natalie Phoenix.

K.9. Ordinance O2021-11-26 356
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0004) at 1581 Juliette Road.

K.10. Ordinance O2021-11-27 372
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0005) at 1551 Juliette Road.

K.11. Ordinance O2021-11-28 386
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0006) at 5960 East Ponce De Leon Avenue.

K.12. Ordinance O2021-11-29 450
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0007) at 1220 Richardson Street.

K.13. Ordinance O2021-11-30 511
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0008) at 1250 Richardson Street.

K.14. Ordinance O2021-11-31 584
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0009) at 1249 Richardson Street.

K.15. Ordinance O2021-11-32 649
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0010) at 1237 Richardson Street.

K.16. Ordinance O2021-11-33 713
Courtney.Smith

First Read and Public Hearing of an Ordinance to the Mayor and City Council for a City initiated Rezoning (RZ-21-0011) at 5160 Spring View Avenue.

L. MAYOR AND COUNCIL COMMENTS

M. EXECUTIVE SESSION

- If required for personnel, real estate or litigation

N. ACTION AFTER EXECUTIVE SESSION

- As needed

O. ADJOURNMENT



**MAYOR & CITY COUNCIL
REGULAR MEETING MINUTES**

**Tuesday, October 12, 2021, 7:00 PM
Tucker City Hall & Video Conference
1975 Lakeside Pkwy, Suite 350 Tucker, GA 30084**

Members Present: Frank Auman, Mayor
Pat Soltys, Council Member District 1, Post 1
Matt Robbins, Council Member District 2, Post 1
Michelle Penkava, Council Member District 3, Post 1
Noelle Monferdini, Council Member District 2, Post 2
Anne Lerner, Council Member District 3, Post 2

Members Absent: Vacant, Council Member District 1, Post 2

ZOOM link; <https://us02web.zoom.us/j/81092222489>

A. CALL TO ORDER

Mayor Auman called the meeting to order at 7:00 PM.

B. ROLL CALL

The above were in attendance for a quorum.

C. PLEDGE OF ALLEGIANCE

The pledge was led by Boys Scout Troop 129.

D. MAYOR'S OPENING REMARKS

Mayor Auman mentioned that since last updated at our meeting on September 13th, the City of Tucker has received 22 new Occupational Tax Certificate applications, to sign up for the two time award winning InTucker magazine online at tuckerga.gov, and that the agenda item Nov 8th Council meeting time has been moved to agenda approval.

D.1 Legislative Update by State Representative Billy Mitchell

State Representative Billy Mitchell spoke on the cityhood initiative.

D.2 Proclamation for Red Ribbon Week P21-08

Mayor Auman read and presented a proclamation to the Young Marines in honor of Red Ribbon Week October 23-32, 2021 in the City of Tucker.

D.3 November 8, 2021 Council Meeting Time

Not discussed, agenda item to move to New Business.

E. PUBLIC COMMENTS

Public comments were heard from 3 citizens.

F. APPROVAL OF THE AGENDA

MOVER: F. Auman

SECONDER: M. Penkava

Motion to amend the agenda to add 3 items Resolution R2021-10-19 to Amend the 2021 Calendar, a Contract Amendment to C2021-09-ARPA2202, and another Resolution to New Business before J1.

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

MOVER: F. Auman

SECONDER: M. Penkava

Motion to adopt the agenda as amended carried unanimously in favor.

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

G. APPROVAL OF THE MINUTES

G.1 Regular Meeting - September 13, 2021

Motion to approve the minutes as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

G.2 Work Session - September 27, 2021

Motion to approve the minutes as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

G.3 Special Called - September 27, 2021

Motion to approve the minutes as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

H. STAFF REPORTS - None

I. OLD BUSINESS

I.1 Ordinance O2021-09-19

City Attorney Brian Anderson stated that there have been no changes to the ordinance on the Tucker Code Chapter 10 Businesses amendment since the first read. Mayor Auman held a public hearing which nobody spoke in favor or opposition. Public hearing closed.

Motion to adopt Ordinance O2021-09-19 as presented passed unanimously.

MOVER: M. Penkava

SECONDER: A. Lerner

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

I.2 Ordinance O2021-09-18

Finance Director Robert Porche stated that there have been no changes to the ordinance to amend the 2022 Fiscal Year Budget since the first read. Mayor Auman held a public hearing which nobody spoke in favor or opposition. Public hearing closed.

Motion to adopt Ordinance O2021-09-18 as presented passed unanimously.

MOVER: M. Penkava

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

I.3 Ordinance O2021-09-17

Planning and Zoning Director Courtney Smith spoke on the SLUP application. Mayor Auman opened a public hearing. The applicant and one citizen spoke in favor of the application. Nobody spoke in opposition. Public hearing was closed. Approve with 7 conditions.

Motion to adopt Ordinance O2021-09-17 for SLUP-21-0003 passed unanimously.

MOVER: M. Robbins

SECONDER: N. Monferdini

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

I.4 Ordinance O2021-09-16

Planning and Zoning Director Courtney Smith spoke on the text amendment TA-21-0005 for Chapter 34 - Signs code to strengthen and clarify the code as it relates to sign regulations. Mayor Auman opened a public hearing. Nobody spoke in favor or opposition. Public hearing was closed.

Motion to adopt Ordinance O2021-09-16 for TA-21-0005 to Tucker Code Chapter 34 Sign passed unanimously.

MOVER: A. Lerner

SECONDER: N. Monferdini

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J. NEW BUSINESS

J.1 Resolution R2021-10-19

Mayor Auman spoke the resolution to amend the City of Tucker official 2021 meeting calendar to change the Monday, November 8, 2021 meeting time from 7:00 pm to 6:30 pm.

Motion to adopt Resolution R2021-10-19 as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: P. Soltys

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.2 Resolution R2021-10-20

Mayor Auman spoke on a new resolution he introduced:

My fellow councilmembers, for over two years now (with some interruptions by COVID), we have been educating ourselves and talking with many, many members of the public, about how to ensure not only that Tucker **is** an inclusive, fair and welcoming community, but that we find a way to make clear to our citizens and to the world beyond that that is the case.

Tonight, I'm asking you to take action with me.

During the Tucker Business Association/Tucker Civic Association Mayoral Candidate Forum a few weeks ago, I said, like I have many times in the past, that I fully support the intent of a non-discrimination ordinance and have long wanted to pass a resolution confirming that we, as a City, embrace our diversity and seek to protect all people from discrimination. I've not pursued a resolution because some voices said it was not enough.

Well, since the forum, I've heard from many other voices, in homes and neighborhoods across Tucker, in the grocery store and on Main Street. These voices have urged me to present such a resolution to Council because it does have meaning. It's what's in their hearts. It's what's in my heart. It's in your hearts, and most important it's in the hearts of our community. Those people encouraged me emphatically to do what we can do now. They urged me to remove the politics of the matter and make it about what it should be – people. People over politics.

We've always said, well before cityhood, it's our people that make Tucker a special, welcoming place. And when we say people, we mean ALL people. We should always seek to draw strength from our diversity. When we do, we accomplish great things. At no time was that more apparent than during the cityhood movement when we ALL came together to keep Tucker, ALL of Tucker as One community as others sought to divide us and pit us against one another. Instead, we united and made history. And we have continued to make historic progress ever since.

I am grateful for all of you who took the time to reach out in support of a resolution. I also want to thank the cities of Stone Mountain, Pine Lake and Columbus for sharing their own resolutions, which inform and add greatly to this one.

So with that, I move the following resolution be adopted tonight.

Motion to adopt the Resolution (R2021-10-20) as present passed unanimously.

MOVER: F. Auman

SECONDER: A. Lerner

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.3 Contract C2021-09-ARPA2022A

Mayor Auman spoke on amending the contract agreement for the purchase of four parcels on Railroad Ave and Second Street to extend the latest closing date until October 29, 2021.

Motion to approve the contract agreement amendment passed unanimously.

MOVER: M. Penkava

SECONDER: N. Monferdini

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.4 Contract C2021-015-CE2205

City Engineer Ken Hildebrandt spoke on the the bid for the construction of sidewalks on Church Street and Tucker Industrial Road. Sidewalk on Church Street will be on the south side from Lynburn Drive to 4th Street, and on the north side from 4th Street to the Hearthside condominiums. Sidewalk on Tucker Industrial Road will be on the east side from Hirsch Drive to Hugh Howell Road. Plans for these sidewalks were developed in-house. Thirteen bids were received. DAF Concrete was the lowest responsive bidder. Funded from the Capital Sidewalk Account.

Motion to award contract to DAF Concrete in the amount of \$175,867.50 passed unanimously.

MOVER: N. Monferdini

SECONDER: P. Soltys

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.5 Contract C2021-OMNIA-PR210

Parks and Recreation Director Carlton Robertson spoke on the bid to construct a new playground and swings in Rosenfeld Park through OMNIA/US Communities, which is a government purchasing alliance. There are no playgrounds or swings in the parks in the Smoke Rise community. With the recent dedication of Rosenfeld Park and the need to add playgrounds and swings in the community, the department began the process to prepare an area within Rosenfeld Park. We expanded the area adjacent to the new pavilion to a size appropriate for a play area. We plan to add a walk to access the area from the new sidewalk to the pool area. The new playground should be ready by spring 2022.

Motion to approve the contract to Bliss Products for a total of \$93,820.76 passed unanimously.

MOVER: P. Soltys

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.6 Resolution R2021-10-17

Parks and Recreation Director Carlton Robertson spoke on the resolution to submit the pre-application for the Georgia Outdoor Stewardship Program Grant. The City is applying for a \$3.0M grant to make repairs/replace the existing dams at Twin Brothers Lake and to make park renovations recommended by both the Parks and Recreation Master Plan and the AECOM recommendations. This will require a minimum of \$750K matching funds. The city is also working on additional funding from the JHP Friends group, the Tucker-Northlake CID and in-kind services from several partners. This will increase our match and provide additional points in the grading system. This grant would provide majority funding for a necessary project consisting of dam replacement, which would restore proper flow from the lakes to the stream. It will also provide funding to complete park renovations and additions included in our Master Plan and recommendations in the AECOM study.

Motion to adopt Resolution R2021-10-17 as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: M. Robbins

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.7 Resolution R2021-10-18

Planning and Zoning Director Courtney Smith spoke on the resolution to accept the donation of the privately owned portion of Richardson Street Parcel 18-125-01-015 that will be dedicated to the city so that it can become public right-of-way. The owners of the northern portion of Richardson Street are willing to dedicate the land to the city of Tucker so long as a permanent and perpetual access easement over, through and across the property is maintained.

Motion at adopt Resolution R2021-10-18 as presented passed unanimously.

MOVER: P. Soltys

SECONDER: N. Monferdini

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

J.8 Ordinance O2021-10-20

Planning and Zoning Director Courtney Smith spoke on the text amendment to the City of Tucker Code Chapter 46: Zoning for Sidewalk Café and Entertainment District (TA-21-0006). Mayor Auman opened a public hearing. Two citizens spoke in favor and nobody spoke in opposition. Public hearing was closed.

FIRST READ

J.9 Ordinance O2021-10-21

Planning and Zoning Director Courtney Smith spoke on the text amendment to the City of Tucker Code Chapter 46: Zoning (TA-21-0007). Mayor Auman opened a public hearing. Nobody spoke in favor or opposition. Public hearing was closed.

FIRST READ

J.10 Ordinance O2021-10-22

Planning and Zoning Director Courtney Smith spoke on the Special Land Use Permit (SLUP-21-0004) to allow a drive-through restaurant with three concurrent variances (CV-

21-0002, CV-21-0003, and CV-21-0004) for inter-parcel access, setbacks, and drive-through location. Council Member Monferdini recused herself due to family conflict. Mayor Auman opened a public hearing, combining the rezoning and three variances together to 40 minutes each side. The applicant and owners spoke in favor. Four citizens spoke in opposition with public safety issues, traffic cut-thru, traffic speeding on residential road and children in area with no sidewalks. Public hearing was closed.

FIRST READ

K. MAYOR AND COUNCIL COMMENTS

The Mayor and Council thanked everyone for attending, thanked staff, mentioned upcoming events, and that early voting states today until Nov 2nd.

L. EXECUTIVE SESSION

None

M. ACTION AFTER EXECUTIVE SESSION

None

N. ADJOURNMENT

MOVER: M. Penkava

SECONDER: N. Monferdini

Motion to Adjourn at 9:55 PM passed unanimously.

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

APPROVED: Frank Auman, Mayor

ATTEST: Bonnie Warne, Clerk

Date Approved



MAYOR & CITY COUNCIL

WORK SESSION MINUTES

**Monday, October 25, 2021, 7:00 PM
Tucker City Hall & Video Conference
1975 Lakeside Pkwy, Suite 350 Tucker, GA 30084**

Members Present: Frank Auman, Mayor
Pat Soltys, Council Member District 1, Post 1
Matt Robbins, Council Member District 2, Post 1
Michelle Penkava, Council Member District 3, Post 1
Noelle Monferdini, Council Member District 2, Post 2
Anne Lerner, Council Member District 3, Post 2

Members Absent: Vacant, Council Member District 1, Post 2

A. CALL TO ORDER

Mayor Auman called the meeting to order at 7:00 PM.

B. ROLL CALL

The above were in attendance for a quorum.

C. MAYOR'S OPENING REMARKS

Mayor Auman mentioned that we will be video recording the Council meetings, and that the working group, as mentioned with the non-discrimination resolution, has met to figure out what kind of group/venue to create.

D. APPROVAL OF THE AGENDA

MOVER: N. Monferdini

SECONDER: P. Soltys

Motion to adopt agenda as presented passed unanimously.

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

E. BUSINESS

E.1 Presentation FY21 Audit

Presentation by Adam Fraley, Mauldin & Jenkins on the City of Tucker FY21 Audit.

E.2 Update on DeKalb Entertainment Commission

Presentation by Shelbia Jackson, DeKalb Entertainment Commission on film permitting.

E.3 Update on Parks Projects

Project update given by Parks & Recreation Director Carlton Robertson.

E.4 Update on Radar Speed Sign Data

Presentation by City Intern Jack Smith on the radar speed sign detectors turned on the week of September 13th for phase one locations.

E.5 Update on Road Projects

Presentation by City Engineer Ken Hildebrandt on Transportation and SPLOST / Capital Improvements projects completed and underway.

F. EXECUTIVE SESSION

No Executive Session required.

G. ACTION AFTER EXECUTIVE SESSION

None

H. ADJOURNMENT

MOVER: M. Penkava

SECONDER: P. Soltys

Motion to Adjourn at 8:42 PM passed unanimously.

AYES: (6): F. Auman, P. Soltys, M. Robbins, M. Penkava, N. Monferdini, and A. Lerner

ABSENT: (1): Vacant, Council Member District 1, Post 2

APPROVED (6 to 0)

APPROVED: Frank Auman, Mayor

ATTEST: Bonnie Warne, Clerk

Date Approved



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: SLUP-21-0004 to allow a drive-through restaurant with three concurrent variances for inter-parcel access, setbacks, and drive-through location

Issue:

The applicant, Chick-fil-A, Inc., is requesting a Special Land Use Permit (SLUP) with three concurrent variances for the property located at 4435 Hugh Howell Road, for a restaurant with a drive-through configuration. The subject property is 2.05 acres and is developed with a single structure, previously occupied by The Greater Good BBQ.

Recommendation:

Staff recommends deferral of the Nov. 8th 2nd read, per the applicant's request.

Staff recommends APPROVAL of Land Use Petition SLUP-21-0004, DENIAL of CV-21-0002, DENIAL of CV-21-0003, and APPROVAL of CV-21-0004, subject to the conditions in the staff report.

At its September 17, 2021 public hearing, the Planning Commission recommends APPROVAL WITH CONDITIONS of SLUP-21-0004, DENIAL of CV-21-0002, DENIAL of CV-21-0003, and APPROVAL of CV-21-0004 subject to the amended staff conditions in the staff report.

Background:

The subject property is located at the southwestern intersection of Hugh Howell and Rosser Terrace, across from 'The Centre on Hugh Howell' shopping center. The subject property is zoned DT-2 (Downtown Corridor Zone), which allows restaurants without drive-throughs by right, however restaurants with a drive-through configuration require a SLUP.

The applicant is requesting relief from the requirement prohibiting drive-through facilities between the public street and building (CV-21-0002), relief from the maximum building setback along Rosser Terrace (CV-21-0003), and relief from the requirement to provide inter-parcel access (CV-21-0004). The proposed drive-through restaurant will be a relocation of the existing Chick-fil-A, which is currently located at 4340 Hugh Howell Road. The applicant is proposing a relocation to a larger site that provides adequate space for Chick-fil-A's new design standards for drive-through facilities.

The applicant is proposing removing the existing buildings and billboard and constructing a new ±4,978-square foot restaurant with three lanes, two drive-through lanes and one bypass lane, as well as order and pick up canopies. The proposed restaurant will be located in the northeastern corner of the parcel. The submitted site plan shows that the proposed drive-through lanes would be constructed in front of the building. Pursuant to Section 46-1166, supplemental regulations for restaurants with drive-through facilities, drive-through lanes shall be located to the side or rear of the building. The applicant is asking for a variance for this requirement (CV-21-0002).

The submitted site plan shows 62 proposed parking spaces, which meets the minimum off-street parking requirements for restaurants with seating for patrons of one space per 250 sq.ft. of floor area. The site plan also allows room for 32 stacking spaces across the two drive-through lanes. The existing Chick-fil-A at 4340 Hugh Howell Road has stacking for 18 vehicles and the existing Chick-fil-A at 4071 Lavista has stacking for 17 spaces. While our code only requires stacking for 10 vehicles, Chick-fil-A generates more traffic than the majority of other drive-through facilities. The peak stacking for Chick-fil-A during COVID has averaged around 20-25 cars. Pre-COVID stacking numbers were closer to 18-20.

Summary:

While the proposed use is not completely consistent with the Downtown Character Area, staff does not believe this use would cause a disproportionate proliferation of drive-through facilities, as the proposed Chick-fil-A would be a relocation of an existing Chick-fil-A located just north of the subject property. Potential impacts can be mitigated by transportation improvements and the adherence of the 50' transitional buffer.

Financial Impact: None

Courtney Smith

From: Bridgette Ganter <bganter@bowman.com>
Sent: Tuesday, October 26, 2021 12:47 PM
To: Courtney Smith
Cc: Jenn Santelli
Subject: [External]Chick-fil-A Tucker SLUP-21-0004

Courtney,
Chick-fil-A, Inc. is requesting deferral of SLUP 21-0004 and all concurrent variances (CV-21-0002, CV-21-0003, CV-21-0004) from currently scheduled 2nd Mayor and City Council Read on 11/8/21 to Mayor and City Council meeting on 12/13/21. Please let us know if there are any issues.

Thanks very much,

BRIDGETTE GANTER

Branch Manager | **BOWMAN**

950 North Point Pkwy, Suite 200, Alpharetta, GA 30005

O: (678) 606-5278 | C: (404) 386-4927

bganter@bowman.com | bowman.com



CITY OF TUCKER
OCT 26 2021
RECEIVED



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: TA-21-0007 Ch 46 Text Amendments (other amendments)

Issue:

Staff is proposing several changes to the zoning ordinance as part of a general clean up to address issues staff has seen over the last year. These proposed changes include the addition of regulations for hookah establishments, supplemental regulations special event facilities, convenience store changes, changes to accessory building standards, changes to wall/fence standards, and the addition of a definition of fleet vehicles. The changes are outlined below.

Recommendation:

Staff recommends approval of TA-21-0007.

Planning Commission recommended approval at their Sept. 16, 2021 meeting.

Background:

Staff is proposing several changes to the zoning ordinance as part of a general clean up to address issues staff has seen over the last year.

Summary:

Summary of Proposed Article 3 Changes:

Section 46-985. - Use regulations in the Downtown Districts:

- Add *Hookah/vapor bar or lounge* as a line item in the use table (not permitted)
- Remove option for *convenience store* in DT-2 and DT-3

Section 46-1035. - Use regulations in the Northlake Districts:

- Add *Hookah/vapor bar or lounge* as a line item in the use table (not permitted)

Replace Community Development Director with Planning and Zoning Director throughout Article 3 (not shown in track changes, but will referenced in the ordinance)

Summary of Proposed Article 4 Changes:

Section 46-1125. - Use Table Include:

- Add *Hookah/vapor bar or lounge* as a line item and allow it by SLUP in C-1 and C-2

Section 46 – 1145. - Accessory building, structures and uses: location, yard and building restrictions:

- Change provisions for material requirements to only require like materials on accessory buildings and structures greater than 200 square feet.
- Change provisions for yard and setbacks to allow detached garages to also be located in the side interior yard

Section 46 – 1146. - Accessory dwelling unit, guesthouse, in-law suite:

- Change provision to allow accessory dwelling units to also be located in the side interior yard

Section 46-1157. – Automotive sales and service; boat, trailer sales and service.

- Add clarifying header language and correct typographical errors

Add New Supplemental Regulations

- Sec. 46-1204 – Hookah/Vapor Bar or Lounge
 - Supplemental regulations include hours of operation and provisions for food and alcohol sales
- Sec. 46-1205. – Special Event Facilities
 - Supplemental regulations include parking standards, traffic control plan, noise regulation, locational requirements, and hours of operation

Summary of Proposed Article 5 Changes:

Changes to Article 5 Section 46-1340. – Walls, fences, and retaining walls:

- Under *Single-family residential standards*
 - Change provision for retaining wall standards to include retaining walls located on part of a single-family development.
- Under *Height*
 - Add language to also reference length
 - Change provision for total height of a retaining wall to be measured from finished grade on the non-retained side to the top of the highest point of the wall.
 - Add provision for maximum length of retaining walls equal to or greater than six feet in height to be 100 feet
- Under *Material composition*
 - Add language to reference design
 - Change provision to included fences, freestanding walls or retaining walls erected along right-of-way
 - Add provision that retaining walls must be separated horizontally by at least four feet from other retaining walls.
 - Add provision that each tier between retaining walls must be vegetated and maintained with a mix of native, evergreen and deciduous shrubs.
- Under Table 5.3 Fence and Wall Standards
 - Remove table
- Remove height exemption for industrial zoning districts

Changes to Article 5 Section 46 – 1416. - Materials

- Under *Roof and accessory structure materials*
 - Remove language referencing accessory structure materials to match amendment in Section 46-1145.

Summary of Proposed Article 9 Changes:

- Add definition for *Fleet Vehicle*
- Add definition for *Hookah*

Financial Impact: None

Sec. 46-985. Use regulations.

- (a) Table 3.1 indicates the permitted uses within DT districts.
- (b) The uses listed in table 3.1 are only permitted in the district identified, and no use may be established and no structure associated with such use may be erected, structurally altered or enlarged unless the use is permitted as:
- (1) A permitted use (P);
 - (2) A special use (SP) subject to the special land use permit application procedures specified in article VII;
 - (3) An administratively approved use (SA) subject to the special administrative permit procedures specified in article VII;
 - (4) An accessory use (Pa) as regulated by article IV or the applicable DT district. Table 3.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification.
 - (5) Uses lawfully established prior to the effective date of this Division or this Zoning Ordinance, as applicable.
- (c) Multiple uses are allowed in a single building and on a single site.
- (d) Any use not listed in table 3.1 or interpreted to not be allowed by the community development director by section 46-1124 is not allowed. Any applicant denied a permit to allow a use of property in a DT district other than as provided in this section may file an appeal before the zoning board of appeals as provided in article VII.
- (e) Uses subject to additional regulations in article IV, division 2 of this chapter are indicated. Unless otherwise expressly stated, compliance with these regulations is required regardless of whether the use is permitted as-of-right, as an accessory use, by special administrative permit, or by special land use permit.

Table 3.1 Downtown District Allowed Uses				
Use	Downtown District			See Art. IV, Div. 2
	DT-1	DT-2	DT-3	
AGRICULTURAL				
Agriculture and Forestry				
Commercial greenhouse or plant nursery	P	P	P	✓
Temporary or portable sawmill	SA	SA	SA	✓
Urban, community garden, up to 5 ac.	P	P	P	✓
Urban, community garden, over 5 ac.	SA	SA	SA	
Animal Oriented Agriculture				
Dairy				
Keeping of livestock	Pa [1]	Pa [1]	Pa [1]	✓
Keeping of poultry/pigeons	Pa [1]	Pa [1]	Pa [1]	✓
Livestock sales pavilion				
Riding academies or stables	P			✓
RESIDENTIAL				
Dwellings				
Dwelling, cottage home	P	P	P	✓
Dwelling, mobile home				

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Dwelling, multi-family (24 units per acre or less)		P [4]	P [4]	
Dwelling, multi-family (over 24 units per acre)		SP	SP	
Dwelling, multi-family (supportive living)		P	P	✓
Dwelling, townhouse	P	P	P	✓
High-rise apartment				
Dwelling, single-family (attached)	P	P	P	
Dwelling, single-family (detached)	P	P	P	
Dwelling, three-family	P	P	P	
Dwelling, two-family	P	P	P	
Dwelling, single-family, accessory (guesthouse, in-law suite)	Pa	Pa	Pa	✓
Home occupation, no customer contact	P	P	P	✓
Home occupation, with customer contact	SP	SP	SP	✓
Live/work unit	P [3]	P	P	✓
Mobile home park				
Accessory uses or structures	Pa	Pa	Pa	✓
Housing and Lodging				
Bed and breakfast	SP	P	P	✓
Boarding/rooming house		SP	SP	
Convents or monasteries	SP	SP	SP	✓
Dormitory		Pa	Pa	
Extended stay hotel				
Fraternity house or sorority house				
Hotel/motel		P	P	
Nursing care facility or hospice		P	P	
Personal care home, community, 7 or more persons		SP	SP	✓
Personal care home, group, 4-6 persons	SP	SP	SP	✓
Child caring institution, group, 4-6	SP	SP	SP	✓
Child caring institution, community, 7 or more		SP	SP	✓
Shelter for homeless persons, 7-20 persons				
Shelter for homeless persons for no more than 6 persons				
Transitional housing facility, 7-20 persons				
INSTITUTIONAL/PUBLIC				
Community Facilities				
Cemetery, columbarium, mausoleum				
Club, order or lodge, fraternal, non-commercial	SP	P	P	
Coliseum or stadium/not associated with church or school		P	P	✓
Funeral home, mortuary		P	P	
Golf course or clubhouse, public or private				
Government facilities	P	P	P	
Hospital		P		
Library or museum	P	P	P	
Cultural facilities		SP	SP	
Recreation club	SP	SP	SP	✓
Neighborhood or subdivision clubhouse or amenities	Pa	Pa	Pa	✓

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Places of worship	P	P	P	✓
Recreation, outdoor	P	P	P	✓
Swimming pools, commercial	Pa	Pa	Pa	✓
Tennis courts, swimming pools, play or recreation areas, community	Pa	Pa	Pa	✓
Education				
Colleges, universities, research and training facilities		P	P	
Private educational services, home occupation	Pa	Pa	Pa	✓
Private kindergarten, elementary, middle or high schools	SP	SP	SP	✓
Vocational schools	SP	P	P	✓
Specialized schools	SP	P	P	✓
COMMERCIAL				
Automobile, boat and trailer sales and service				
Automobile or truck rental or leasing facilities				
Automobile brokerage				
Auto recovery, storage				
Automobile repair or maintenance, minor				
Automobile repair, major				
Automobile sales or truck sales				
Automobile service stations				
Automobile upholstery shop				
Boat sales				
Car wash, hand wash				
Car wash, automatic				
Emission station				
Retail automobile parts or tire store				
Service area, outdoor				
Trailer or RV salesroom and lot				
Used Part Dealer				
Office				
Accounting office	P [2]	P	P	
Building or construction office	P [2]	P	P	✓
Building, landscape, heavy construction contractor office (material, equipment, storage)				
Engineering or architecture office	P [2]	P	P	
Finance office or banking	P [2]	P	P	
General business office	P [2]	P	P	
Insurance office	P [2]	P	P	
Legal office	P [2]	P	P	
Medical office	P [2]	P	P	
Real estate office	P [2]	P	P	
Recreation and Entertainment				
Adult entertainment establishments				
Adult service facility				
Drive-in theater				
Fairground or amusement park				✓

Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors)		P	P	
Nightclub or late night establishment		SP	SP	✓
Outdoor recreation (miniature golf, batting cages, tennis, go-cart, and other outdoor activities)				
Special events facility		P	P	
Theaters with live performance, assembly or concert halls, or similar entertainment within an enclosed building		P	P	
Retail				
Alcohol outlet, retail sales, primary or accessory (excludes wine retailer)				
Retail sales	P [2]	P	P [5]	
Apparel or accessories store	P [2]	P	P [5]	
Art gallery	P [2]	P	P [5]	
Book, greeting card, or stationery store	P [2]	P	P [5]	
Camera or photography	P [2]	P	P [5]	
CBD Shop				
Computer or computer software store	P [2]	P	P [5]	
Convenience store (see related uses e.g., alcohol outlet, fuel pumps accessory)		P	P [5]	
Drive-through facilities (other than restaurants)		SP		✓
Farm or garden supply store	P [2]	P	P [5]	
Farmer's market, permanent	P [2]	P	P [5]	
Farmer's market, temporary/seasonal	SA	SA	SA	✓
Florist	P [2]	P	P [5]	
Fortune telling				
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)	P [2]	P	P [5]	
Fuel dealers, manufacturers or wholesalers				
Fuel pumps, accessory		SP	SP	✓
Gift, novelty, or souvenir store	P [2]	P	P [5]	
Gold buying, precious metals	P [2]	P	P [5]	
Grocery stores (see alcohol outlet)	P [2]	P	P [5]	
Hardware store or other building materials store	P [2]	P	P [5]	
Hobby, toy or game store	P [2]	P	P [5]	
Jewelry store	P [2]	P	P [5]	
Music or music equipment store (retail)	P [2]	P	P [5]	
News dealer or news store	P [2]	P	P [5]	
Office supplies and equipment store	P [2]	P	P [5]	
Outdoor display (not including seating)		P	P	✓
Pawn shop, title loan				
Pet supply store	P [2]	P	P [5]	
Pharmacy or drug store (see alcohol outlet)	P [2]	P	P [5]	
Radio, television or consumer electronics store	P [2]	P	P [5]	
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage		SP		
Specialty store	P [2]	P	P [5]	

Sporting goods or bicycle sale	P [2]	P	P [5]	
Tattoo establishment and piercing studio				
Thrift, secondhand, antique store	P [2]	P	P [5]	
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage				
Vape shop				
Variety store	P [2]	P	P [5]	
Wine retailer (< 5,000 sq. ft.)		P	P [5]	
Temporary Commercial Uses				
Temporary outdoor sales, seasonal	SA	SA	SA	✓
Temporary produce stand	SA	SA	SA	✓
Temporary outdoor retail sales	SA	SA	SA	✓
Temporary outdoor events	SA	SA	SA	✓
Temporary trailer, as home sales office or construction trailer	SA	SA	SA	✓
Restaurant/Food establishments				
Brewpub/beer growler		P	P [5]	
Catering establishments		P	P [5]	
Outdoor seating		P	P	✓
Restaurants (non-drive-thru)	P [2]	P	P [5]	
Restaurants with a drive-thru configuration		SP		✓
<u>Hookah/vapor bar or lounge</u>				
Transportation and Storage				
Bus or rail stations or terminals for passengers		SP	SP	
Heliport		SP	SP	✓
Parking, commercial lot	Pa	Pa	Pa	✓
Parking, commercial garage	Pa	Pa	Pa	
Taxi, ambulance or limousine service, dispatching or storage				
Taxi, ambulance, limousine dispatch office only (no vehicle parking)				
Taxi stand		P	P	
Transit shelter				
Services				
Adult day care center - 7 or more persons		SP	SP	✓
Adult day care facility - up to 6 persons		SP	SP	✓
Animal care specialist	P	P	P	
Animal hospitals, veterinary clinic		P	P	✓
Animal shelter/rescue center (4 or more)		P	P	✓
Banks, credit unions or other similar financial institutions	P	P	P	
Barbershop/ beauty salon or similar establishments	P	P	P	
Check cashing establishment, primary				
Check cashing establishment, accessory				
Child day care center (Kindergarten) - 7 or more persons		P	P	✓
Child day care facility - up to 6 persons	SP	SP	SP	✓

Coin laundry		P		
Pet daycare		P		✓
Pet grooming	P	P	P	✓
Dry cleaning agencies, pressing establishments, or laundry pick-up stations		P	P	
Fitness center	P	P	P	
Health spa		SP	SP	✓
Kennel, breeding or boarding				✓
Kennel, commercial				✓
Kennel, noncommercial				
Landscape business with no outdoor storage		P		
Massage establishment		SP	SP	✓
Mini-warehouse				
Multi-warehouse				
Outdoor storage, commercial				
Personal services establishment	P	P	P	
Photoengraving, typesetting, electrotyping	P	P	P	
Photographic studios	P	P	P	
Plumbing, HV/AC equipment establishments with no outdoor storage		P		
Publishing or printing establishments	P	P	P	
Quick copy printing store	P	P	P	
Services, Medical and Health				
Ambulance service or emergency medical services, private		P		✓
Health services clinic	P	P	P	
Home healthcare service	P	P	P	
Kidney dialysis center	P	P	P	
Medical or dental laboratories	P	P	P	
Services, Repair				
Furniture upholstery or repair; home appliance repair or service	P	P	P	
Personal service, repair (watch, shoes, jewelry)	P	P	P	
Service area, outdoor				
INDUSTRIAL				
Alcohol Manufacturing (brewery)		P	P	
Alcohol Manufacturing (distilled spirits)		P	P	
All other industrial uses not listed above				
COMMUNICATION — UTILITY				
Amateur radio service or antenna	P	P	P	✓
Electric transformer station, gas regulator station or telephone exchange				
Radio or television broadcasting studio	P	P	P	
Radio or television broadcasting transmission facility	P	P	P	
Satellite television antennae	P	P	P	✓
WIRELESS TELECOMMUNICATION (cell tower)				

Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential)	SP [6]	SP [6]	SP [6]	✓
Wireless Telecommunications (small cell structures)	P	P	P	✓
Stealth design up to 150'				
New support structure or stealth design up to 199'				
COWs (non-emergency or event, no more than 120 days)	SA	SA	SA	✓
COWs (declared emergency)	P	P	P	✓
Attached wireless telecommunication facility	P	P	P	✓
Monopole or attached facility in utility company's easements or rights-of-way				
CERTAIN ACCESSORY USES				
Drive-thru facilities (other than restaurants)		SP	SP	✓

Table 3.1 Notes:

- [1] Only allowed on lots used for a single-family detached dwelling that meet the applicable minimum lot size requirements of article IV, division 2 of this chapter.
- [2] Not to exceed 5,000 square feet per use.
- [3] Permitted uses include all office uses, tutorial/educational services, retail, fine arts studios and/or galleries, and photographic studios. The minimum size of the live-work unit is 1,200 square feet with at least one-third of the unit must be designated for residential space.
- [4] A special land use permit is required when a multi-family use abuts a residential zoning district.
- [5] Uses along Main Street shall not exceed 10,000 square feet per use. Uses not along Main Street may not exceed 10,000 square feet per use unless approved by a special land use permit, however, special land use permits can only be requested for up to 15,000 square feet per use.
- [6] Telecommunications antennas must be incorporated in architectural features such as steeples, clock towers, water towers and attached to the top of high-rise buildings subject to the requirements of section 46-1194.

(Ord. No. O2019-04-15, exh. A(3.2.5), 6-26-2019; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1035. Use regulations.

- (a) Table 3.9 indicates the permitted uses within the NL districts.
- (b) The uses listed in table 3.9 are only permitted in the district identified, and no use may be established and no structure associated with such use may be erected, structurally altered or enlarged unless the use is permitted as:
- (1) A permitted use (P);
 - (2) A special use (SP) subject to the special land use permit application procedures specified in article VII;
 - (3) An administratively approved use (SA) subject to the special administrative permit procedures specified in article VII;
 - (4) An accessory use (Pa) as regulated by article IV or the applicable NL district. Table 3.9 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification.
 - (5) Uses lawfully established prior to the effective date of this Division or this Zoning Ordinance, as applicable.
- (c) Multiple uses are allowed in a single building and on a single site.
- (d) Any use not listed in table 3.9 or interpreted to not be allowed by the community development director by section 46-1124 is not allowed. Any applicant denied a permit to allow a use of property in an NL district other than as provided in this section may file an appeal before the zoning board of appeals as provided in article VII.
- (e) Uses subject to additional regulations in article IV, division 2 of this chapter are indicated. Unless otherwise expressly stated, compliance with these regulations is required regardless of whether the use is permitted as-of-right, as an accessory use, by special administrative permit, or by special land use permit.

Table 3.9 Northlake District Allowed Uses					
Use	Northlake District				See Art. IV, Div. 2
	NL-1	NL-2	NL-3	NL-4	
AGRICULTURAL					
Agriculture and Forestry					
Commercial greenhouse or plant nursery	P	P	P	P	✓
Temporary or portable sawmill	P	P	P	P	✓
Urban, community garden, up to 5 ac.	P	P	P	P	✓
Urban, community garden, over 5 ac.	SA	SA	SA	SA	
Animal Oriented Agriculture					
Dairy					
Keeping of livestock	Pa [1]	Pa [1]	Pa [1]	Pa [1]	✓
Keeping of poultry/pigeons	Pa [1]	Pa [1]	Pa [1]	Pa [1]	✓
Livestock sales pavilion					
Riding academies or stables					
RESIDENTIAL					
Dwellings					
Dwelling, cottage home				P	✓
Dwelling, mobile home					

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Dwelling, multi-family (24 units per acre or less)	P	P	P	SP	
Dwelling, multi-family (over 24 units per acre)	SP	SP	SP		
Dwelling, multi-family (supportive living)	P	P	P	SP	✓
Dwelling, townhouse				P	✓
Dwelling, single-family (attached)				P	
Dwelling, single-family (detached)				P	
Dwelling, three-family				P	
Dwelling, two-family				P	
Dwelling, single-family, accessory (guesthouse, in-law suite)				Pa	✓
Home occupation, no customer contact	P	P	P	P	✓
Home occupation, with customer contact	SP	SP	SP	SP	✓
Live/work unit	P	P	P	P	✓
Mobile home park					
Accessory uses or structures	Pa	Pa	Pa	Pa	✓
Housing and Lodging					
Bed and breakfast	P	P		P	✓
Boarding/rooming house					
Convents or monasteries		P			✓
Dormitory	Pa	Pa	Pa	Pa	
Extended stay hotel					
Fraternity house or sorority house		Pa		Pa	
Hotel	SP	SP			
Nursing care facility or hospice	P	P		P	
Personal care home, community, 7 or more persons	SP	SP	SP		✓
Personal care home, group, 4-6 persons				SP	✓
Child caring institution, group, 4-6	SP	SP	SP	SP	✓
Child caring institution, community, 7 or more	SP	SP	SP		✓
Shelter for homeless persons, 7-20 persons					
Shelter for homeless persons for no more than six (6) persons					
Transitional housing facility, 7-20 persons					
INSTITUTIONAL/PUBLIC					
Community Facilities					
Cemetery, columbarium, mausoleum	SP	SP			✓
Club, order or lodge, fraternal, non-commercial	P	P	P	P	
Coliseum or stadium/not associated with church or school	P	P			✓
Funeral home, mortuary	P	P			
Golf course or clubhouse, public or private	P	P	P		✓
Government facilities	P	P	P	P	
Hospital or accessory ambulance service		P	P		
Library or museum	P	P	P	P	
Cultural facilities	P	P	P	P	
Recreation club	P	P	P	P	✓
Neighborhood or subdivision clubhouse or amenities	Pa	Pa	Pa	Pa	✓

Places of worship	P	P	P	P	✓
Recreation, outdoor	P	P	P	P	✓
Swimming pools, commercial	Pa	Pa	Pa	Pa	✓
Tennis courts, swimming pools, play or recreation areas, community	Pa	Pa	Pa	Pa	✓
Education					
Colleges, universities, research and training facilities	P	P	P	P	
Private educational services, home occupation	Pa	Pa	Pa	Pa	✓
Private kindergarten, elementary, middle or high schools	P	P	P	P	✓
Vocational schools	P	P	P	P	✓
Specialized schools	P	P	P	P	✓
COMMERCIAL					
Automobile, boat and trailer sales and service					
Automobile or truck rental or leasing facilities					
Automobile brokerage					
Auto recovery, storage					
Automobile repair or maintenance, minor	SP	SP	SP	SP	✓
Automobile repair, major			SP		✓
Automobile sales or truck sales					
Automobile service stations	SP	SP	SP		✓
Automobile upholstery shop	P	P	P		
Boat sales					
Car wash, hand wash	SP	SP	SP		✓
Car wash, automatic	SP	SP	SP		✓
Emission station					
Retail automobile parts or tire store	P	P	P	P	✓
Service area, outdoor					
Trailer or RV salesroom and lot					
Used Parts Dealer					
Office					
Accounting office	P	P	P	P	
Building or construction office	P	P	P	P	✓
Building, landscape, heavy construction contractor office (material, equipment, storage)	P	P	P	P	✓
Engineering or architecture office	P	P	P	P	
Finance office or banking	P	P	P	P	
General business office	P	P	P	P	
Insurance office	P	P	P	P	
Legal office	P	P	P	P	
Medical office	P	P	P	P	
Real estate office	P	P	P	P	
Recreation and Entertainment					
Adult entertainment establishments					
Adult service facility					
Drive-in theater		P	P		✓
Fairground or amusement park					

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Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors)	P	P	P	P	
Nightclub or late night establishment	SP	SP	SP		✓
Outdoor recreation (miniature golf, batting cages, tennis, go-cart, and other outdoor activities)					
Special events facility	SP				
Theaters with live performance, assembly or concert halls, or similar entertainment within an enclosed building	P	P	P	P	
Retail					
Alcohol outlet, retail sales, primary or accessory (excludes wine retailer)	SP		P		✓
Retail sales	P	P	P	SP [2]	
Apparel or accessories store	P	P	P	SP [2]	
Art gallery	P	P	P	SP [2]	
Book, greeting card, or stationery store	P	P	P	SP [2]	
Camera or photography	P	P	P	SP [2]	
CBD Shop					
Computer or computer software store	P	P	P	SP [2]	
Convenience store (see related uses e.g., alcohol outlet, fuel pumps accessory)	P	P	P	SP [2]	
Drive-through facility (other than restaurants)	SP	SP	SP		✓
Farm or garden supply store	P	P	P	SP [2]	
Farmer's market, permanent	P	P	P	SP [2]	
Farmer's market, temporary/seasonal	SA	SA	SA	SA	✓
Florist	P	P	P	SP [2]	
Fortune telling			P		
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)	P	P	P	SP [2]	
Fuel dealers, manufacturers or wholesalers					
Fuel pumps, accessory	SP	SP	P		✓
Gift, novelty, or souvenir store	P	P	P	SP [2]	
Gold buying, precious metals	P	P			
Grocery stores (see alcohol outlet)	P	P	P	SP [2]	
Hardware store or other building materials store	P	P	P	SP [2]	
Hobby, toy or game store	P	P	P	SP [2]	
Jewelry store	P	P	P	SP [2]	
Music or music equipment store (retail)	P	P	P	SP [2]	
News dealer or news store	P	P	P	SP [2]	
Office supplies and equipment store	P	P	P	SP [2]	
Outdoor display	P	P	P		✓
Pawn shop, title loan					
Pet supply store	P	P	P	SP [2]	
Pharmacy or drug store (see alcohol outlet)	P	P	P	SP [2]	
Radio, television or consumer electronics store	P	P	P	SP [2]	
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage	P		P		

Shopping center	P	P	P	P	
Specialty store	P				
Sporting goods or bicycle sale	P				
Tattoo establishment and piercing studio					
Thrift, secondhand, antique store					
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage	P	P	P	SP [2]	
Vape shop					
Variety store	P	P	P	SP [2]	
Wine retailer (< 5,000 sq. ft.)	P	P	P	SP [2]	
Temporary Commercial Uses					
Temporary outdoor sales, seasonal	SA	SA	SA	SA	✓
Temporary produce stand	SA	SA	SA	SA	✓
Temporary outdoor retail sales	SA	SA	SA	SA	✓
Temporary outdoor events	SA	SA	SA	SA	✓
Temporary trailer, as home sales office or construction trailer	SA	SA	SA	SA	✓
Restaurant/Food establishments					
Brewpub/beer growler	P	P	P	SP [2]	
Catering establishments	P	P	P	SP [2]	
Outdoor seating	P	P	P		✓
Restaurants (non-drive-thru)	P	P	P	SP [2]	
Restaurants with a drive-thru configuration	SP	SP	SP		✓
<u>Hookah/vapor bar or lounge</u>					
Transportation and Storage					
Bus or rail stations or terminals for passengers	SP	SP	SP		
Heliport					
Parking, commercial lot	Pa	Pa	Pa	Pa	✓
Parking, commercial garage	Pa	Pa	Pa	Pa	
Taxi, ambulance or limousine service, dispatching or storage					
Taxi, ambulance, limousine dispatch office only (no vehicle parking)					
Taxi stand	P	P	P	P	
Transit shelter					
Services					
Adult day care center - 7 or more persons	P	P	P	P	✓
Adult day care facility - up to 6 persons	P	P		P	✓
Animal care specialist	P	P	P		
Animal hospitals, veterinary clinic	P		P	P	✓
Animal shelter/rescue center					
Banks, credit unions or other similar financial institutions	P	P	P	P	
Barbershop/ beauty salon or similar establishments	P	P	P	P	
Check cashing establishment, primary					
Check cashing establishment, accessory					

Child day care center (Kindergarten) - 7 or more children	P	P	P	P	✓
Child day care facility - up to 6 children	P	P	P	P	✓
Coin laundry	P	P	P	P	
Pet day care		SP	SP		✓
Pet grooming	P		P	P	✓
Dry cleaning agencies, pressing establishments, or laundry pick-up stations	P	P	P	P	
Fitness center	P	P	P	P	
Health spa	SP	SP	SP	SP	✓
Kennel, breeding or boarding					✓
Kennel, commercial					
Kennel, noncommercial					
Landscape business with no outdoor storage	P	P	P	P	
Massage establishment	SP	SP	SP	SP	✓
Mini-warehouse					
Multi-warehouse		SP	SP		✓
Outdoor storage, commercial					
Personal services establishment	P	P	P	P	
Photoengraving, typesetting, electrotyping	P	P	P	P	
Photographic studios	P	P	P	P	
Plumbing, HV/AC equipment establishments with no outdoor storage	P	P	P	P	
Publishing or printing establishments	P	P	P	P	
Quick copy printing store	P	P	P	P	
Services, Medical and Health					
Ambulance service or emergency medical services, private	P	P	P	P	
Health services clinic	P	P	P	P	
Home healthcare service	P	P	P	P	
Kidney dialysis center	P	P	P	P	
Medical or dental laboratories	P	P	P	P	
Services, Repair					
Furniture upholstery or repair; home appliance repair or service	P	P	P	P	
Personal service, repair (watch, shoes, jewelry)	P	P	P	P	
Service area, outdoor					
INDUSTRIAL					
Contractor, general (See also Building or Construction Office)			P		✓
Industrial, light			P		
Alcohol Manufacturing (brewery)	P	P	P		
Alcohol Manufacturing (distilled spirits)	P	P	P		
All other industrial uses not listed above					
COMMUNICATION — UTILITY					
Amateur radio service or antenna	P	P	P	P	✓

Electric transformer station, gas regulator station or telephone exchange	P	P	P	P	
Radio or television broadcasting studio	P	P	P	P	
Radio or television broadcasting transmission facility	P	P	P	P	
Satellite television antennae	P	P	P	P	✓
WIRELESS TELECOMMUNICATION (cell tower)					
Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential)	P	P	P	P	✓
Wireless Telecommunications (small cell structures)	P	P	P	P	✓
Stealth design up to 150'	P	P	P	P	✓
New support structure or stealth design up to 199'	P	P	P	P	✓
COWs (non-emergency or event, no more than 120 days)	P	P	P	P	✓
COWs (declared emergency)	P	P	P	P	✓
Attached wireless telecommunication facility	P	P	P	P	✓
Monopole or attached facility in utility company's easements or rights-of-way	P	P	P	P	✓
CERTAIN ACCESSORY USES					
Drive-thru facilities (other than restaurants)	SP	SP	SP		✓

Table 3.9 Notes:

- [1] Only allowed on lots used for a single-family detached dwelling that meet the requirements of article IV, division 2 of this chapter.
- [2] Not to exceed 5,000 square feet per use unless approved by special land use permit. Not to exceed 10,000 square feet by special land use permit.

(Ord. No. O2019-04-15, exh. A(3.3.5), 6-26-2019; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1125. Use table.

Table 4.1 indicates the permitted uses within the base zoning districts. Even though a use is listed as an allowable use within a particular base zoning district, additional use restrictions may apply based on the applicable overlay zoning district requirements specified in article III of this chapter.

- (1) The uses listed in table 4.1 shall be permitted only within the zoning districts identified, and no use shall be established and no structure associated with such use shall be erected, structurally altered or enlarged unless the use is permitted as:
 - a. A permitted use (P);
 - b. A special use (SP) subject to the special land use permit application procedures specified in article VII of this chapter;
 - c. An administratively approved use (SA) subject to the special administrative permit procedures specified in article VII of this chapter;
 - d. An accessory use (Pa) as regulated by this article IV of this chapter. Table 4.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification;
 - e. Uses lawfully established prior to the effective date of the ordinance from which this chapter is derived.
- (2) Any use not listed in table 4.1 or interpreted to be allowed by the planning and zoning director pursuant to section 46-1224 is prohibited. Any applicant denied a permit to allow a use of property in a zoning district other than as provided in this section may file an appeal before the zoning board of appeals as provided in article VII of this chapter.
- (3) If there is a conflict between table 4.1 and the text of this chapter, the text shall prevail.

Table 4.1. Use Table

Key:

P—Permitted use; SA—Special administrative permit from director of planning; Pa—Permitted as an accessory use; SP—Special land use permit from BoC (SLUP)

Table 4.1. Use Table																									
Use	R E	R L G	R- 10 0	R - 8 5	R- 75	R - 6 0	R S M	M R- 1	M R - 2	H R- 1, 2, 3	M H P	R N C	O I	O I T	N S	C - 1	C - 2	O D	M	M - 2	M U -1	M U - 2	M U- 3	M U- 4, 5	See div. 2 of this article
AGRICULTURAL																									
Agriculture and Forestry																									
Commercial greenhouse or plant nursery															P	P	P		P	P	P				✓
Temporary or portable sawmill	S A	S A	SA	S A	SA	S A	S A												P	P					✓
Urban, community garden, up to 5 acres	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Urban, community garden, over 5 acres	S A	S A	SA	S A	SA	S A	S A	SA	S A	SA	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	SA	S A	✓
Produce stand	S A	S A	SA	S A	SA	S A	S A	SA	S A	SA	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	SA	S A	✓
Animal Oriented Agriculture																									
Dairy																			P	P					✓
Keeping of livestock	P	P	P	P	P							P													✓

Keeping of poultry/pigeons	P	P	P	P	P							P												✓
Livestock sales pavilion																	P							✓
Riding academies or stables	P	P	P	P	P																			✓
Beekeeping	P	P	P	P	P							P					P							✓
RESIDENTIAL																								
Dwellings																								
Dwelling, cottage home						S P	S P	SP	S P	SP		SP												✓
Dwelling, mobile home											P						P a	P a						✓
Dwelling, multifamily								P	P	SP							S P	S P	S P	S P	SP	SP		
Dwelling, multifamily (supportive living)								P	P	SP									S P	S P	SP	SP		✓
Dwelling, townhouse							P	P	P	SP		P		P					S P	S P	SP	SP		✓
High-rise apartment										P											P	P		
Dwelling, single-family (attached)							P	P	P	P				P					P	P	P	P		
Dwelling, single-family (detached)	P	P	P	P	P	P	P	P	P	P	P	P							P	P	P			
Dwelling, three-family								P	P	P		P							P	P	P	P		
Dwelling, two-family								P	P	P		P							P	P	P	P		
Dwelling, single-family, accessory (guesthouse, in-law suite)	P a	P a	Pa	P a	Pa	P a	P a	Pa	P a										P a	P a	Pa	P a		✓
Home occupation, no customer contact	P	P	P	P	P	P	P	P	P	P	P	P												✓
Home occupation, with customer contact	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP	S P	SP							S P	S P	SP	SP		✓
Live/work unit													P	P		P	P		P	P	P	P	P	✓
Mobile home park											P													
Accessory uses or structures	P a	P a	Pa	P a	Pa	P a	P a	Pa	P a	Pa	P a	P a	P a	P a	P a	P a	P a	P a	P a	P a	Pa	P a		✓
Housing and Lodging																								
Bed and breakfast	S P	S P	SP				S P	SP	S P	SP			P	P		P	P				P	P	P	✓
Boardinghouse/roominghouse								SP	S P	SP														
Convents or monasteries	S P	S P	SP	S P	SP	S P	S P	SP	S P				P	P							P	P	P	✓
Dormitory													P a	P a		P a	P a	P a	P a		P a	P a	Pa	P a
Extended stay hotel													S P			S P	S P				S P	SP	SP	✓
Fraternity house or sorority house													P a								P a	Pa		
Hotel/motel													P			P	P	P			P	P	P	
Nursing care facility or hospice										P			P	P		P	P				P	P	P	

Personal care home, community, 7 or more							S P	SP	S P	SP				P	S P	S P	P	P	P				S P	S P	SP	SP	✓
Personal care home, group, 4-6	S P	S P	SP	S P	SP	S P																					✓
Child caring institution, group, 4-6	S P	S P	SP	S P	SP	S P			S P	SP	S P	SP	P	P	S P	P	P					S P	S P	SP	SP	✓	
Child caring institution, community, 7 or more							S P	SP	S P	SP				P	S P	S P	P	P	P				S P	S P	SP	SP	✓
Shelter for homeless persons, 7-20														S P	S P		S P	S P									✓
Shelter for homeless persons for no more than six persons														S P	S P		S P										✓
Transitional housing facility, 7-20														S P	S P		S P	S P									✓
INSTITUTIONAL/PUBLIC																											
Community Facilities																											
Cemetery, columbarium, mausoleum	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP				P	P				P								✓
Club, order or lodge, fraternal, non-commercial														P	P		P	P	P	P			P	P	P	P	
Coliseum or stadium/not associated with church or school																	P	P	P						SP	P	✓
Funeral home, mortuary														P	P		P	P									
Golf course or clubhouse, public or private	P	P	P	P	P	P	P				P			P	P			P	P	P							✓
Government facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Hospital or accessory ambulance service														P	P					P				P	P		
Library or museum								P	P	P				P	P	P	P	P	P				P	P	P	P	
Cultural facilities								SP	S P	SP				S P	S P		S P	S P	S P	S P			S P	S P	SP	SP	
Recreation club	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP		SP							P							SP	✓
Neighborhood or subdivision clubhouse or amenities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								P	P	P	P	✓
Places of worship	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP		SP	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓
Recreation, outdoor																		P	P	P	P						✓
Swimming pools, commercial	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP	S P	SP	P	P			P	P	P	P				P	Pa	Pa	
Tennis courts, swimming pools, play or recreation areas, community	P a	P a	Pa	P a	Pa	P a	P a	Pa	P a	Pa	P a	P a	P	P			P	P	P	P				P	Pa	P a	✓
Education																											
Colleges, universities, research and training facilities														P	P		P	P	P	P			P	P	P	P	
Private educational services, home occupation	P a	P a	Pa	P a	Pa	P a	P a	Pa	P a	Pa		P a							P				P	P a			✓

Private kindergarten, elementary, middle or high schools	S P	S P	SP	S P	SP	S P	S P	SP	S P	SP	S P	SP	P	P		P	P	P				S P	SP	SP	✓
Vocational schools													P	P		P	P	P	S P	S P	P	P	P	P	✓
Specialized schools								SP	S P	SP			P	P	P	P	P	P	S P	S P	P	P	P	P	✓
COMMERCIAL																									
Automobile, Boat and Trailer Sales and Service																									
Automobile or truck rental or leasing facilities																S P	P		P	P					✓
Automobile brokerage													P	P		P	P		P			P	P	P	✓
Auto recovery, storage																		P	P						✓
Automobile repair or maintenance, minor																S P	S P		P						✓
Automobile repair, major																	S P		P	P					✓
Automobile sales or truck sales																S P	P		P	P					✓
Automobile service stations															S P	S P	S P		P	P					✓
Automobile upholstery shop																	P		P	P					
Boat sales																S P	P		P						✓
Car wash, hand wash																	S P		P						✓
Car wash, automatic																S P	S P		P						✓
Emission stations															S P	S P	S P		P	P					✓
Retail automobile parts or tire store																S P	P		P						✓
Service area, outdoor																	P a		P a	P a					✓
Trailer or RV salesroom and lot																S P	P		P						✓
Used Parts Dealer													P	P		P	P		P			P	P	P	✓
Offices																									
Accounting office								Pa	P a	Pa			P	P	P	P	P	P			P	P	P	P	
Building or construction office								Pa	P a	Pa			P	P		P	P	P	P	P					✓
Building, landscape, heavy construction contractor office (material, equipment, storage)																	P	P	P	P					✓
Engineering or architecture office								Pa	P a	Pa			P	P	P	P	P	P	P	P	P	P	P	P	
Finance office or banking								Pa	P a	Pa			P	P	P	P	P	P			P	P	P	P	
General business office								Pa	P a	Pa			P	P	P	P	P	P			P	P	P	P	

Insurance office									Pa	P a	Pa				P	P	P	P	P	P				P	P	P	P	
Legal office									Pa	P a	Pa				P	P	P	P	P	P				P	P	P	P	
Medical office									Pa	P a	Pa				P	P	P	P	P	P				P	P	P	P	
Real estate office									Pa	P a	Pa				P	P	P	P	P	P				P	P	P	P	
Recreation and Entertainment																												
Adult entertainment establishments																		P		P								✓
Adult service facility																		P		P	P							✓
Drive-in theater																		P		P	P							✓
Fairground or amusement park																		P		P	P							✓
Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors)																P	P	P	P	P	P	P	P	P	P	P		
Nightclub or late night establishment																	S P	S P	S P	S P	S P	S P	S P	S P	SP	SP		✓
Outdoor recreation (miniature golf, batting cages, tennis, go-cart and other outdoor activities)	S P																	P	P	S P								✓
Special events facility	S P														P	P		P	P	P	P			P	P	P	P	
Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building															P	P		P	P							P	P	
Retail																												
Alcohol outlet, retail sales, primary or accessory																	S P	S P	S P	P	P			S P	S P	SP	SP	✓
Apparel or accessories store																	P	P	P					P	P	P	P	
Art gallery									Pa	P a	Pa						P	P	P	P				P	P	P	P	
Book, greeting card, or stationery store																	P	P	P	P				P	P	P	P	
Camera or photography																	P	P	P	P				P	P	P	P	
CBD Shop																		S P	S P		S P							✓
Computer or computer software store																	P	P	P	P				P	P	P	P	
Convenience store (see alcohol outlet or fuel pumps accessory)																		P	P	P	P	P	P	P	P	P		✓
Drive-through facilities (other than restaurants)															P		P	P	P	P	P	P						

Farm or garden supply store																P	P	P	P	P		P	P			
Farmer's market, permanent														P	P	P	P	P	P	P	P	P	P	P	P	✓
Farmer's market, temporary/seasonal	S A	S A	SA	S A	SA	S A	S A	SA	S A	SA	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	SA	S A	✓	
Florist														P a		P	P	P	P			P	P	P	P	
Fortune telling																		S P	P	P						
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)														P a		P	P	P	P			P	P	P	P	
Fuel dealers, manufacturers or wholesalers																		P		P	P					
Fuel pumps, accessory																S P	S P	S P		P	P					✓
Gift, novelty, or souvenir store														P a		P	P	P	P			P	P	P	P	
Gold buying, precious metals																	P a	P	P							
Grocery stores (see alcohol outlet)								Pa	P a	Pa						P	P	P	P			P	P	P	P	
Hardware store or other building materials store																P	P	P	P	P	P	P	P	P	P	
Hobby, toy or game store																P	P	P	P			P	P	P	P	
Jewelry store																P	P	P	P			P	P	P	P	
Music or music equipment store (retail)																P	P	P	P			P	P	P	P	
News dealer or news store														P	P	P	P	P	P	P	P	P	P	P	P	
Office supplies and equipment store																P	P	P	P	P		P	P	P	P	
Outdoor display																	P a	P a								
Pawn shop, title loan																		S P	P	P						
Pet supply store																P	P	P	P	P		P	P			
Pharmacy or drug store (see alcohol outlet)								Pa	P a	Pa		P a	P a	P a	P	P	P	P	P			P	P	P	P	
Radio, television or consumer electronics store																	P	P	P			P	P	P	P	
Retail, 5,000 sf or less								Pa	P a	Pa				P a	P a	P	P	P	P	P	P	P	P	P	P	
Retail, over 5,000 sf (see also shopping center)																P	P	P	P			P	P	P	P	
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage																	P	P	P	P		P	P	P	P	
Shopping center																P	P	P	P			P	P	P	P	

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Specialty store																P	P	P	P				P	P	P	P	
Sporting goods or bicycle sale																P	P	P	P				P	P	P	P	
Tattoo establishment and piercing studio																	S	P	P								
Thrift, secondhand, antique store																	P	P		P							
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage														P	P		P	P	P	P	P						
Vape Shop																	S	P	S	P		S	P				✓
Variety store														P	a		P	P	P	P				P	P	P	P
Wine retailer (<5,000 sq. ft.)																P	P	P					P	P	P	P	
Temporary Commercial Uses																											
Temporary outdoor sales, seasonal	S	S	SA	S	SA	S	S	SA	S	SA	S	S	S	S	S	S	S	S	S	S	S	S	S	S	SA	S	✓
Temporary produce stand	S	S	SA	S	SA	S	S	SA	S	SA	S	S	S	S	S	S	S	S	S	S	S	S	S	S	SA	S	✓
Temporary outdoor retail sales	S	S	SA	S	SA	S	S	SA	S	SA	S	S	S	S	S	S	S	S	S	S	S	S	S	S	SA	S	✓
Temporary outdoor events	S	S	SA	S	SA	S	S	SA	S	SA	S	S	S	S	S	S	S	S	S	S	S	S	S	S	SA	S	✓
Temporary trailer, as home sales office or construction trailer	S	S	SA	S	SA	S	S	SA	S	SA	S	S	S	S	S	S	S	S	S	S	S	S	S	S	SA	S	✓
Restaurant/Food Establishments																											
Brewpub/beer growler																	P	P	P		P			P	P	P	
Catering establishments														P	P		P	P		P			P	P	P	P	
Outdoor seating														P			P	P	P	P							✓
Restaurants (acc. to hotel/motel)														P			P	P	P					P	P	P	
Restaurants (non-drive-thru)								Pa	P	Pa		P	P	P	P	P	P	P		P			P	P	P	P	
Restaurants with a drive-thru configuration																	P	P					P				✓
<u>Hookah/vapor bar or lounge</u>																	<u>S</u>	<u>P</u>	<u>S</u>	<u>P</u>							✓
Transportation and Storage																											
Bus or rail stations or terminals for passengers																	S	P	S	P		S	P	S	P	SP	SP
Heliport														S	P		S	P	S	P	P	P			SP	SP	✓
Parking, commercial lot														P	a		P	P	P	P			P	P	P	P	✓
Parking, commercial garage														P	a		P	P	P	P			P	P	P	P	
Taxi, ambulance or limousine service, dispatching or storage																		P	P	P	P						✓

Taxi, ambulance, limousine dispatch office only (no vehicle parking)														P	P	P	P	P		P	P	P	P	P	P		
Taxi stand														P	P	P	P	P	P	P	P	P	P	P	P		
Transit shelter														P	P	P	P	P	P	P	P	P	P	P	P	✓	
Services																											
Adult day care center—7 or more									S P	SP	S P			P	P	P	P	P	P			P	P	P		✓	
Adult day care facility—up to 6								SP	S P	SP						P	P	P	P			P	P	P	P	✓	
Animal care specialist																P	P	P	P	P	P	P	P				
Animal hospitals, veterinary clinic																P	P	P	P	P	P	P	P			✓	
Animal shelter/rescue center (4 or more)	S P																P	P	P	P						✓	
Banks, credit unions or other similar financial institutions								Pa	P a	Pa				P	P	P	P	P		P		P	P	P	P		
Barber shop/ beauty salon or similar establishments								Pa	P a	Pa				P a	P	P	P	P	P	P		P	P	P	P		
Check cashing establishment, primary																		S P		P						✓	
Check cashing establishment, accessory																	P	P		P	P	P	P	P	P	✓	
Child day care center (Kindergarten)—7 or more								P	P	P	P			P	P	P	P	P	P	P		P	P	P	P	✓	
Child day care facility—up to 6	S P	S P	SP	S P	SP	S P	S P	SP	S P	P		SP	P	P	P	P	P	P				P	P	P		✓	
Coin laundry								Pa	P a	Pa						P	P	P					P	P	P		
Pet day care								SP	S P	SP							P	P		P	P	P	S P	SP	SP	✓	
Pet grooming								Pa	P a	Pa							P	P		P	P	P	P	P	P	✓	
Dry cleaning agencies, pressing establishments, or laundry pick-up stations								Pa	P a	Pa				P	P	P	P	P		P	P	P	P	P	P		
Fitness center	P a	P a	Pa	P a	Pa	P a	P a	Pa	P a	Pa	P a			P	P	P	P	P		P	P	P	P	P	P		
Health spa														S P	S P	S P	S P	S P		S P		S P	S P	SP	SP	✓	
Kennel, breeding or boarding	S P															P a	P a	P		P	P					✓	
Kennel, commercial	S P																P	P		P	P					✓	
Kennel, noncommercial	S P	S P	SP	S P	SP																						
Landscape business																	P	P		P	P						
Massage establishment														S P	S P	S P	S P	S P				S P	S P	SP	SP	✓	

Mini-warehouse																	S	S	P	P	P							✓
Multi-warehouse																	S	S	P	P	P							✓
Outdoor storage, commercial																		P		P	P							✓
Personal services establishment								Pa	P	a	P		P	a	P	a	P	P	P		P		P	P	P	P		
Photoengraving, typesetting, electrotyping																		P		P	P	P	P					
Photographic studios													P	P	P	P	P		P		P		P	P	P	P		
Plumbing, HV/AC equipment establishments with no outdoor storage																	P	P		P	P							
Publishing or printing establishments													P	P			P		P	P								
Quick copy printing store													P	P	P	P	P		P	P	P	P	P	P	P	P		
Services, Medical and Health																												
Ambulance service or emergency medical services, private																	P	P		P								✓
Health services clinic													P	P	P	P	P	P	P		P	P	P	P				
Home healthcare service													P	P			P	P		P		P	P	P	P			
Kidney dialysis center													P	P			P	P		P		P	P	P	P			
Medical or dental laboratories													P	P			P	P		P	P				SA	SA		
Services, Repair																												
Furniture upholstery or repair; home appliance repair or service																	P	P		P	P							
Personal service, repair (watch, shoes, jewelry)								Pa	P	a	Pa		P	P	P	P	P		P		P	P	P	P				
Service area, outdoor																		P	a		P	a	P					✓
INDUSTRIAL																												
Alcohol manufacturing (brewery)																	P	P		P								
Alcohol manufacturing (distilled spirits)																	P	P		P								
Alternative energy production																			S	P	S	P	S	P				
Automobile/truck manufacturing																						P						
Brick, clay, tile, or concrete products, terra cotta manufacturing																						P						
Building materials or lumber supply establishment																		P		P								
Cement, lime, gypsum, or plaster of Paris manufacturing																						P						

Sugar refineries																			P	P					
Tire retreading or recapping																			P	P					
Towing or wreckage service																			P	P					
Transportation equipment manufacture																				P					
Transportation equipment storage or maintenance (vehicle)																			P	P					✓
Truck stop or terminal																			P	S P					✓
Vehicle storage yard																			P	P					
Warehousing or Storage																		P	P	P					
COMMUNICATION—UTILITY																									
Amateur radio service or antenna	S P	S P	SP	S P	SP	S P	S P					S P													✓
Electric transformer station, gas regulator station or telephone exchange																				P					
Radio or television broadcasting studio														P				P		P	P	P	P	P	
Radio or television broadcasting transmission facility														P a				P		P	P				
Satellite television antennae	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	✓
WIRELESS TELECOMMUNICATION (CELL TOWER)																									
Attached wireless telecommunication facility, used for nonresidential purposes (prohibited if used as residential)	S A	S A	SA	S A	SA	S A	S A																		✓
Wireless communications (small cell structure)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓
Stealth design up to 150'								SP	S P	SP				S P	S P						S P	S P	SP	SP	✓
New support structure or stealth design up to 199'													S A			S A	S A	S A	S A	S A					✓
COWs (non-emergency or event, no more than 120 days)	S A	S A	SA	S A	SA	S A	S A	SA	S A	SA	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	S A	SA	S A	✓	
COWs (declared emergency)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓	
Attached wireless telecommunication facility								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓	
Monopole or attached facility in utility company's easements or rights-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	✓	

(Ord. No. 2016-06-07, att. (4.1.3), 7-11-2016; Ord. No. 2016-07-16, att. (4.1), 9-1-2016; Ord. No. 2016-10-37, att. (4.1), 11-14-2016; Ord. No. 2017-03-57, § 3, 3-27-2017; Ord. No. O2017-09-76, exh. A(4.1), 10-9-2017; Ord. No. O2018-03-7, exh. A(4.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019; Ord. No. O2019-04-15, exh. A(4.1), 6-26-2019; Ord. No. O2020-03-07, exh. A, 3-23-2020)

DIVISION 2. SUPPLEMENTAL USE REGULATIONS

Sec. 46-1145. Accessory buildings, structures and uses: location, yard and building restrictions.

The following provisions apply to accessory buildings, structures, and uses of land that are incidental to authorized and permitted uses:

- (1) All accessory buildings, accessory structures, and accessory uses of land, including off-street parking, shall be located on the same lot as the principal building to which they are accessory.
- (2) All accessory structures in which effluent is produced shall be connected to water and sewer if the primary structure is connected to water and sewer.
- (3) Yard and setbacks.
 - a. All accessory buildings or structures shall be located in the rear yard of the lot, with the exception of:
 - i. ATM bank machines which are also allowed in the front or side yard;
 - ii. Detached garages and accessory dwelling units which are also allowed in the side interior yard.
 - b. Accessory structures must not encroach in the minimum yard setbacks for the district in which they are located.
 - c. Accessory buildings or structures shall meet the minimum side yard setback for the district or ten feet, whichever is less, and shall not be located closer than ten feet to a rear lot line in any district.
 - d. Basketball goals attached to the principal residential structure or erected adjacent to and abutting the driveway of the principal residential structure shall be allowed in the front yard but not within the right-of-way of a public street. No basketball goal shall be erected in such a manner that the play area for the basketball goal is located within any portion of a public right-of-way.
 - e. Additional supplemental regulations in this division regarding minimum yards and setbacks for specific accessory buildings, structures, or uses of land may also apply.
- (4) Corner lot, rear yards. Where the rear yard of a corner lot adjoins the side yard of a lot in a residential or special district, no accessory building or structure shall be located closer than 15 feet to the rear property line and no closer to the side street right-of-way line than the principal building.
- (5) Materials. ~~Accessory structures that are buildings or sheds shall be constructed out of a material similar to the principal structure.~~
 - a. Accessory buildings or structures greater than 200 square feet in floor area shall be constructed out of a material similar to the principal structure.
 - b. All accessory structure materials shall comply with Section 46-1416.

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- (6) No accessory building or structure in a nonresidential district shall be used by anyone other than employees of the owner, lessee or tenant of the premises, unless otherwise allowed by provisions of this division.
- (7) Where an accessory building or structure is attached to the principal building by a breezeway, passageway or similar means, the accessory building or structure shall comply with the yard setback requirements of the principal building to which it is accessory.
- (8) Setbacks for swimming pools, as accessory structures in a residential or special district, shall be measured from the edge of the decking to the applicable property line. No part of the decking for an accessory swimming pool shall be within five feet of a side or rear property line.
- (9) Except as expressly provided elsewhere in this chapter, an accessory structure shall be limited to the lesser of 24 feet in height or the height of the principal structure, whichever is less.
- (10) The floor area of an accessory building that is accessory to a single-family, two-family, or three-family residential structure shall not exceed the maximum floor areas set forth in table 4.2 below.

Table 4.2. Maximum Accessory Building Floor Area—Select Residential Structures

<i>Property Size</i>	<i>Maximum Floor Area</i>
0 to 0.999 acres	900 sq. ft.
1 to 4.999 acres	1,200 sq. ft.
5 to 9.999 acres	2,000 sq. ft.
10 or more acres	No size limit

(Ord. No. 2016-06-07, att. (4.2.2), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1146. Accessory dwelling unit, guesthouse, in-law suite.

- (a) On parcels zoned for residential single-family dwellings as a principal use, an accessory dwelling unit may be allowed as one of the following:
 - (1) Attached (addition to existing building);
 - (2) Detached permanent structure; or
 - (3) Within existing house (renovations to basements, wings or attics converted into separate living unit).
- (b) The heated floor area of a dwelling unit shall not include the square footage of the garage or shed.
- (c) Attached and detached accessory dwelling units are permitted by right, subject to the following:
 - (1) The minimum lot size shall be 10,000 square feet.
 - (2) The accessory dwelling unit shall conform to applicable standards of the state and city building codes for residential units as principal uses.
 - (3) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence, and possess a homestead exemption.
 - (4) The appearance of the accessory dwelling unit shall be similar to that of the principal residence. Building materials must comply with Section 46-1416.

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- (5) Only one accessory dwelling unit of any type shall be permitted on a lot.
 - (6) Prior to issuance of a building permit for an accessory dwelling unit, an applicant must provide evidence to the community development director showing that existing or proposed septic tank facilities, as applicable, are adequate to serve both the principal dwelling and the accessory dwelling unit.
 - (7) Any detached accessory dwelling unit shall be located in the rear or side interior yard.
 - (8) A second kitchen facility may be constructed and used within a single-family residence.
 - (9) Paved off-street parking shall be provided for one additional vehicle.
 - (10) Accessory dwelling units shall not exceed 900 square feet of heated floor area and shall not exceed 24 feet in height.
 - (11) The main entrance for a detached accessory dwelling unit, guesthouse, or in-law suite shall not face the closest property line. Windows, doors, balconies, porches and decks shall be sited to ensure the privacy of neighbors.
 - (12) For parcels located in a designated historic district and individually designated historic structures, the placement of an accessory dwelling unit and its architectural design shall require a certificate of appropriateness from the historic preservation commission.

(Ord. No. 2016-06-07, att. (4.2.3), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1157. – Automotive sales and service; boat, trailer sales and service; other automotive related uses.

(q) Additional supplemental regulations for all ~~auto uses in this Section~~other automotive related uses.

1. All vehicles shall be parked in striped spaces of standard size and shall not extend into any drive aisle.
2. No more than two rows of stacking shall be permitted.
3. Drive aisles shall be provided for access to buildings and all parking spaces.
4. Vehicles shall not block the safe access of pedestrians, cars, or emergency vehicles.
5. All vehicles shall be parked on a paved surface that is connected to and has continuous paved access to a public ~~or~~ private street.
6. All vehicles shall have a state issued license plate or a dealer tag that identifies vehicle ownership.
7. Site and parking area landscaping shall comply with Section 46-1337.
8. Properties with more than one business shall provide a floor plan showing the designated lease area, including parking area, for each space/business.
9. No vehicles, boats, trailers, or trucks that are being serviced, sold, rented, or leased by the business shall be parked or stored in the right-of-way.

Sec. 46-1204. Hookah/Vapor Bar or Lounge.

(a) Hours of Operation. No hookah/vapor bar or lounge shall remain open past 12:30 a.m.

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(b) Smoking of hookah or vapor in any establishment that serves alcohol or food shall be prohibited.

Sec. 46-1205. Special Event Facilities.

Special event facilities shall be subject to all of the following standards:

- (a) The special event facility shall comply with parking standards stated in Article VI of this chapter. Valet parking shall not be used to satisfy the off-street parking requirements.
- (b) A traffic control plan to ensure an orderly and safe arrival, parking, and departure of all vehicles and to ensure that traffic will not back-up or block private easement, city, county, or state roads, intersections, or private driveways shall be submitted and subject to the review and approval of the city engineer.
- (c) Noise shall be contained within the subject suite or standalone structures. The facility shall comply with the noise ordinance.
- (d) No special event facility boundary line shall be located within 1,500 feet from the boundary line of property zoned or used for residential purposes.
- (e) Hours of operation. No special event facility shall be authorized to remain open past 12:30 a.m. without obtaining a Special Land Use Permit for a late-night establishment.

Secs. 46-~~1204~~1206—46-1222. Reserved.

Sec. 46-1340. Walls, fences, and retaining walls.**(a) General.**

- (1) When this chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to the issuance of a certificate of occupancy for the principal structure.
- (2) No wall or fence shall be constructed in any public right-of-way.
- (3) See table 5.3 for additional requirements.

(b) Single-family residential standards.

- (1) Fences or free-standing walls constructed in a front yard shall not exceed four feet in height. Fences or free-standing walls constructed in a side corner yard shall not exceed four feet in height if said fence or free-standing wall is located between the street and the side corner façade of the structure. Fences or free-standing walls in line with the side corner façade shall not exceed six feet in height.
- (2) No freestanding wall or fence shall be more than eight feet high from finished grade.
- (3) Subdivision or project identification monuments at the entrance to a subdivision or residential development that incorporates a wall or fence shall only be located in a common area or private easement and shall not exceed six feet in height.
- (4) Retaining walls on lots developed with single-family dwellings or part of a single-family development shall abide by the following:
 - a. The entire wall structure, including footer, shall not encroach on adjacent property;
 - b. Drainage shall be properly conveyed on both sides of the wall in conformance with state, county, and city codes; and
 - c. A construction/maintenance easement shall be obtained from the adjoining property owner, if applicable. Newly constructed retaining walls shall not be higher than four feet; however, existing retaining walls may be repaired and replaced so long as the height of the repaired or replaced wall is no greater than the original height of the wall.
 1. If exceptional topographical restrictions exist that were not created by the owner or his agent on a lot, and it is established to the reasonable satisfaction of the planning and zoning director that no practical alternative design of such wall is feasible, then the planning and zoning director may, upon application therefor, grant an administrative variance allowing up to two additional feet in the applicable retaining wall maximum height limitation set forth in this subsection (b)(4) of this section. An applicant for a retaining wall administrative variance shall include with the application a certified field-run site plan or a topographical map certified by an engineer or landscape architect.
 2. If exceptional topographical restrictions exist that were not created by the owner or his agent on the lot, and it is established to the satisfaction of the zoning board of appeals that no practical alternative design of such wall is feasible, the zoning board of appeals may, upon application therefor, grant a variance allowing newly constructed retaining walls to be greater than six feet. Notwithstanding any provision in this chapter to the contrary, no variance may be granted to allow the height of a retaining wall above eight feet. In addition to the materials otherwise required for a variance in division 5 of article VII of this chapter, an applicant for a retaining wall variance shall provide a certified field-run site plan or a topographical map certified by an engineer or landscape architect with the application for the variance.

(c) *Height and length.*

- (1) The height of a freestanding wall or fence is measured from the finished grade of the subject property.
- (2) The total retaining wall height is ~~considered to be the average of the vertical distance between finished grade level at the front of the wall and the grade level at the back of the wall at the same section, measured from the finished grade on the non-retained side to the top of highest point of the wall.~~
- (3) The maximum length of continuous, unbroken, and uninterrupted retaining walls equal to or greater than 6 feet in height is 100 feet. For walls greater than 100 feet in length, breaks shall be provided through the use of columns or other architectural detailing.

(d) *Material composition and design.*

- (1) No freestanding walls, retaining walls or fences may be composed of exposed common concrete block, tires, junk, pallets, railroad ties, loose stone, tarps, vinyl and other discarded materials.
- (2) ~~With the exception of M and M-2 zoning districts, F~~fences, freestanding walls or retaining walls erected within the front yard or along the right-of-way shall be constructed of brick, stone, wood, wrought iron, or aluminum that looks like wrought iron. Any other material, including, but not limited to, chain-link and other wire fences are prohibited in the front yards of all districts, with the exception of M and M-2 zoning districts.
- (3) All chain-link fences shall be vinyl coated.
- (4) Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (5) Tiered retaining walls shall be separated horizontally by a minimum of 4 feet and the area between the walls shall be vegetated and maintained with a mix of native evergreen and deciduous shrubs, subject to the review and approval of the city arborist.

(e) *Security gates.* Entrance gates for vehicles shall be located at least 50 feet from the property line in order to ensure safe queuing, and ingress to and egress from the property.

(f) *Fencing.* Temporary fencing may be erected during construction for security and public safety purposes.

~~(g) *Exemptions.* Fences and walls in the M and M-2 zoning districts are exempt from regulations governing the height and materials of fences and walls.~~

(h) *Freestanding wall height.* No freestanding wall or fence in a multifamily, nonresidential or mixed-use zoning district may be more than ten feet in height.

(i) *Retaining wall height.* No retaining wall shall be more than ten feet in height.

Table 5.3. ~~Fence and Wall Standards~~ Reserved.

<i>Use</i>	<i>Height</i>	<i>Setbacks</i>	<i>Variance Allowed</i>
Single-family fences in the front yard	Up to four feet from finished or street grade	Outside right-of-way	May apply for a variance from zoning board of appeals to increase height
Single-family fences in side or rear yards	Up to eight feet	Fences may be on property line; retaining walls, including	No variance can be approved to exceed eight foot height

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		footings, must not encroach over property line	
Single-family fences in side-corner lots.	Up to four feet if between the street and the side-corner façade; up to six feet if in line with the side-corner façade	Fences may be on property line; retaining walls, including footings, must not encroach over property line	No variance can be approved to exceed six foot height
Single-family retaining walls	Up to four feet from finished or street grade. Cannot exceed eight feet on side or rear property line	Retaining walls, including footings, shall not encroach over property line	Administrative variance allowed to increase wall from four to six feet based on topography
Single and Multifamily identification monument walls	In front yard, cannot exceed ten feet in height	Cannot be located in right-of-way. Setback varies, depends on sight visibility	May apply for a variance from zoning board of appeals to increase height
Nonresidential, multifamily and mixed-use zoning districts	Up to ten feet	Cannot be located in right-of-way. Setback varies, depends on sight visibility	May apply for a variance from zoning board of appeals to increase height
Industrial	No limit	No limit	N/A

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(Ord. No. 2016-06-07, att. (5.4.7), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1416. Materials.

(a) Exterior building materials.

- (1) Except for exempted buildings described in subsection (a)(5) of this section, exterior wall materials of primary buildings shall consist of any of the following types:
 - a. Brick masonry;
 - b. Stone masonry;
 - c. Cement wood or fiber cement siding, including simulated half-timbering;
 - d. Hard coat stucco;
 - e. Cedar shingles or fiber cement;
 - f. Textured face concrete block;
 - g. Architectural concrete;
 - h. Precast or tilt-up panel (for industrial buildings only);

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- i. Glass;
 - j. Material not listed in this section, which shall contribute to innovative design or green construction as determined by the planning and zoning director on a case by case basis; and/or
 - k. Architectural accent materials as approved by the planning and zoning director.
- (2) Exterior building material requirements do not preclude solar panel installation on building roofs.
- (3) The following materials may be used as secondary building material or siding, up to 40 percent of total facing:
- a. Standing seam or corrugated metal siding;
 - b. Exterior insulation and finish system (EIFS). If within three feet of grade or within six feet of grade adjoining a public right-of-way or a parking area, the EIFS shall have ultra-high impact resistance in accordance with ASTM E2468. EIFS is prohibited for use on single-family, two-family, and three-family dwellings.
 - c. Vinyl siding and other polymeric siding, provided the siding shall:
 - 1. Be installed by a certified installer or an individual certified as trained through the VSI certified installer program sponsored by the Vinyl Siding Institute, Inc. (VSI) or an approved equivalent program;
 - 2. Be certified and labeled as conforming to the requirements of ASTM D3679 standard specifications for rigid poly (vinyl chloride) (pvc) siding by an approved quality control agency;
 - 3. Have a minimum thickness of 0.046 inches;
 - 4. Have panel projections of no less than five-eighths inch for clapboard and Dutchlap styles;
 - 5. Have double (rolled over) nail hem, up to 0.92 inches nominal thickness strength;
 - 6. Meet or exceed the color retention requirement of ASTM D6864, 3679 or D7251;
 - 7. Be installed in accordance with the manufacturers' instructions and in accordance with ASTM D4756. Polypropylene siding shall be certified and labeled as conforming to the requirements of ASTM D7254 standard specification for polypropylene (PP) siding by an approved quality control agency. Insulated vinyl siding shall be certified and labeled as conforming to the requirements of ASTM D7793 standard specification for insulated vinyl siding by an approved quality control agency.
- (4) The following exterior building materials shall be prohibited on all buildings:
- a. Plywood;
 - b. Common concrete block;
 - c. Oriented strand board (OSB).
- (5) Universities, and structures located in M or M-2 zoned districts shall be exempt from the requirements of subsections (a)(1) and (a)(3) of this section, provided:
- a. Such structures are located interior to the site with an intervening building facing the street.
 - b. If materials in subsection (a)(3) of this section are used as primary exterior building materials, at least 30 percent of total facade area shall be brick or stone masonry.

(b) *Arrangement of materials.*

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- (1) Where two or more materials are proposed to be combined on a facade, the heavier and more massive material shall be located below the lighter material.
 - (2) Material changes on a facade shall occur along a continuous horizontal line or where two building forms meet. Secondary building materials may be used as trim, around windows, doors, cornices, at corners, or as a repetitive pattern within a wall covered in a primary building material.
 - (3) Buildings on corner lots shall have the same primary facade materials on the front and side corner elevations.

(c) ~~Roof and accessory structure materials.~~

- (1) Sloped roofs on primary buildings shall be clad in wood shingles, standing seam metal, clay or concrete tile, stone coated metal tile, painted metal tile, recycled rubber tile, slate, asphalt shingles or similar material or combination of materials. This regulation does not prohibit the application of solar panels, which shall not be considered an architectural material for purposes of building form regulations.

~~(2) The exterior of accessory buildings shall be constructed of materials that are similar to those used on the principal structures.~~

(d) *Shade structures.*

- (1) Material used as overhead shade structures must be maintained and shall be made of fade-resistant, water-resistant, mildew-resistant, and UV-resistant fabric.

(Ord. No. 2016-06-07, att. (5.7.4), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1775. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ADA means the Americans with Disabilities Act.

"A" weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Abandonment means the relinquishment, discontinuance and cessation of a use, other than as a result of government action, for any continuous period of time as may be provided in this chapter.

Abutting means having property or district lines in common. The term "abutting" does not include property separated by a road or right-of-way.

Accessory building means a building detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use.

Accessory dwelling unit. See *Dwelling unit, accessory*.

Accessory equipment. See section 46-1200(b).

Accessory structure means a structure detached from the principal building and located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use. Compare with *Building, primary*.

Accessory use means a use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use. See division 2, article IV of this chapter for supplemental regulations.

Active recreation means leisure activities, usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term "active recreation" includes, but is not limited to, swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

Adaptive reuse means buildings and sites constructed and developed originally for one use but converted to or repurposed for a use not traditionally occupying the building or development form. For example, the conversion of former hospital or school buildings to residential use, or the conversion of an historic single-family home to office use.

Adjoining property means a property that touches or is directly across a street, easement or right-of-way (other than an interstate, principal arterial, urban freeway/expressway or urban principal arterial) from the subject property.

Adult day care center means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during daytime hours of seven or more adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational and social activities for said persons.

Adult day care facility means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during daytime hours of six or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational, cultural and social activities for said persons.

Adult entertainment establishment means any one or any combination of the following:

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Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, books, printed materials, magazines or other periodicals or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five percent of its total floor space, devoted to the sale or consisting of said printed material or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means an establishment other than those expressly specified in this section, where employees or patrons expose specified anatomical areas or engage in specified sexual activities.

Adult mini-motion picture theater means an enclosed building, or enclosed or semi-enclosed room or booth within an enclosed building, with a capacity of less than 50 persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas for observation by patrons therein.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store means an establishment having a substantial or significant portion of its stock in trade, videotapes, movies, CD ROMS, or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five percent of its net sales from said videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Erotic entertainment/dance establishment means a nightclub, theater or other establishment which features live performances by dancers, entertainers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. These establishments are also regulated pursuant to chapter 10.

Escort bureau or introduction services means any business, agency or persons who, for fee, commission, hire, reward, profit or other consideration furnishes or offers to furnish names of persons or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusements, or who may consort with others about any place of public resort or within any private quarters.

Lingerie modeling studio means an establishment wherein a patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling lingerie or similar undergarments.

Adult service facility means a commercial establishment in which the patron directly or indirectly is charged a fee to engage in private, personal contact with employees, patrons, or personnel primarily for entertainment purposes, using steam rooms or other devices or equipment provided by the establishment, and that is not otherwise regulated as an adult entertainment establishment or massage establishment.

Affordable housing means housing that has a sale price or rental amount that is within the means of a household that may occupy middle-, moderate-, or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or

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association fees, if any, together constitute no more than 28 percent of such gross annual household income for a household of the size which may occupy the unit in question. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual income for a household of the size that may occupy the unit in question.

Aggrieved person means a person who either:

- (1) Is the applicant or the owner of property that is the subject of an application or a decision by a city administrative official; or
- (2) Has a substantial interest in an action appealed from and that is in danger of suffering special damage or injury not common to all property owners similarly situated.

Agricultural activities means activities performed in order to cultivate the soil, produce crops, or raise livestock.

Agricultural produce stand means a temporary building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants and may include accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and home-made handicrafts.

Alcohol manufacturing (brewery) means a light malt beverage manufacturer licensed by the state as a brewery. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy. Such establishment may include restaurants as an accessory use.

Alcohol manufacturing (distilled spirits) means any maker, producer, or bottler engaging in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy.

Alcohol outlet means a retail establishment that sells beer, wine or distilled liquor for off-site consumption. The term "alcohol outlet" includes retail stores, less than 25,000 square feet that may sell beer and/or wine, as well as other products.

All-weather material means a hard surface, dust-free material, capable of withstanding normal weather conditions during ordinary use without substantial deterioration. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather material.

Alley means a minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Alternative energy production means an energy production site or facility that is dedicated to the commercial production of electricity by means of wind, solar, biomass, grease, oil, or other non-petroleum energy source.

Alternative fuel vehicle. a vehicle that runs on a fuel other than traditional petroleum fuels (petrol or diesel) including means biodiesel, denatured alcohol, electricity, hydrogen, methanol, mixtures containing up to 85 percent methanol or denatured ethanol, natural gas, and propane (liquefied petroleum gas).

Amateur radio service means radio communication services, including amateur satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in 47 CFR 97 and regulated thereunder.

Amateur radio service antenna structure means a tower and antenna for radio transmission and reception which is maintained by a licensed amateur radio operator as an accessory structure.

Ambulance service facility means a privately owned facility for the dispatch, storage, and maintenance of emergency care vehicles.

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Amenity means a natural or manmade feature that enhances a particular property, increasing aesthetics and desirability to the owner or community.

Amplified sound reproduction device means any device capable of producing, reproducing or emitting sounds by means of any loudspeaker or amplifier.

Amusement park means an outdoor recreation facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Animal means any vertebrate member of the animal kingdom, excluding humans.

Animal care specialist means a professional practice that provides specialized care to animals, such as dermatology, sports medicine and rehabilitation, animal behavior, and ophthalmology. No invasive surgery or boarding shall be permitted at an animal care specialist facility. Minor procedures, such as skin biopsies and acupuncture, shall be permitted.

Animal hospital means a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use of an animal hospital as a kennel shall be limited to short-term boarding and shall be only incidental to such hospital use.

Animal shelter/rescue center means a facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public organization or by an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other non-profit organization devoted to the welfare, protection, and humane treatment of animals.

ANSI means the American National Standards Institute.

Antenna. See section 46-1200(b).

Antique shop means a place offering antiques for sale. An antique, for purposes of this chapter, shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

Apartment. See *Dwelling, multifamily*.

Apartment unit means one or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing four or more dwelling units.

Apiary means a place where beehives of honey bees are kept.

Apiculture. See *Beekeeping*.

Apparel store means a retail store where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery, and millinery shops.

Appeal means a review authorized by this chapter of any final order, requirement, or decision of the planning director or designee that is based on or made in the enforcement of this chapter.

Applicant means a person who acts in his own behalf or as the agent of a property owner, who seeks a zoning decision, or who seeks a decision regarding a permit or approval by the planning and zoning director.

Arcade means an area contiguous to a street or plaza that is open and unobstructed to a height of not less than 12 feet and that is accessible to the public at all times.

Archaeological resource means any material remains of past human culture or activities which are of archaeological interest, including, but not limited to, the following: basketry, bottles, carvings, graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations of this chapter, unless found in archaeological context. No item

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shall be deemed to be an archaeological resource under the regulations of this chapter unless such item is at least 200 years of age.

Art gallery means an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. The term "art gallery" does not include libraries, museums, or non-commercial art galleries.

Art, private, means a work or collection, usually displayed in a gallery or curated space that is owned by a private individual or entity.

Art, public, means any visual work of art located so as to be visible in a public, city-owned area; on the exterior of any city-owned facility; within any city-owned facility in areas designated as public areas, lobbies, or public assembly areas; or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city. Such public art shall not contain characteristics of an advertising sign.

Articulated facade means a building elevation that faces a street and that is constructed with a variety of surfaces, materials, colors, projections, recesses, or similar features.

Asphalt manufacturing means an industrial facility used for the production of asphalt, concrete, or asphalt or concrete products that are used in building or construction, and that includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises, or the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

Assembly hall means a meeting place at which civic, educational, political, religious, or social groups assemble regularly or occasionally; including, but not limited to, schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

Assisted living facility means a multifamily structure whose occupants are 55 years of age or older, or where each unit is occupied by at least one person who is 55 years of age, and where occupants receive assistance with daily living activities.

Atrium means an open hall lighted from above, into which rooms open at one or more levels.

Attic means an open space at the top of a house just below the roof; often used for storage.

Authorized (permitted) use means any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

Automobile means a self-propelled, free-moving vehicle, which is licensed by the appropriate state agency as a passenger vehicle. For the purpose of this chapter, the term "automobile" shall include motorcycles, scooters, small trucks used for daily passenger trips, sports utility vehicles (SUVs), and similar passenger vehicles or any vehicle classified by the state department of driving services as a Class "C" vehicle.

Automobile and truck rental and leasing means a business that rents or leases automobile or light trucks, and may store the automobiles and trucks on the same site as the business office.

Automobile brokerage means the business of providing services for the purchase or leasing of a vehicle, whether non-commercial or commercial and including trailers and RVs. The brokered vehicles are not stored on the same lot as that on which the business office is located. A vehicle brokerage may find the desired vehicle, negotiate the price or lease contract, manage paperwork associated with the sale or lease, or secure financing for the sale or lease of the vehicle.

Automobile dealership. See *Automobile sales*.

Automobile mall means a single location that provides sales space and centralized services for a number of automobile dealers and may include related services as auto insurance dealers and credit institutions that provide financing opportunities.

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Automobile manufacture means a facility engaged in the manufacture of passenger cars, light trucks, and/or light commercial vehicles.

Automobile parts or tire store means a building that is used for the retail sale of new or used parts or tires for non-commercial vehicles. The term "automobile parts or tire store" does not include outdoor storage yards.

Automobile rental and leasing means a business that rents or leases automobiles.

Automobile recovery and storage means a facility that provides temporary outdoor storage of Class "C" passenger vehicles and motorcycles that are intended to be claimed by the titleholders or their agents. Such storage includes vehicles that have been towed, or that will be transported to a repair shop or will be subject to an insurance adjustment after an accident. See *Vehicle storage and tow service*.

Automobile repair and maintenance, major, means a business that services passenger vehicles including the dismantling and repair of engines, transmissions, carburetors, drive shafts, and similar major vehicle parts, the provision of collision repair services including body frame straightening and body part replacement, or the painting or re-painting of passenger vehicles and motorcycles. Major automobile repair establishments may also perform minor automobile repairs.

Automobile repair and maintenance, minor:

- (1) The term "minor automobile repair and maintenance" means a business that repairs, replaces, or services tires, ignitions, hoses, spark plugs, and other minor vehicle parts as part of the regular upkeep of passenger vehicles and motorcycles, and may perform regular maintenance such as brake repair and replacement, lubrication, or replacement of small or incidental automobile parts.
- (2) The term "minor automobile repair and maintenance" may also, as an accessory function, include automobile detailing, including the application of paint protectors, the cleaning or polishing of a vehicles interior, exteriors, or engine, and the installation of aftermarket parts and accessories such as tinting, alarms, sound systems, spoilers, sunroofs or headlight covers.
- (3) The term "minor automobile repair and maintenance" does not include the dismantling and repair of engines, transmissions, or drive shafts, the provision of collision repair services including body frame straightening and body part replacement, or the painting or re-painting of passenger vehicles.
- (4) The term "minor automobile repair and maintenance" does not include automobile car washes where vehicles are washed and/or waxed either by hand or by mechanical equipment.

Automobile sales means a business establishment that engages in the retail sale or the leasing of new or used automobiles, small passenger trucks, motorcycles, or other passenger vehicles. Such merchandise may be stored on the same lot as that on which the business office is located. An automobile sales dealership may be located in an automobile mall. See *Automobile mall*; *Automobile brokerage*.

Automobile service station means a building, structure, or land used primarily for the sale of automotive fuels such as gasoline. The term "automobile service station" includes the following accessory uses: convenience stores; the sale of incidental vehicle parts and fluids such as motor oil, coolant, windshield wipers, seat or floor pads; and minor automobile repair as defined in this article.

Automobile upholstery shop means a building in which automobile seats are re-covered or re-upholstered. For the purposes of regulating home occupations, an automobile upholstery shop shall be considered to be major automobile repair.

Automobile wash/wax service means a building, structure, or land that is used for the washing, waxing, cleaning, or detailing of automobiles as defined in this article. The service may be enclosed in a building or conducted outdoors, includes mobile wash/wax service, and may be a principal or accessory use.

Automobile wrecking yard. See *Salvage yard*.

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Awning means a roof-like cover, usually of canvas or plastic, which can fold, collapse and retract, extended over or before places like storefront, window, door or deck as a shelter from the sun, rain, or wind.

Balcony means a horizontal flat surface that projects from the wall of a building, is enclosed by a parapet or railing, and is entirely supported by the building.

Bank means a financial institution as defined by O.C.G.A. § 7-1-4 and regulated by the Georgia Department of Banking and Finance or federal law as national banks, savings and loans, or credit unions.

Barber shop means an establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

Basement means a space having one-half or more of its floor-to-ceiling height below the average finished grade of the adjoining ground and with a floor-to-ceiling height of not less than 6.5 feet.

Beauty salon means a commercial building, residence, or other building or place where hair cutting or styling or cosmetology is offered or practiced on a regular basis for compensation. The term "beauty salon" includes the training of apprentices under the regulation of such training by the appropriate licensing board.

Bed and breakfast means accessory use of a single-family detached dwelling by the homeowner who resides in the dwelling, to provide sleeping accommodations to customers. Breakfast may also be provided to the customers at no extra cost. The term "customer" means a person who pays for the sleeping accommodations for fewer than 30 consecutive days.

Bedroom means a private room planned and intended for sleeping, separated from other rooms by a door, accessible to a bathroom without crossing another bedroom, and having a closet.

Beekeeping means the maintenance of honey bee colonies, commonly in hives, by humans.

Beer growler means a retail alcohol outlet that pours craft beers from a tap into re-usable containers for off-site consumption. The term "beer growler" does not include distilled liquor sales. See *Alcohol outlet*.

Beer or malt beverage means any alcoholic beverage obtained by fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing up to 14 percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Best management practices (BMP) means activities, procedures, structures or devices, systems of regulations and activities, or other measures that prevent or reduce pollution of the waters of the United States. BMPs are intended to:

- (1) Control soil loss, protect natural features such as trees, and reduce water quality degradation;
- (2) Control drainage from outside storage of materials;
- (3) Minimize adverse impacts to surface water and groundwater flow and circulation patterns, and to the chemical, physical, and biological characteristics of streams and wetlands; and
- (4) Control industrial plant site runoff, spillage, leaks, sludge or waste disposal.

Blight means a state or result of being blighted or deteriorated; dilapidation or decay. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare such as inadequate public or community services, vacant land with debris, litter, lack of utilities, accumulation of trash and junk or general disrepair including, but not limited to, peeling paint, broken windows, deteriorating wood. Also see chapter 28.

Block means an area of land bounded by a street, or by a combination of streets and public parks, cemeteries, railroad right-of-way, exterior boundaries of a subdivision, shorelines of waterways, or corporate

boundaries. In cases where the platting is incomplete or disconnected, the planning and zoning director may delineate the outline of the block.

Block face means that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Boardinghouse means a building containing one or more lodging units but not more than 20 lodging units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

Borrow pit means a pit from which sand, gravel or other construction material is taken for use as fill in at another location.

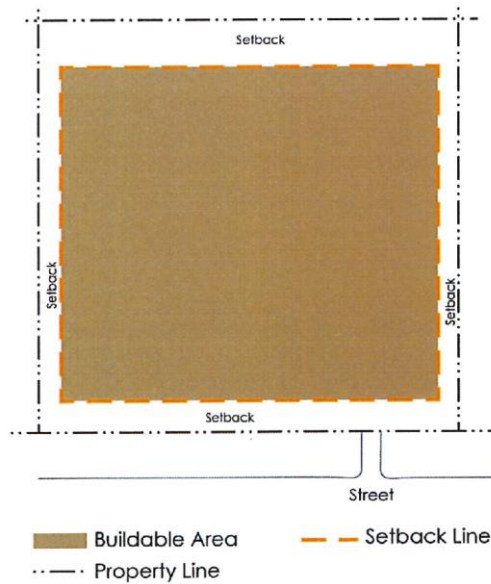
Brewpub means a light male beverage manufacturer licensed as a brewpub by the state. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy. Such establishment is required to derive at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food per the state.

Broker means a party that mediates between a buyer and a seller.

Buffer means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to a condition or conditions imposed by the mayor and city council in the enactment of a conditional zoning ordinance or special land use permit or by the zoning board of appeals in the grant of a variance, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district. Any such buffer shall not be graded or otherwise disturbed, and all trees and other vegetation shall remain, provided that additional trees and other plant material may be added to such landscaped buffer.

Buildable area means the area of a lot remaining after all setback requirements, including buffers, have been met.

Figure 9.1. Buildable Area



Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

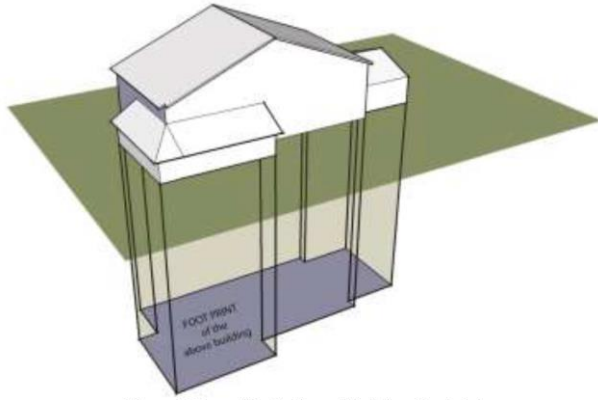
Building, accessory. See *Accessory building*.

Building coverage means the maximum area of the lot that is permitted to be covered by buildings, including principal structures, structured parking and roofed accessory structures. For the purposes of this chapter, the term "building coverage" does not include wooden decks, stone walkways and patios set without grout, and pervious, permeable, or porous pavements.

Building entrance feature means an architecturally designed element for entrances and exits of the building.

Building footprint means the outline of the total area covered by a building's perimeter at the ground level.

Figure 9.2. Illustration of Building Footprint



Building form means a design term that refers to the shape and/or configuration of a building and the space created by the building. Attributes of building form may include the building relationship to the street, sidewalk, and/or other buildings and uses; the general usage of floors (office, residential, retail) which influence form; height; and/or physical elements of the building (such as stoops, porches, entrances, materials, window coverage).

Building frontage means the maximum width of a building measured in a straight line parallel with the abutting street or fronts upon a public street, a customer parking area, or pedestrian mall, and has one or more entrances to the main part of the building or store.

Building height (as to all structures with the exception of single-family detached dwellings) means the vertical distance from the average finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. See article V of this chapter.

Building height (as to single-family detached dwellings) means the vertical distance from the front-door threshold of the proposed residential structure to the highest point of the roof of the structure. See article V of this chapter.

Building mass means the overall visual impact of a structure's volume; a combination of height and width, and the relationship of the heights and widths of the building's components.

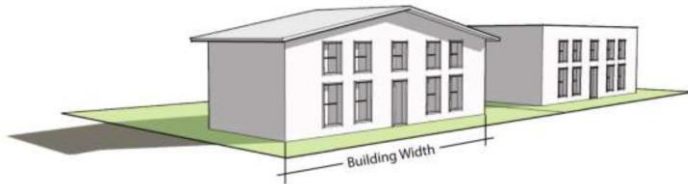
Building materials supply establishment means a facility for the sales of materials used in the construction of a building such as cement, brick, steel, etc.

Building, primary or principal means a structure in which is conducted the principal use of the lot on which it is located.

Building scale means the relationships of the size of the parts of a structure to one another and to humans.

Building width means the distance from the exterior face of the building siding as measured from side to side.

Figure 9.3. Illustration of Building Width



Bulkhead means a structural panel just below display windows on storefronts. Bulkheads can be both supportive and decorative in design. Bulkheads from the 19th century are often of wood construction with rectangular raised panels while those of the 20th century may be of wood, brick, tile, or marble construction.

Bury pit means a place where construction waste or refuse caused by the dismantling of a building or structure is dumped and covered with soil.

Bus rapid transit (BRT) means a permanent, integrated transit system that uses buses or specialized vehicles on roadways or dedicated lanes to transport passengers to their destinations.

Business service establishment means an entity primarily engaged in rendering services to businesses on a fee or contract basis, including the following and similar services: advertising and mailing; building maintenance; employment services; management and consulting services; protective services; commercial research; development and testing; photo finishing; and personal supply services.

Business vehicle means vehicle, or heavy construction equipment, or trailer used to transport passengers or property in furtherance of a commercial enterprise. The term "business vehicle" may include, but is not limited to, pick-up trucks with exterior equipment storage, passenger vans, passenger vehicles with or without logos or advertisements identifying the commercial enterprise, ambulances, limousines, taxi cabs, tow trucks, earthmoving machinery such as bobcats and bulldozers, dump trucks, flatbed trucks, box vans, any vehicle with a trailer attached to it, tractors, "dually" trucks (pick-up trucks with four wheels on the rear axle), heavy construction equipment, and semi-tractor cabs whether or not a trailer is attached.

"C" weighted sound level means the sound level reported in units of dB(C) as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

CBD shop means any retail establishment that devotes at least ten percent of the floor area to sale or advertisements identifying the commercial enterprise, ambulances, limousines, taxi cabs, tow trucks, earthmoving machinery such as bobcats and bulldozers, dump trucks, flatbed trucks, box vans, any vehicle with a trailer attached to it, tractors, "dually" trucks (pick-up trucks with four wheels on the rear axle), heavy construction equipment, and semi-tractor cabs whether or not a trailer is attached.

Campus style development means a development type which is primarily characterized by having several separate buildings on one site, unified through design and landscape elements.

Canopy means a protective roof-like covering, often of canvas, mounted on a frame over a walkway or door.

Canopy tree means a deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

Car wash means a facility for washing, waxing, and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Car wash, automatic, means a commercial car wash where the car moves automatically during the wash. The driver of the vehicle can remain in the vehicle or wait outside of the vehicle.

Car wash, hand wash, means a car wash wherein operating functions are performed by hand and by the owner or employee of the commercial establishment.

Cat means a feline that has reached the age of six months.

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Catering establishment means an establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

Cellar means a space having less than one-half or more of its floor-to-ceiling height below the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6.5 feet.

Cemetery means property used for the interring of the dead.

Chapel. See *Place of worship*.

Check cashing facility means a person, business or establishment licensed by the state pursuant to O.C.G.A. § 7-1-700 et seq. that for compensation engages, as a principal use, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. The term "check cashing facility" does not include a state or federally Chartered bank, savings association, credit union, or industrial loan company.

Child caring institution means a building in which housing, meals, and 24-hour continuous watchful oversight for children under the age of 18 are provided and which facility is licensed or permitted as a child caring institution by the state. The term "child caring institution" shall not include a "child day care center" or "child day care facility."

Child caring institution, community, means a child caring institution that offers care to seven or more children.

Child caring institution, group, means a child caring institution that offers care to between four and six children.

Child day care center means an establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven or more children who are under the age of 18 years for less than 24 hours per day, without transfer of legal custody.

Child day care facility means an establishment operated by any person with or without compensation providing for the care, supervision, and protection of six or fewer children who are under the age of 18 years for less than 24 hours per day, without transfer of legal custody. For the purpose of computing the number of children within the child day care facility, all children who are related by blood, marriage, adoption or guardianship to the person operating the facility shall be included.

Church. See *Place of worship*.

Cistern means an underground reservoir or tank for storing rainwater.

Clinic, health services, means a facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, nursing home, intermediate care facility, outpatient laboratory, or central services facility serving one or more such institutions.

Club, private, means a group of people organized for a common purpose to pursue common goals, interests, or activities and characterized by definite membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws, such as country clubs and golf clubs, but excluding places of worship, personal service facilities, adult entertainment establishments, and adult service facilities which shall be defined and regulated as otherwise provided herein. The term "private club" also means, where the context requires, the premises and structures owned or occupied by members of such group within which the activities of the private club are conducted.

Clubhouse means a structure in which the activities of a private club are conducted.

Cluster housing development means a development that permits a reduction in lot area provided there is no increase in overall density of development, and in which all remaining land area is perpetually and properly protected, maintained and preserved as undivided open space or recreational or environmentally sensitive areas.

Code means the Code of the City of Tucker, Georgia.

Coliseum means a large building with tiers of seats for spectators at sporting or other recreational events.

Collector street means a street or road designated as a collector street in the transportation and thoroughfare plan.

College means a post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. The term "college" also includes community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

Collocation. See section 46-1200(b).

Colonnade means a series of columns placed at regular intervals, usually supporting a roof.

Columbarium means a structure with niches for the placement of cinerary urns.

Commercial district means any parcel of land which is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O-I, O-I-T, C-2, NS, and C-1.

Commercial parking garage/structure means a covered or sheltered structure of one or more stories designed, constructed and used for the short term parking of motor vehicles for profit.

Commercial parking lot means an uncovered or unsheltered structure of one or more stories designed, constructed and used for the short term parking of motor vehicles for profit.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

Common open space means open space designed for common use by all property owners in the development.

Common ownership means ownership as recognized by law of real property by one or more persons, their parents, brothers, sisters, children over the age of 18, spouses or any association, firm, corporation or partnership in which such person or spouse is a corporate officer, partner or is a stockholder with an ownership interest of ten or more percent.

Community development director means the director of the community and economic development department of the city, or their designee.

Community garden. See *Urban garden*.

Community living arrangement. See *Personal care home*.

Compact design means the design of a structure and or development that encourages efficient land use and the preservation of open space, usually via building more vertically, and by minimizing surface parking.

Compatible (as used in article II of this chapter, purpose and intent for each established district) means land development that is consistent with existing, identified physical elements in proximity to that land development, such as architectural style, building mass, building scale, land uses, and landscape architecture.

Complainant means any person who has registered a noise or code complaint with an authorized enforcement agency that he is the recipient of noise or nuisance on a protected property category. A complainant must have an interest in the protected property as an owner, tenant, or employee.

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Complete application means, when used in conjunction with an application under this zoning ordinance, containing all of the required elements, information, fees, approvals or other materials as set forth in this zoning ordinance, other applicable provisions of this Code, state law, and in the most recent checklist previously issued by the planning and zoning director.

Composting means the controlled biological decomposition of organic matter into a stable, odor-free humus.

Comprehensive plan means the county comprehensive plan adopted by the board of commissioners as it may be amended from time to time, which divides the unincorporated areas of the county into land use categories and which constitutes the official policy of the county regarding long-term planning and use of land.

Concert hall means an open, partially enclosed, or fully enclosed facility used or intended to be used primarily for concerts, spectator sports, entertainment events, expositions, and other public gatherings. Typical uses and structures include concerts, conventions, exhibition halls, sports arenas, and amphitheaters.

Conditional approval means the imposition of special requirements, whether expressed in written form or as a site plan or other graphic representation, made a requirement of development permission associated with a particular parcel or parcels of land and imposed in accordance with the terms of this chapter.

Condominium means a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis in compliance with state law.

Condominium unit means a unit intended for any type of use with individual ownership, as defined in the Georgia Condominium Act, together with the undivided interest in the common elements appertaining to that unit.

Conservation area means any area designated as containing physical features of natural, historical, social, cultural, architectural, or aesthetic significance to be restored to or retained in its original state or enhanced to promote existing natural habitat.

Conservation easement means a restriction or limitation on the use of real property which is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use.

Connectivity ratio means a ratio of links to nodes in any subdivision.

- (1) The connectivity ratio shall be the number of street links divided by the number of nodes or end links, including cul-de-sac heads.
- (2) A link shall be any portion of a street, other than an alley, defined by a node at either end. Stub-outs to adjacent property shall be considered links. For the purpose of determining the number of links in a development, boulevards, median-divided roadways, and divided entrances shall be treated the same as conventional two-way roadways.
- (3) A node shall be the terminus of a street or the intersection of two or more streets. Any curve or bend of a street that exceeds 75 degrees shall receive credit as a node. Any curve or bend of a street that does not exceed 75 degrees shall not be considered a node. A divided entrance shall only count once.

Figure 9.4. Example 1: Does not meet ratio

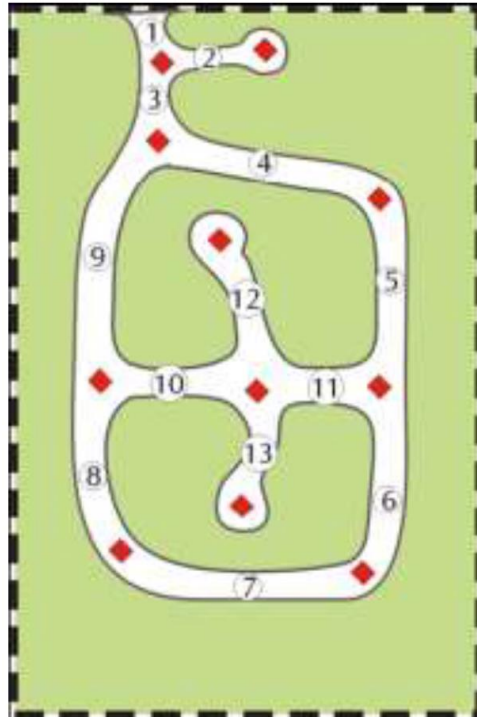
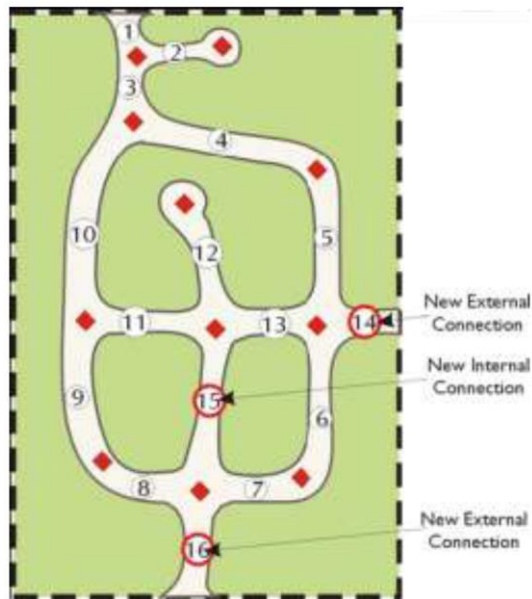


Figure 9.5. Example 2: Modified to meet ratio



Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Continuing care retirement community means a residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units as defined herein. Such facilities generally provide support services, such as meals, laundry, housekeeping, transportation, and social and recreational activities.

Continuous sound means any sound with duration of more than one second, as measured with a sound level meter set to the slow meter response.

Contractor, general, means a contractor or builder engaged in the construction of buildings like residences or commercial structures.

Contractor, heavy construction, means a contractor or builder engaged in the heavy construction activities such as paving, highway construction, landscaping, and utility construction.

Contractor, special trade, means industries in the special trade contractors subsector engage in specialized construction activities, such as plumbing, painting, and electrical work.

Convalescent home means a nursing care facility.

Convenience store means any retail establishment offering for sale items such as household items, newspapers and magazines, prepackaged food products, sandwiches and other freshly prepared foods, and beverages, for off-site consumption. When a convenience store sells unopened alcoholic beverages, it is also considered to be an alcohol outlet. A convenience store may also include accessory fuel pumps.

Convent means a building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of women who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

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Cornice means any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

Corridor means a broad geographical band that follows a general directional flow connecting major sources of trips that may contain a number of streets, highways, and transit route alignments.

Cottage development means small detached dwelling units arranged on a single site whereby the dwelling units are arranged so that each unit faces a common open space.

County means DeKalb County, Georgia, a political subdivision of the state. When appropriate to the context, the term "county" also includes authorized officers, employees and agents thereof.

County solid waste means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family, duplex, and multifamily residences, hotels and motels, picnic grounds and day use recreation areas. The term "county solid waste" includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

County solid waste disposal facility means any facility or location where the final deposition of any amount of county solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, county solid waste landfills and county solid waste thermal treatment technology facilities.

County solid waste landfill means a disposal facility where any amount of county solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludge, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

Cremation means the reduction of a dead human body or a dead animal body to residue by intense heat.

Crematorium means a location containing properly installed, certified apparatus intended for use in the act of cremation. Crematoriums do not include establishments where incinerators are used to dispose of toxic or hazardous materials, infectious materials or narcotics.

Cultural facility means a building or structure that is primarily used for meetings, classes, exhibits, individual study, referral services, informational and entertainment presentations, and other similar programs oriented around the customs and interests of a specific group of people, including, but not limited to, an immigrant, ethnic, or national minority group, or the heritage of defined geographic region. Movies, theater performances and similar entertainment may occur in a cultural facility, but the purpose of the cultural facility is not to provide a venue solely for such entertainment. A cultural facility may be programmed, managed, or operated by a public, private, or non-profit entity.

Curb cut means a curb break, or a place or way provided for the purpose of gaining vehicular access between a street and abutting property.

Dairy means a commercial establishment for the manufacture, processing, or sale of dairy products.

Dance school means a school where classes in dance are taught to four or more persons at a time.

Day means, unless otherwise stated, calendar days.

Day spa. See *Health spa*.

Decay resistant wood means wood harvested from tree species that are known to have extractives in the heartwood which are toxic to fungi.

Decibel (dB) means the unit for the measurement of sound pressure based upon a reference pressure of 20 micropascals (zero decibels), i.e., the average threshold of hearing for a person with very good hearing.

Deciduous tree means a tree that loses all of its leaves for part of the year.

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Deficiencies means exterior conditions or signs of neglect within a conservation subdivision and within the Stonecrest Area Overlay District that contributes to nuisances, hazards, or unkempt appearances, such as, but not limited to, uncut or overgrown grass or weeds, peeling paint, severe corrosion, or wood rot; accumulation of trash or debris; fallen, dead, dying, damaged, or diseased trees or shrubbery; severe erosion; stagnant pools of water; broken inoperable, or severely damaged benches, seating, paving, walls, fences, gates, signs, fountains or other structures, furnishings or equipment which is intended for decoration or use by the public. The term "deficiencies" shall only be applicable to the Stonecrest Area Overlay District regulations and the conservation subdivision regulations.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways whether man-made or natural occurring both above and below ground.

Demolition of an infill building means the destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

Density means the number of dwelling units per gross acreage of land.

Dental clinic. See *Office, dental*.

Department of community affairs (DCA) means the state department that provides a variety of community development programs to help the state's communities realize their growth and development goals.

Department store means a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited, and sold directly to the customer for whom the goods and services are furnished.

Deterioration means a condition of a building or a portion of a building characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, lack of maintenance, or excessive use.

Development permit means any permit that authorizes land-disturbance for the use, construction thereon or alteration of any real property within the city.

Development of regional impact (DRI) means a large-scale development that is likely to have regional effects beyond the local government jurisdiction in which it is located and meets the DCA requirements for review.

Director of public works means the city public works department and community development director.

Dispatch office means an office used exclusively for the communication and dispatch of taxis, ambulances, limousines and similar vehicles, with no fleet parking or storage allowed.

Disposal facility means any facility or location where the final deposition of solid waste occurs including, but is not limited to, landfills and solid waste thermal treatment technology facilities.

Distilled spirit means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume.

Dog means a canine that has reached the age of six months.

Dog or pet day care means any premises containing four or more pets, where pets are dropped off and picked up daily between the hours of 7:00 a.m. and 7:00 p.m. for temporary care on site and where they may be groomed, trained, exercised, and socialized, but are not kept or boarded overnight, bred, sold, or let for hire. Use as a kennel shall be limited to short-term boarding and shall be only incidental to such pet day care. See *Kennel, commercial*.

Dog or pet grooming means the hygienic care and cleaning of a pet, as well as enhancement of a pet's physical appearance.

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Dormitory means a building intended or used principally for sleeping accommodations where such building is related to an educational or public institution, including religious institutions, and located on the campus of that institution.

Dripline means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drive-in theater means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures on a paid admission basis to patrons seated in automobiles.

Drive-through facility means a business establishment so developed that its retail or service character includes a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Drive-through restaurant means a retail establishment where food and/or drinks are prepared and may be consumed by customers within the principal building, or may be ordered and picked up from an exterior service window that serves customers while in their automobiles. The term "drive-through restaurant" includes restaurants that serve customers at an exterior walk-up service window.

Driveway means a private roadway providing access for vehicles to an individual lot, parking space, garage, dwelling, or other structure.

Dry cleaning agency means an establishment or agency maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry cleaning equipment or machinery on the premises.

Dry cleaning plant means an establishment for dry cleaning or laundry where the operation, equipment and machinery is on site.

Dumpster means any container, receptacle, compactor unit, trailer, roll-off, or similar unit with or without wheels that is used for temporary storage, containment, or transport of refuse, debris, trash, garbage, food waste, solid waste, recyclable material, incidental demolition debris, or other discarded or like materials. It shall not apply to ordinary household trash cans of a volume of 50 gallons or less, recycling receptacles of 96 gallons or less.

Durable materials means materials that can resist wear, tear and decay from use, time and other conditions like weather.

Dwelling, mobile home. See *Mobile home*.

Dwelling, multifamily. See *Dwelling unit, multifamily*.

Dwelling, single-family, means a building designed for and containing one dwelling unit.

Dwelling, single-family attached, means a dwelling unit located in a building in which multiple units are attached by a common party wall.

Dwelling, single-family detached, means a dwelling unit on an individual lot unattached to another dwelling unit.

Dwelling, single-family detached condominiums in the residential neighborhood conservation district, means single-family detached dwelling units which are owned under the condominium form of ownership such that there are no individual lots associated with the units and the common areas are held in common ownership by a condominium association.

Dwelling, three-family or triplex, means a building designed for and containing three dwelling units.

Dwelling, two-family or duplex, means a building designed for and containing two dwelling units.

Dwelling unit means one or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

Dwelling unit, accessory, means a dwelling unit located on the same lot as a single-family dwelling, either within or attached to the single-family dwelling, or detached, and is a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities.

Dwelling unit, efficiency or studio, means a self-contained residential unit consisting of not more than one room together with a private bath and kitchen facilities.

Dwelling unit, multifamily, means one or more rooms with a private bath and kitchen facilities comprising an independent, self-contained residential unit in a building containing four or more dwelling units.

Dyeworks means a facility or workshop where the process of applying a comparatively permanent color to fiber, yarn or fabric takes place.

Edifice means a building or a structure, especially one of imposing appearance or size, which has a roof and walls and stands permanently in one place.

Elevation.

- (1) The term "elevation" means an architectural term referring to the view of a building seen from one side; it is a flat representation of one facade. This is the most common view used to describe the external appearance of a building. Each elevation is labeled in relation to the yard it faces (front, rear or side).
- (2) The term "elevation" means height above sea level or ground level. See *Grade, existing*.

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Emissions station means an establishment which measures the tailpipe emissions of a passenger vehicle.

Enclosed area means surrounded by a fence or walls, sheltered by a structure with a roof and no side walls, but not located within a building.

Encroachment means a building or some portion of it, or a wall or fence, which extends beyond the land of the owner and illegally intrudes upon land of an adjoining owner, a street or an alley.

Environmental contamination means a presence of hazardous substances in the environment. From the public health perspective, environmental contamination is addressed when it potentially affects the health and quality of people living or working nearby.

Exceptional topographical restrictions means the physical condition of a lot or parcel, determined by the contours of the land itself, which may inhibit or alter the compliant status of an existing or proposed structure.

Explosive manufacture or storage means the manufacture or storage of any chemical compound mixture or device, the primary and common purpose of which is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

Exterior insulation and finishing system (EIFS) means a type of building exterior wall cladding system that provides exterior walls with an insulated finished surface and waterproofing in an integrated composite material system.

Extraneous sound means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation.

Facade means one exterior side of a building, usually, but not always, the front. In this chapter and the design standards, the term "facade" may be synonymous with architectural elevation. In architecture, the facade of a building is often the most important from a design standpoint, as the facade elements of wall face, parapet, fascia, fenestration, and canopy establish the architectural aesthetic of a building creating the public realm.

Facade, primary, means refers to the exterior building wall considered the front and features the main entrance to the building. The term "primary facade" is synonymous with front facade.

Fair market value means the price a property would likely bring if offered for sale in the marketplace.

Fairgrounds means an area of land use including, but not limited to, agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters. Fairgrounds do not include racetracks or motorized contests of speed.

Family means one or more persons related by blood, marriage, adoption, or guardianship; or not more than three persons not so related who live together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan, based on an intentionally structured relationship providing organization and stability; or not more than two unrelated persons and any children related to either of them. A family does not include larger institutional group living situations such as dormitories, fraternities, sororities, monasteries or nunneries. A family may have a live-in caretaker, au pair, nanny, or housekeeper.

Family day care home means a private residence in which a business, registered by the state, is operated by any person who receives pay for supervision and care for fewer than 24 hours per day, not more than six persons who are not residents in the same private residence. For purposes of this chapter, a family day care home may be operated as a home occupation, subject to the requirements of this chapter.

Family-oriented entertainment venues means places of entertainment intended to serve families.

Farm equipment and supplies sales establishment means establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Farmer's market means a market, usually held out-of-doors, in public spaces, where farmers and other vendors can sell produce or value added products.

Farming, active, means the growing of crops, plants, and trees. The term "active farming" also includes the maintaining of horses, livestock, or poultry for the residents' needs or use, and the sale of agricultural products grown on the premises.

Fascia means a type of roof trim mounted on exposed rafter ends or top of exterior walls to create a layer between the edge of the roof and the outside.

Fat rendering means any processing of animal byproducts into more useful materials, or more narrowly to the rendering of whole animal fatty tissue into purified fats like lard or tallow.

Fee simple means absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance. Fee simple ownership includes the land immediately underneath a unit, and may or may not include land in front of and behind a building.

Fee simple condominium development means a development where the owner of a unit possesses fee simple interest to the exterior walls and roof of the unit, as well as fee simple interest to the land lying immediately beneath the unit and coincident with the external walls of such unit as depicted on a recorded final plat. A fee simple condominium unit must be a part of an approved development in which all other land consists of privately owned common areas, utilities, streets, parking, stormwater management, landscaping and other facilities that are owned by all unit owners on a proportional, undivided basis in compliance with state law and subject to a mandatory property owners' association organized in accordance with state law.

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Fee simple condominium declaration means an official affidavit filed with the city attesting to the fact that the owner of a condominium development that was the subject of a site development plan, no longer intends to sell units in the subject development as condominiums and will offer for sale such units as fee simple condominium units and that otherwise the development shall conform to a previously approved condominium development plan consisting of the same units along with the same related facilities on the same tract of land as the previously approved condominium development.

Fence means a structure designed to provide separation and security constructed of materials including chainlink, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the planning and zoning director.

Fenestration means the arrangement, proportioning, and design of windows and doors in a building.

Fertilizer manufacture means the manufacture and storage of organic and chemical fertilizer, including manure and sludge processing.

Fitness center means building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee but specifically excluding adult service facilities. Accessory uses which support the principal use can include therapy treatments such as massage, mediation and other healing arts. The term "fitness center" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Flea market means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Fleet vehicles are groups of motor vehicles owned or leased by a business, government agency or other organization rather than by an individual or family. Fleet vehicles do not include box trucks, 18 wheelers, moving trucks, dump trucks, or other large commercial vehicles with a gross vehicle weight of ten thousand pounds or more.

Floodplain means land within the special flood hazard area (SFHA) or covered by the "future-conditions" flood as defined in chapter 22.

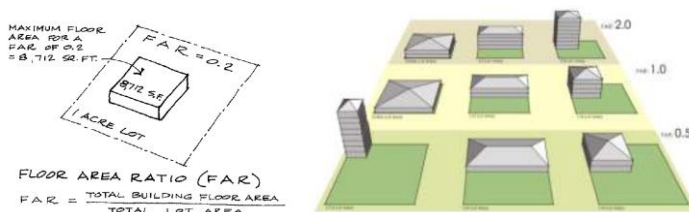
Floodway means the channel of a stream, river, or other watercourse and the adjacent areas that must be reserved in order to discharge the special flood hazard area (SFHA) flood without cumulatively increasing the water surface elevation more than a designated height.

Floor area means the gross heated horizontal areas of the floors of a building, exclusive of open porches and garages, measured from the interior face of the exterior walls of the building. For nonresidential construction, net floor area is measured as the usable, heated floor space and gross floor area is measured as the total floor space.

Floor area of accessory building means the gross horizontal areas of the floors of an accessory building, measured from the exterior faces of the exterior walls of the accessory building.

Floor area ratio (FAR) means the relationship between the amount of gross floor area permitted in a building (or buildings) and the area of the lot on which the building stands. FAR is computed by dividing the gross floor area of a building or buildings by the total area of the lot. For purposes of this calculation, parking areas or structures shall not be included in floor area.

Figure 9.6. Illustration of Floor Area Ratio (FAR)



Florist means an enclosed retail business whose principal activity is the selling of plants which were grown off-site.

Footer means an underground concrete structure that a building, wall, or retaining wall rests upon. It distributes that weight of the structure to the soil below. The retaining wall footing supports the weight of the wall and the soil behind it. Without a footing, the retaining wall may collapse.

Forestry means establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

Fortunetelling includes all forms of foretelling, including, but not limited to, palm reading, casting of horoscopes, and tea leaf reading.

Fraternal organization means a group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings and formal written membership requirements. See *Club*.

Fraternity house means a building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an institution of higher learning.

Freestanding wall means a wall or an upright structure of masonry, wood, plaster, or other building material standing on its own foundation and not attached to any part of a building.

Freeway means a multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes which permits access only at designated interchanges and is so designated in the comprehensive plan.

Freight service means an establishment primarily engaged in undertaking the transportation of goods and people for the compensation, and which may in turn make use of other transportation establishments in effecting delivery. The term "freight service" includes parking lots for overnight truck storage, and such establishments as commercial distribution services, freight forwarding services, and freight agencies.

Frequency means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz), also referred to as "pitch."

Frontage, lot, means the horizontal distance for which the boundary line of a lot and a street right-of-way line are coincident.

Front facade. See *Facade, primary*.

Fuel and ice dealers, manufacturers and wholesalers means an establishment primarily engaged in the sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas, bottled or in bulk, as a principal use.

Funeral home means a building used for the preparation of deceased humans for burial or cremation and display of the deceased and rituals connected therewith before burial or cremation, including the storage of caskets, funeral urns, funeral vehicles, and other funeral supplies, and where allowed by use standards, crematoriums. See *Crematorium*.

Furniture sales and showroom means a retail trade establishment primarily engaged in the sale and exhibition of furniture or home decoration items.

Garage means a part of a residential building or a separate structure on the same lot as the residence designed to be used for the parking and storage of vehicles that belong to the residents or visitors of the building.

Garage, parking. See *Parking garage* or *Parking structure*.

Gas regulator station means an assemblage of equipment which reduces, regulates, and meters natural gas pressure in the transmission line, holder, main, pressure vessel, or the compressor station piping. This may include auxiliary equipment such as valves, control instruments, or control lines as well as piping.

General business office means any building or part of a building in which one or more persons are employed in the management or direction of an agency, business or organization, but excludes such uses as retail sales, manufacturing, assembly or storage of goods, or assembly and amusement.

Gift shop means a retail store where items such as art, antiques, jewelry, books, and notions are sold.

Glue manufacture means the manufacturing of glue, epoxy, sealant or other adhesives.

Go-cart means a small low motor vehicle, with four wheels and an open framework, used for racing.

Go-cart concession means a place, usually sheltered, where patrons can purchase snacks or food accessory to go-cart racing.

Go-cart track means a track or network of tracks used for the racing of go-carts.

Golf course means a tract of land laid out with at least nine holes for playing a game of golf and improved with tees, green, fairways, and hazards. A golf course may include a clubhouse, restrooms, driving range and shelters as accessory uses.

Grade, average finished, means the average level of the finished surface of the ground adjacent to the exterior walls of the building determined by dividing the sum of the elevation of the highest point and the elevation of the lowest point by two.

Grade, existing, means the elevation of the ground surface before development.

Grade, finished, means the final grade of the ground surface after development.

Grassed playing fields means reasonably flat and undeveloped recreation areas intended for a variety of informal recreational uses, including, but not limited to, walking, kite-flying, flying disc-throwing, and recreational games of soccer, softball, or cricket. In the creation of grassed playing fields, minimal grading may be used; however, specimen trees may not be damaged or removed. Grassed playing fields may not include recreation areas with amenities for a particular sport, such as baseball diamonds or golf courses.

Gravel pit means an open land area where sand, gravel, and rock fragment are mined or excavated for sale or off-site use. The term "gravel pit" includes sifting, crushing, and washing as part of the primary operation. To excavate the rock, blasting also may be necessary.

Grazing land or pasture land means any open land area used to pasture livestock in which suitable forage is maintained over 80 percent of the area at all times of the year.

Greenhouse, commercial, means a retail or wholesale business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display.

Greenspace means undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development, which is not a part of an individual residential lot.

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Grid pattern means a continuous web of streets in which most streets terminate at other streets to form multiple vehicular and pedestrian connections. Streets are to be laid out with primarily linear features, but the grid may be broken by circles, ovals, diagonals, and natural curves to add visual interest.

Grocery store means a store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers other home care and personal care products, and which is substantially larger and carries a broader range of merchandise than convenience stores.

Ground cover means small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation, that normally cover the ground and include trees of less than six inches caliper.

Group homes. See *Child caring institution, Personal care homes, Transitional housing facility.*

Growler means a glass or plastic or other type of container, not less than 12 ounces nor more than 64 ounces, used to hold specialty malt beverages such as beer and hard cider, which are dispensed from a tap and sealed airtight before being sold to the customer for off-premises consumption.

Gym. See *Fitness center.*

Hardscape means the inanimate elements of landscaping, especially any masonry work or woodwork. For instance, stone walls, concrete or brick patios, tile paths, wooden decks and wooden arbors would all be considered part of the hardscape.

Hardship means a condition of significant practical difficulty in developing a lot because of physical problems relating solely to the size, shape or topography of the lot in question, which are not economic difficulties and which are not self-imposed.

Hardware store means a facility of 30,000 or less square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies, and cutlery.

Health spa means a nurturing, safe, clean commercial establishment, which employs professional, licensed therapists whose services include massage and body or facial treatments. Private treatment rooms are provided for each client receiving a personal service. Massage treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the massage and therapeutic treatment services. Full service hair salons, makeup consultation and application and manicure and pedicure services may be provided as additional services.

Heavy industrial. See *Industrial, heavy.*

Heavy manufacturing. See *Industrial, heavy.*

Heavy vehicle repair means major or minor repair of non-passenger vehicles that are classified by the state department of driving services as a Class E, F, or commercial vehicle.

Heliport means an area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

High-rise building or structure means a building of any type of construction or occupancy having floors used for human occupancy located more than 55 feet above the lowest floor level having building access of three stories or greater unless otherwise defined by individual zoning or overlay district.

Historic means a building, structure, site, property or district identified as historic by the historic preservation commission, the county historic resources survey, the comprehensive plan, by listing on the state or National Register of Historic Places, by listing as a National Historic Landmark, or determined potentially eligible for listing in

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the National Register of Historic Places as a result of review under section 106 of the National Historic Preservation Act, as amended.

Hobby, toy and game store means a retail establishment for sale and exhibition of items related to hobbies such as arts and crafts materials, toys, or items related to games.

Home improvement center means a facility greater than 30,000 square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies, and cutlery.

Home occupation means an occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of this chapter. The term "home occupation" does not include "private educational use" as defined in this chapter.

Home stay bed and breakfast residence means a single-family dwelling in which is provided not more than two rooms for not more than four people for overnight rental and a morning meal to transient persons for compensation on a nightly basis by the occupant of said dwelling.

Hookah means a single or multi-stemmed water pipe and any associated products and devices which are used to produce fumes, smoke and/or vapor from the burning of material including, but not limited to, tobacco products, shisha or other plant materials.

Hospice means any facility that provides coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.

Hospital means an institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

Hotel/motel means any structure consisting of one or more buildings, with more than five dwelling units with provisions for transient living, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary lodging of 30 days or less is offered for pay to guests, is not intended for long-term occupancy, and does not otherwise meet the definition of an extended-stay hotel as defined in this section. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

Hotel/motel, extended stay, means any structure consisting of one or more buildings, with more than five dwelling units with provisions for living, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay:

- (1) To persons for non-transient extended stays and/or stays longer than 30 days, regardless of the presence of rentals or leases for shorter periods of time; or
- (2) For stays longer than 15 days in rooms equipped with kitchen facilities.

Household pet means a domestic animal that is customarily kept for pleasure rather than utility or profit and that is normally kept within a residence for personal use and enjoyment including domestic dogs, domestic cats, domestic potbellied pigs, canaries, parrots, parakeets, domestic tropical birds, hamsters, guinea pigs, lizards and turtles. The term "household pet" does not include livestock, poultry, and snakes, nor does the term "household pet" include hybrids of animals normally found in the wild.

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Impervious surface means a surface that either prevents or retards the entry of surface water into the soil mantle and causes surface water to run off in greater quantities or at an increased flow rate when compared to natural, undeveloped soil mantle. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, pavement graveled areas, packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface waters. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces. See *Lot coverage for exemptions*.

Impulsive sound means a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second characterized with an abrupt onset and rapid decay.

INCE means the Institute of Noise Control Engineering.

Industrial district means any parcel of land which is zoned for industrial use including property used for light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills. Such districts include M and M-2 districts.

Industrial, heavy, means the building or premises where the following or similar operations are conducted: processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise, or equipment, including the wholesale or distribution of said goods, merchandise, or equipment when not conducted wholly within a building or other enclosed structure or when such operations generate measurable dust, vibrations, odor, glare or emissions beyond the property on which said building or structure is located.

Industrial, light, means the following or similar operations: processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise, or equipment, other than light malt beverages, including the wholesale or distribution of said goods, merchandise, or equipment, when conducted wholly within a building or other enclosed structure, and when such operations generate no measurable dust, vibrations, odor, glare or emissions beyond the property on which said building or structure is located.

Industrial solid waste means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste as defined herein. Such wastes include, but are not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textiles; transportation equipment; and water treatment. The term "industrial solid waste" does not include mining waste or oil and gas waste.

Industrialized building means any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation-site without disassembly, damage to, or destruction thereof.

Infill building means any building built or proposed to be built on an infill lot.

Infill development means a development surrounded by or in close proximity to areas that are substantially or fully developed.

Infill lot means:

- (1) A vacant lot of record in an infill overlay zoning district created by the demolition of an existing residential structure for the replacement of that structure with new construction;
- (2) Any lot intended for use as a site for a single-family dwelling that is created by act of subdivision which, at the time of final plat approval, is in whole or in part within the boundaries of a residential infill overlay district; or

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- (3) Any lot within a residential infill overlay district that, at the time it is zoned, has no principal building and which is subsequently proposed as a site for a single-family dwelling.

Inoperable vehicle means:

- (1) A vehicle which is incapable of operation or use upon a highway;
- (2) A vehicle that has no resale value except as a source of parts or scrap; or
- (3) Any wrecked or non-operable automobile, truck or other vehicle.

Intermediate care home means a facility which admits residents on medical referral; it maintains the services and facilities for institutional care and has an agreement with a physician or dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the state department of human resources or state agency as may have jurisdiction. The term "intermediate care" means the provision of food, including special diets when required, shelter, laundry and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate licensed supervision. Intermediate care does not normally include providing care for bed-ridden patients except on an emergency or temporary basis.

Intermodal freight terminal means an industrial establishment in which freight is transferred in containers from truck to railroad cars for transportation.

Inter-parcel access means a physical way or means to facilitate movement of pedestrians and/or vehicles between adjacent lots (that is, "lot-to-lot access") without generating additional turning movements on a public street.

Jewelry repair shop means establishment primarily engaged in the provision of jewelry repair services to individuals.

Junk vehicle means any vehicle which is non-operable, or any vehicle which does not bear a current license plate.

Junkyard means any lot, or lot and building in combination, which is utilized for the parking, storage or disassembling of junk vehicles, storage, bailing or otherwise dealing in bones, animal hides, scrap iron and other metals, used paper, used cloth, used plumbing fixtures, old refrigerators and other old household appliances, and used brick, wood or other building materials. These uses shall be considered junkyards whether or not all or parts of these operations are conducted inside a building or in conjunction with, in addition to or accessory to other uses of the premises.

Keeping of chickens means the breeding, boarding, and caring of chickens for personal or agriculture use, or raised for sale and profit.

Keeping of livestock means the breeding, boarding and caring of livestock for personal or agricultural use, or raised for sale and profit.

Keeping of pigeons means the breeding, boarding, and caring of pigeons for personal or agriculture use, or raised for sale and profit.

Kennel, breeding, means a kennel where no more than ten dogs, registered with a nationally recognized registration organization, over the age of six months are owned, kept or harbored for the purpose of breeding purebred or pedigreed dogs; provided, however, this definition shall not apply to zoos or to animal hospitals operated by a veterinarian, duly licensed under the law.

Kennel, commercial, means an establishment for the boarding, caring for and keeping of dogs over the age of six months other than a breeding kennel or a noncommercial kennel.

Kennel, noncommercial, means an establishment for the boarding, caring for and keeping of more than three but not more than ten dogs over the age of six months, not for commercial purposes.

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Kidney dialysis center means an establishment where a process of dialysis, an artificial process of getting rid of waste and unwanted water from blood, is carried out for the patients whose kidneys have been damaged or lost kidney function.

Kindergarten means an establishment operated by any person wherein compensation is paid for providing for the care, supervision, instruction, and protection of seven or more children who are under the age of seven years for less than 24 hours per day, without transfer of legal custody. For the purpose of this zoning ordinance, a kindergarten school is considered to be a child day care center or facility.

Kiosk means a freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

Kitchen facilities means a room used to prepare food containing, at a minimum, a sink and a stove or oven.

Kitchenette means a small, compact apartment kitchen, often part of another room utilized for different activities.

Laboratories (medical/dental) means a facility offering diagnostic or pathological testing and analysis of diagnostic tests related to medical or dental care industry.

Land use means a description of how land is occupied or utilized.

Landfill means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

Landscape area means an area set aside from structures and parking which is developed with natural materials (i.e., lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and street furniture.

Landscape business means a business whose primary operation is the sale and installation of organic and inorganic material, plants, pine straw and other limited accessory products for the landscape industry and the storage and use of associated landscape vehicles and equipment.

Landscape strip means a strip intended to be planted with trees, shrubs, or other vegetation; also landscape zone.

Landscaped space means the areas of a parking lot which are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features which are located within such parking lot and which are generally accessible to patrons or the general public during normal business hours.

Large-scale retail means a singular retail or wholesale user who occupies no less than 60,000 square feet of gross floor area.

Late-night establishment means any establishment licensed to dispense alcoholic beverages for consumption on the premises where such establishment is open for use by patrons beyond 12:30 a.m.

Laundry means a facility used or intended to use for washing and drying of clothes and fabrics.

Laundry, coin operated, means a self-service laundry facility where clothes are washed and dried by washing and drying machines that require coins to operate.

Laundry pick-up station means a facility where clothes and linens are dropped off for laundry or dry cleaning and where clothes and linen are picked up once they are cleaned. These facilities do not perform dry cleaning on site. See *Dry cleaning agency*.

Leachate collection system means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

Leasing office means a facility where commercial or residential spaces available for renting are exhibited, or where documents related to the lease agreements are prepared. This facility may also be used to collect rent or used by occupants to report needs of services or other support.

Library means a public facility, a room or building, for the exhibition and use, but not sale of literary, scientific, historical, musical, artistic or reference materials.

Light industrial. See *Light manufacturing establishment*.

Light malt beverage manufacturer. See *Brewpub* and *Alcohol manufacturing (brewery)*.

Light manufacturing. See *Industrial, light*.

Liner building means a specialized building, parallel to the street, which is designed to conceal areas like a parking lot, parking deck or loading docks.

Liquor store. See *Alcohol outlet*.

Live-work unit means a structure or portion of a structure that combines residential living space with an integrated work space used principally by the occupant with access for customers and employees.

Livestock means domestic animals and fowl customarily kept on a farm including horses, mules, donkeys, cows, cattle, sheep, goats, ducks, geese and turkeys.

Lodge means a membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities. The term "lodge" shall not include fraternities or sororities. See *Fraternal organization*.

Lodging unit means one or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with sleeping, and bathroom facilities provided within the lodging unit for the exclusive use of a single-family maintaining a household.

Lot means a portion or parcel of land intended as a unit for transfer of ownership or for development or both, intended to be devoted to a common use or occupied by a building or group of buildings devoted to a common use, and having principal frontage on a public road or an approved private road or drive.

Lot area means the total area within the lot lines of a lot, excluding any street rights-of-way.

Lot coverage means that portion of a lot that is covered by buildings, structures, driveways or parking areas, and any other impervious surface. For purposes of calculating lot coverage, wooden decks, stone walkways and patios set without grout, or pervious, permeable, or porous pavements shall be considered pervious.

Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the clerk of superior court of the county, or a parcel of land described by metes and bounds, the plat or description of which has been recorded in said office.

Lot of record, nonconforming, means a designated parcel, tract, or area of land legally existing at the time of the enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter.

Lot remnant means any portion of a lot not suitable for building because of its size and remaining after the transfer of other portions of said lot to adjoining lots.

Lot width means the horizontal distance measured at the building line between the side lines of a lot, measured at right angles along a straight line parallel to the street, or in case of a curvilinear street, parallel to the chord of the arc.

Lot, buildable area of. See *Buildable area*.

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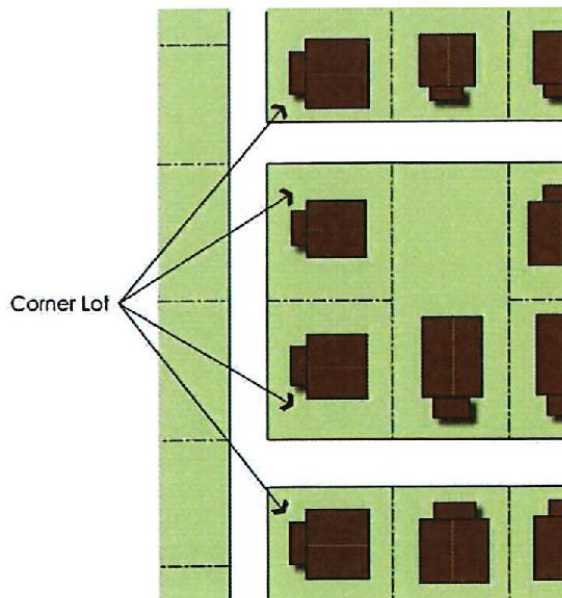
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Lot, conforming, means a designated parcel, tract, or area of land which meets the lot area, lot width and street frontage requirements of this chapter.

Lot, contiguous (as used in section 46-1734), means lots adjoining the rear or either side of the lots.

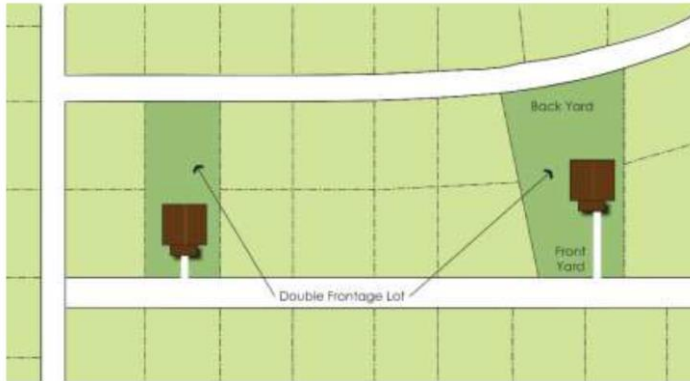
Lot, corner, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street.

Figure 9.7. Corner Lots



Lot, double-frontage, means a lot that abuts two parallel streets or that abuts two streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

Figure 9.8. Double Frontage Lots

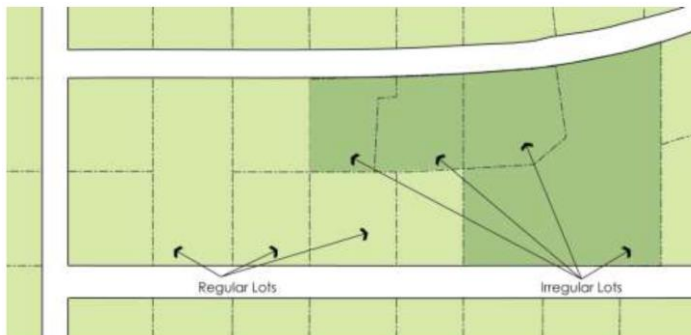


Lot, flag, means a tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot. A flag lot may also be referred to as a panhandle lot.

Lot, interior, means a lot, other than a corner lot, abutting only one street.

Lot, irregular, means a lot of such a shape or configuration that technically meets the area, frontage, and width to depth requirements of this chapter but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography or other natural land features.

Figure 9.9. Irregular lots



Lot, substandard, means a designated parcel, tract, or area of land created after the time of enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.

Lumber supply establishment means a facility for manufacturing, processing, and sales uses involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes.

Mail room means a room in an office which mail and package shipments are prepared and deliveries accepted.

Major automobile repair and maintenance shop. See *Automobile repair, major*.

Major modification. See section 46-1200(b)

Major modification to zoning conditions. See article VII of this chapter.

Major thoroughfare means a street, road or highway shown as a major thoroughfare in the transportation and thoroughfare plan.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Manufactured home, Class I, means a single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development, or a single-family dwelling unit that, if constructed prior to applicability of such standards and insignia requirements, was constructed in conformity with the Georgia State Standards in effect on the date of manufacture.

Manufactured home, Class II, means a single-family dwelling unit meeting the requirements of a Manufactured Home Class I and, in addition, bears the insignia of the Southern Standard Building Code Congress International.

Manufacturing, alcohol. See *Alcohol manufacturing (brewery)* and *Alcohol manufacturing (distilled spirits)*.

Manufacturing, heavy. See *Industrial, heavy*.

Manufacturing, light. See *Industrial, light*.

Massage establishment means any business properly licensed under article VIII of chapter ten that is established for profit and employs one or more massage therapists, operates or maintains for profit one or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages. All massage therapists shall be licensed by the state. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Materials recovery facility means a handling facility that provides for the extraction of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

Mausoleum means a building containing aboveground tombs.

Mayor and city council means the seven-member legislative branch of the city.

Meat processing means a building where live animals are killed and processed; and/or a building where meat, poultry, or eggs are cooked, smoked, or otherwise processed or packed but does not include a butcher shop or rendering plant.

Medium and high density residential zoning districts means any of the following zoning districts: R-SM, MR-1, MR-2, HR-1, HR-2, and HR-3.

Mine means:

- (1) A cavity in the earth from which minerals and ores are extracted; and
- (2) The act of removing minerals and ores from the earth.

Mineral extraction and processing means extraction and processing of metallic and nonmetallic minerals or materials, including rock crushing, screening, and the accessory storage of explosives.

Mini-warehouse means a single-level building or group of buildings in a controlled-access and secured compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the storage of customers' goods or wares, and may include climate control.

Multi-warehouse means a multi-level building or group of buildings in a controlled-access and secured compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the storage of customers' goods or wares, and is climate controlled.

Miniature golf course means a novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Mining means extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term "mining" includes quarrying; groundwater diversion; soil removal; milling, such as crushing, screening, washing, and floatation; and other preparation customarily done at the mine site as part of a mining activity.

Minor automobile repair and maintenance shop. See *Automobile repair, minor*.

Minor modification to zoning conditions. See article VII of this chapter.

Minor thoroughfare means a street, road or highway shown as a minor thoroughfare in the transportation and thoroughfare plan.

Mixed-use building or development means a development which incorporates a variety (two or more) of land uses, buildings or structures that can include both primary residential uses and primary nonresidential uses which are part of the same development. Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational or public open space, in a compact urban setting that encourages pedestrian oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.

Mixed-use zoning districts means any of the following zoning districts: MU-1, MU-2, MU-3, MU-4, and MU-5.

Mobile home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mobile home lot means a parcel of land, approved pursuant to the subdivision requirements of chapter 22, in a mobile home park which is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park means a parcel of land which has been planned and improved pursuant to the requirement of this chapter and chapter 22 for the placement of mobile homes for non-transient use.

Mobile home sales means exhibition and sale of mobile homes.

Mobile home stand means that part of a mobile home lot which has been reserved for the placement of a mobile home for non-transient use.

Modular home means a factory-manufactured single-family dwelling which is constructed in one or more sections and complies with the definition of "industrialized building."

Monastery means a building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of men who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

Monopole. See section 46-1200(b).

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Mortuary means an establishment in which the deceased are prepared for burial or cremation. The facility may include a crematory, a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings or display of funeral equipment.

Mosque. See *Place of worship*.

Motel. See *Hotel*.

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion machine where such a device is part of the normal configuration of the equipment.

Multifamily dwelling. See *Dwelling unit, multifamily*.

Multifamily dwelling, supportive living, means four or more dwelling units in a single building or group of buildings which are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous 24-hour watchful oversight, and which does not require licensure as a personal care home by the office of regulatory services of the state department of human resources.

Multi-use property means any distinct parcel of land that is being used for more than one land use purpose.

Museum means a building or structure that is primarily used as a repository for a collection of art or natural, scientific, or literary objects, and is intended and designed so that members of the public may view the collection, with or without an admission charge, and which may include as an accessory use the sale of goods to the public or educational activities.

Natural state means that condition that arises from or is found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

Nature preserve means an area or a site with environmental resources intended to be preserved and remain in a predominately natural or undeveloped state to provide resource protection and possible opportunities for passive recreation and environmental education for present and future generations in their natural state.

Neighborhood means an area of the city within which residents share a commonality of interests including distinct physical design and street layout patterns, a shared developmental history, distinct housing types, or boundaries defined by physical barriers such as major roads and railroads or natural features such as creeks or rivers.

Neighborhood residual sound level means that measured value that represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are not of a relatively short duration, although they are not necessarily continuous.

New construction on an infill lot means the replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable square footage in the building, structure or addition.

News dealer means a person who sells newspapers and magazines as a retailer.

News stand means a temporary structure, manned by a vendor that sells newspapers, magazines, and other periodicals.

Nightclub means a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment is allowed, where music may be live, disc-jockey, karaoke, and/or non-acoustic.

Node means a concentration of population, retail, and employment within a well-defined area that has a diverse mix of land uses and a pedestrian and transit orientation.

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Noise control officer means a city employee or agent who has received noise enforcement training and is currently certified in noise enforcement.

Noise sensitive facility means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to schools, hospitals, and places of worship.

Nonconforming characteristics of building or structure means a building or structure, legally existing on the effective date of the ordinance from which this chapter is derived, but which fails to comply with one or more of the district or general non-use development regulations adopted under the terms of this chapter which are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.

Nonconforming use of land means a use of land, legally existing on the effective date of the ordinance from which this chapter is derived, but which is not an authorized use under the terms of this chapter in the district in which such land is located.

Nonconforming use of land and buildings or nonconforming use of land and structures means a use of land and buildings or land and structures, in combination, legally existing on the effective date of the ordinance from which this chapter is derived, but which is not an authorized use of land and buildings or land and structures, in combination, under the terms of this chapter in the district in which such use is located.

Nonconforming use requiring special exception or special land use permit means a use of land, or land and buildings or structures in combination, legally existing on the effective date of the ordinance from which this chapter is derived, but which is not an authorized use under the terms of this chapter in the district in which such use is located but is permitted only upon approval of a special exception or special land use permit by the appropriate body.

Nonresidential development means all commercial, office, institutional, industrial and similar lands and uses.

Nonresidential zoning district means any of the following zoning districts: NS, C-1, C-2, O-I-T, O-I, O-D, M and M-2.

Non-transient lodging accommodations means long-term or permanent sleeping accommodations offered to persons as a residence, domicile, or settled place of abode.

Nursery, plant means an establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Nursing care facility means an establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services, where such services have been ordered by and under the direction of a physician and the staff includes a licensed nurse on duty continuously with a minimum of one full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs. The term "nursing care facility" includes convalescent homes with continuous nursing care, extended care facilities, skilled nursing homes and intermediate care nursing homes.

Nursing home means a facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has an agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the general medical and dental supervision of the patients; and complies with rules and regulations of the state department of human resources or state agency with jurisdiction as may be reorganized.

Office, dental, means a building used exclusively by dentists and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

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Office, medical, means a building or floor used exclusively by physicians, dentists, license counselors and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Office, professional, means an office for the use of a person generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like.

Office park means a large tract of land that has been planned, developed, and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Office supply store means a facility established where office supplies, furniture and technology regularly used in offices are exhibited and sold.

Official zoning map or maps means the zoning map of the city which are adopted with and incorporated by reference as a part of this chapter and amendments to the official zoning map are synonymous with and commonly referred to as rezonings.

One-part commercial block style means a single-story building that has a flat roof, a facade that is rectangular in shape, and in which the fenestration in the facade is equal to 75 percent of the width of the front facade of the building.

Open space means a portion of a development project or lot that is intended to be free of buildings or parking lots. Open space may be in its natural state or improved with recreation amenities.

Open space, clubhouse or pool amenity area means an open space that can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include swimming pools, group activity rooms, outdoor eating areas, and/or exercise stations, and must meet all applicable building and health codes.

Open space, enhanced, means a planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership, provided that all residents of the development in which the open space is located shall have a right to enter and use the open space. Such enhanced open spaces may include walkways, patios, recreational amenities, picnic pavilions, gazebos and water features. See article V of this chapter for types of open space functions considered "enhanced."

Open space, green, means an informal area for passive use bound by streets or front facing lots, typically between 500 square feet and one acre, which is small, civic, surrounded by buildings, natural in its details, and may be used to protect specimen trees and provide for conservation functions.

Open space, greenway, means an open space that typically follows natural or constructed features such as streams or roads and is designed to incorporate natural settings such as creeks and significant stands of trees, and is used for transportation, recreation, and environmental protection. Greenways are natural (i.e., informally planted) in their details except along rights-of-way, and may contain irregular topography.

Open space, neighborhood park, means an open space designed for active or passive recreation use.

Open space, playground or tot lot, means an open space that provides play areas for toddlers and children as well as open shelter and benches, which is located in a neighborhood, or as part of a larger neighborhood or community park and urban center, including retail shopping areas.

Open space, plaza, means an open space paved in brick or another type of impervious surface that provides passive recreation use adjacent to a civic or commercial building.

Open space, pocket park, means an open space that provides active recreational facilities, most often in an urban area that is surrounded by commercial buildings or houses on small lots, and is typically less than one-quarter of an acre.

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Open space, square, means an open space used to emphasize important places, intersections, or centers, bounded by streets or front-facing lots, typically between 500 square feet and one acre.

Operator means a person who conducts a home occupation, has majority ownership interest in the home occupation, lives full-time in the dwelling on the subject property, and is responsible for strategic decision and day-to-day operation of the home occupation.

Ordinary maintenance. See section 46-1200(b).

Ornamental metal means any metalwork that serves as adornment and/or nonstructural purposes during construction of a building.

Outdoor advertising service means a service to provide advertisements visible in the outdoors such as billboards.

Outdoor amusement enterprise means any outdoor place that is maintained or operated for provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including, but not limited to, a golf driving range, archery range, or miniature golf course. This use does not include a stadium or coliseum.

Outdoor display means an outdoor arrangement of items or products for sale, typically not in a fixed location capable of rearrangement, designed for advertising or identifying a business, product or service.

Outdoor manufacturing means a facility established for manufacturing activities that takes place outside an enclosed building.

Outdoor storage means the keeping, in an unenclosed area, of any goods, material, or merchandise associated with a land use. Storage does not include the parking of any vehicles or outdoor display of merchandise. The term "outdoor storage" includes outdoor work areas. See *Vehicle storage yard*.

Outdoor theater means an outdoor open space where dramatic, operatic, motion picture, or other performance, for admission to which entrance money is required takes place.

Overstory tree means any self-supporting woody plant of a species that normally achieves an overall height at maturity of 30 feet or more.

Package store means any facility established for the sale of package liquor, for off-premises consumption. See *Alcohol outlets*.

Parapet means that portion of a wall that extends above the roof line.

Parcel. See *Lot*.

Parking or park means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading of property or passengers.

Parking, valet means parking of vehicles by an attendant provided by the establishment for which the parking is provided.

Parking aisle means an area within a parking facility intended to provide ingress and egress to parking spaces.

Parking bay means the clear space containing one or two rows of parking stalls and a parking aisle.

Parking garage means a covered or sheltered structure designed, constructed and used for the parking of motor vehicles.

Parking lot means any area designed for temporary storage of motor vehicles by the motoring public in normal operating condition, whether for a fee or as a free service.

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Parking space means a paved area of not less than 120 square feet (small car space) or not less than 153 square feet (large car space) space with dimensions of not less than eight feet wide by 15 feet deep (small cars) or eight feet six inches wide by 18 feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.

Parking structure means a structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

Pasture land. See *Grazing land*.

Path means a paved or structurally improved walkway that provides access to areas within a development.

Paved means a structurally improved surface supporting the intended or allowed uses of traffic. An area may be covered by asphalt, concrete, permeable pavement or permeable pavement system that is acceptable to the planning and zoning director. For the purposes of a driveway for the parking of automobiles, two paved tire tracks with an unpaved area between them shall be considered paved.

Pavement, permeable means pavement materials including pervious asphalt and concrete, interlocking pavers, modular pavers, and open-celled paving or similar materials that allow the infiltration of water below the pavement surface. Pavement must support the expected loading and traffic.

Pawn shop means any entity engaged in whole or in part in the business of lending money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or in the business of purchasing tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this definition. Includes title pawn and individual loans.

Pedestrian oriented means a density, layout and infrastructure that encourages walking and biking within a subdivision or development, including short setbacks, front porches, sidewalks, and bike paths.

Pedestrian zone in the Northlake Overlay District means that portion of a sidewalk area that offers a clear and unobstructed pathway which provides a safe travel lane for pedestrians within the public right-of-way.

Permitted use means any use which can be undertaken without approval by the designated authority of a special land use permit, special exception, or special administrative permit which is required by the terms of this chapter.

Personal assistance services means assistance to an individual with, or supervision of self-administration of, medication, ambulation, and transfer from location to location, and/or essential activities of daily living, such as eating, bathing, grooming, dressing, and toileting.

Personal care home means a building in which housing, meals, personal assistance services, and 24-hour continuous watchful oversight for adults are provided and which facility is licensed or permitted as a personal care home by the state. The term "personal care home" shall not include the term "childcare institution," "transitional housing," "rehabilitation housing facility," "roominghouse" or "boardinghouse." The term "personal care home" includes the term "community living arrangement," which is an establishment licensed by the state and providing a residence for adults receiving care for mental health, development disabilities, and/or addictive diseases.

Personal care home, community, means a personal care home that offers care to seven or more persons.

Personal care home, group, means a personal care home that offers care to between four and six persons.

Personal services establishment means an establishment primarily engaged in providing services involving the care of a person or providing personal goods where the sale at retail of such goods, merchandise, or articles is only accessory to the provision of such services, including barber shops, beauty shops, tailor shops, laundry shops,

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dry cleaning shops, shoe repair shops, and similar uses, but specifically excluding adult service facilities and adult entertainment establishments.

Pervious area means an area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground.

Pervious pavers means a range of sustainable materials and techniques for permeable pavements with a base and sub-base that allow the movement of stormwater through the surface.

Pet. See *Household pet*.

Pet cemetery means property used for the interring of dead domestic animals.

Pet shop means a retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and livestock.

Phased development means a development project that is constructed in increments, each stage being capable of meeting the regulations of this chapter independently of the other stages.

Physical therapy facility means a facility where service of developing, maintaining, and restoring maximum movement and functional ability is provided to individuals.

Pharmacy (retail) means a place where drugs and medicines are legally prepared and dispensed and which is licensed by the state.

Pitch of roof lines means the ratio of the rise to the run of a roof.

Place of worship means a lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The term "place of worship" also includes any of the following accessory uses and buildings: schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, child day care center, kindergarten, parsonage, rectory or convent and columbarium.

Plainly audible means any sound that can be detected by a person using his unaided hearing faculties.

Planned industrial center means an industrial development planned with multiple buildings for industrial users.

Planning and zoning director. The director of the planning and zoning department of the City of Tucker, or their designee.

Plant material means material derived from plants.

Planting strip means a strip of land intended to contain plant materials for the purpose of creating visual and physical separation between uses or activities.

Plat means:

- (1) A map representing a tract of land, showing the boundaries and location of individual properties and streets;
- (2) A map of a subdivision or a site plan.

Pervious surface means an area that allows water to enter the soil mantle at a natural rate of flow. Compare with *Impervious surface*.

Porch, enclosed, means a porch attached to the main building, which is covered by a roof.

Porch, open, means a porch that is not covered by a roof.

Portable storage container means any non-motorized vehicle, trailer or fully enclosed container intended for the temporary storage of items until relocated to another location or a long-term storage facility. Storage containers include but are not limited to PODS, Pack-Rats and similar containers.

Porte-cochere means a porch or a structure attached to a residence and erected over a driveway, not exceeding one story in height and open on two or more sides.

Post office means a public facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

Poultry means domestic fowl including chickens, duck, turkeys and geese raised for food (either meat or eggs) or profit.

Primary building. See *Building, primary or principal*. Compare with *Accessory structure*.

Primary conservation area means that portion of a site in the R-NC (Neighborhood Conservation) District for which application is made for cluster housing development which consists of areas that are unbuildable due to the presence of wetlands, floodplains, steep slopes, or other similar environmental conditions.

Primary material means the building material comprising the acceptable, dominant portion of a building exterior facade, as defined by standards within this chapter. Compare with *Secondary material*.

Primary street means a street with access control, channelized intersections, and restricted parking that collects and distributes traffic to and from minor arterials.

Principal use means the primary or predominant use of any lot.

Principal structure means the building in which the principal use of the lot is located.

Printing and publishing establishments mean an establishment providing printing, blueprinting, photocopying, engraving, binding, or related services.

Printing and publishing establishments (limited) mean a printing establishment providing convenience mailing, photocopying and accessory retail-oriented services, not exceeding 5,000 square feet of floor area.

Private ambulance service means a privately-owned facility for the dispatch, storage and maintenance of emergency medical care vehicles; transportation via ambulance; the provision of out-of-hospital emergency medical care to a patient from or in an ambulance; the trip to the site of a patient for the purpose of providing transport or out-of-hospital emergency medical care; the trip to or from any point in response to a medical emergency dispatch from the 9-1-1 Center.

Private club. See *Club, private*.

Private drive means a drive or road on privately owned property, by an individual or a group of owners who share the use and maintain the road without assistance from a government agency. A private drive has not been transferred to a governing entity. An easement of use on the private drive or road shall permit use by the public. A private drive is allowed to be exempt from the public street regulations of chapter 22, but shall meet dimensional requirements established in article V of this chapter.

Private educational use means the instruction, teaching or tutoring of students by an occupant of a residential dwelling as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes. No articles or products shall be sold on the premises other than by telephone. Such instruction, teaching or tutoring shall be limited to a maximum of three students at a time, excluding children residing in the dwelling, and shall be limited to the hours of 9:00 a.m. to 9:00 p.m. Such private educational use shall be allowed as a permitted use in all districts where home occupations are allowed but private educational uses shall be subject to the supplemental regulations in article IV of this chapter.

Private industry solid waste disposal facility means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

Private restrictive covenants means private restrictions on the use of land or structures imposed by private contract, such as subdivision covenants.

Private right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Private road. See *Private drive*.

Private street means an access way similar to and having the same function as a public street, providing access to more than one property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in the Code.

Produce means products from farms and gardens such as fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products), and seafood.

Production, field crops means establishment for commercial agricultural field and orchard uses including production of field crops; may also include associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.

Production, fruits, tree nuts, and vegetables means establishment for commercial agricultural field and orchard uses including production of fruits, tree nuts and vegetables.

Prohibited uses means anything not expressly permitted within this zoning ordinance or by resolution. Examples may include structures, land uses, materials, or development control parameters.

Public art. See *Art, public*.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public uses means land or structures owned by a federal, state or local government, including, but not limited to, a board of education, and used by said government for a necessary governmental function.

Quarry means a mine where rock, ore, stone, or similar materials are excavated for sale or for off-site use. Quarry includes rock crushing, asphalt plants, the production of dimension stone, and similar activities.

Quick copy and printing store means a facility established for the reproduction and printing of written or graphic materials on a custom order basis for individuals or businesses.

Rainwater harvesting means gathering, or accumulating and storing, of rainwater from roof, ground or other catchments in order to reduce or avoid use of water from mains or from water sources like lakes and rivers.

Recovered materials means those materials which have a known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recovered materials center means a facility in which materials that would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Recovered materials processing means activity of preparing source-separated recoverable materials, such as newspapers, glassware, and metal cans, including collecting, storing, flattening, crushing, or bundling prior to shipment to others who will use those materials to manufacture new products. The materials are stored on-site in bins or trailers for shipment to market. The term "recovered materials processing" means the preparation of

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material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting, or cleaning.

Recreation means the refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife.

Recreation, active. See *Active recreation*.

Recreation, indoor, means a commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center, assembly hall, athletic and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool, tennis court.

Recreation, outdoor, means a recreational land use conducted outside of a building, including athletic fields; miniature golf, skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts, batting cages, trampoline facilities.

Recreation, passive, means recreation that involves existing natural resources and has a minimal impact on the existing condition of the resources.

Recreation club means a not-for-profit association of people organized for the purpose of providing recreation facilities and programs and characterized by certain membership qualifications, payment of fees and dues, and a Charter or bylaws. The term "recreation club" shall also mean, where the context requires, the premises and structures owned or occupied by members of such association within which the activities of the recreation club are conducted.

Recreational vehicle means any vehicle, whether or not motorized, that is intended for personal recreational use and not intended for daily transportation. Such vehicles may include, but are not limited to, Class A and C motor homes, campervans, bus conversions, boats, military surplus vehicle, all-terrain vehicles (ATVs), and similar vehicles intended for recreational purposes. Pick-up trucks with a fully enclosed bed that are used for daily transportation do not qualify as recreational vehicles.

Recreational vehicle park means a commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included.

Recreational vehicle/boat sales and service means a facility established for the exhibition, sale, and repair of recreational vehicles/boats.

Recycling collection point means a neighborhood drop-off point for the temporary storage of recyclables.

Recycling plant. See *Recovered material center or processing*.

Rehabilitation housing facility means an establishment primarily engaged in inpatient care of a specialized nature with staff to provide diagnosis and/or treatment.

Repair, small household appliance means a business established to provide a service of repairing small household appliances like microwaves, etc.

Replacement. See section 46-1200(b).

Research and training facilities means any facility owned by a private party, institution or government where research and training activities related to various fields like science, arts, etc. are conducted.

Residence hall. See *Dormitory*.

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Residential component means the primarily residential portion of a development that may contain a mix of single-family detached, single-family attached and multifamily dwelling units and may include small scale, nonresidential uses.

Residential zoning district means any of the following zoning districts: RE, R-LG, R-100, R-85, R-75, R-60, MHP, R-NC, R-SM, MR-1, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, and MU-5.

Residential use means the occupation of a building and land for human habitation.

Restaurant means an establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Restaurant, drive-through, means an establishment where food and drink are prepared which may be consumed within the principal building or which may be ordered and picked up from a service window for off-site consumption.

Retail means the sale of goods, wares or merchandises directly to the end-consumer.

Retail warehouse/wholesale means an establishment exceeding 70,000 square feet of gross floor area and offering a full range of general merchandise to the public, and may include gasoline.

Retaining wall means a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

Riding stable means a building where horses and ponies are sheltered, fed, or kept.

Right-of-way line means the limit of publicly-owned land or easement encompassing a street or alley.

Roominghouse. See *Boardinghouse*.

Salvage yard means land and/or buildings used for the dismantling, cutting up, compressing or other processing of waste items or materials, such as scrap, paper, metal, tires, large household appliances, such as washing machines or refrigerators, automobiles or other vehicles, or inoperable machinery. Salvaged materials may be stored outdoors or in a building and may be sold wholesale or retail. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. The term "salvage yard" includes junkyards.

Sand pit means a surface mine or excavation used for the removal of sand, gravel, or fill dirt for sale or for use off-site.

Satellite television antenna means an apparatus capable of receiving but not transmitting television, radio, or cable communications from a central device transmitting said communications.

Sawmill means a facility where logs or cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Sawmill, temporary or portable, means a facility where sawing related machines are installed on the site temporarily to run as sawmill, but which can be moved by removing and reinstalling the machines to some other site.

School, elementary, means public, private or parochial school offering education for first through fifth grade.

School, high, means public, private or parochial school for the ninth through 12th grades.

School, middle, means public, private or parochial school offering education for sixth through eighth grade.

School, parochial, means school run by a church or parish and engages in religious education in addition to the conventional education.

School, private, means any building or group of buildings, the use of which meets state requirements for elementary, middle, or high school education and which use does not secure the major part of its funding from any governmental agency.

School, public, means a building or group of buildings used for educational purposes, which meets state requirements for elementary, middle, or high school education, and that is funded by a government agency.

School, specialty, means a school specializing in teaching martial arts, dance, music, visual arts and similar fields.

School, vocational, means a specialized instructional establishment that provides non-degree on-site training of business, commercial, and/or trade skills or specialized curriculum for special needs individuals or the arts. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone.

Screening fence means an opaque structure designed to provide a visual barrier constructed of materials including wood, chainlink with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the planning and zoning director.

Secondary conservation area means that portion of a site for which application is made for cluster housing development which consists of those areas of land which are outside the primary conservation area but which are environmentally sensitive, historically or culturally significant, scenic, or which possess other unusual attributes that merit conservation.

Secondary material means complimentary building material allowed by zoning standards. Compare with *Primary material*.

Secondhand store means a facility for retail or consignment sales of previously used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. This classification does not include secondhand motor vehicles, parts, or accessories.

Self-service car wash. See *Car wash, self-service*.

Semi-nude means the exposure of one or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

Service area means an outdoor work area associated with a commercial use, including work areas where goods and products are assembled, constructed, or repaired but not permanently stored.

Service organization means a voluntary non-profit service club or organization where members meet regularly to perform charitable works or raise money for charitable works.

Setback means the minimum horizontal distance required between the property line and the principal building or structure on a lot or any projection thereof except the projections allowed pursuant to article V of this chapter.

Sexually-oriented business. See *Adult entertainment establishment*.

Shared parking means parking shared by two or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. The number of parking spaces in a shared parking facility is less than the combined total of the required minimum number of spaces for each individual use.

Shelter for homeless persons means a building or buildings in which is provided overnight housing and sleeping accommodations for one or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services. Compare with the term *Transitional housing facility*.

Shoe repair means an establishment where shoes and boots are repaired remodeled or rebuilt by skilled shoe repairers. The establishment may also mend items like handbags and luggage.

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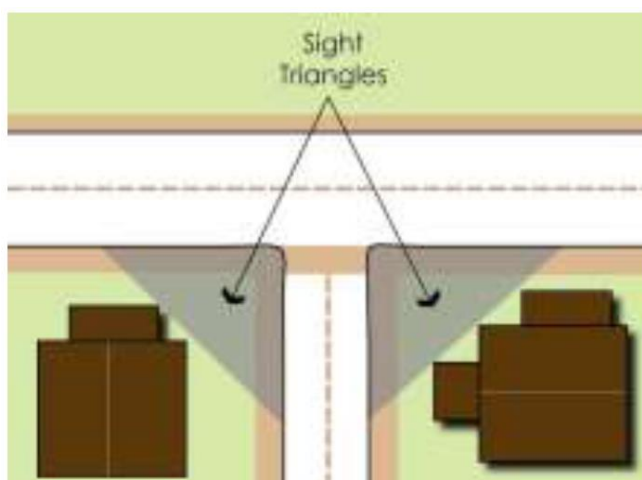
Shopping center means a group of at least two commercial establishments typically planned, constructed, and managed as a single entity, with on-site parking for customers and employees, and with delivery of goods separate from customer access.

Shrub means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. It may be deciduous or evergreen.

Sidewalk means a hard surface, ADA compliant, clear pathway that does not include any street furniture.

Sight triangle means a triangular area of visibility required on a corner of a roadway intersection to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks, and bicycle paths.

Figure 9.10. Sight Triangles



Single-family attached. See *Dwelling unit, single-family attached*.

Single-family zoning district means any of the following zoning districts: RE, R-LG, R-100, R-85, R-75, R-60, MHP, and R-NC.

Site means the lot, area of a lot, or assemblage of lots subject to development.

Site plan means that plan required to acquire a development, construction or building permit which shows the means by which the developer will conform to applicable provisions of this chapter and other applicable ordinances.

Soldier course means a course of upright bricks with their narrow faces showing on the wall surface.

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 USC 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 State. 923).

Solid waste handling means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

Solid waste handling facility means a facility primarily used for the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

Solid waste thermal treatment technology facility means any solid waste handling facility, the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

Solid waste transfer facility means a facility or site at which temporary storage and transfer of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A solid waste transfer facility is an intermediary point between the location of waste generation (e.g., households, businesses, and industries) and the site of ultimate processing or disposal.

Sorority house means a building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an institution of higher learning.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

Special administrative permit means a written authorization granted by the planning and zoning director for a use of land pursuant to an application which that official is authorized to decide, in cases where a permit is required, pursuant to the procedures and criteria contained in article VII of this chapter.

Special events facility means a building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests. The term "special events facility" shall not include places of worship.

Special exception means the approval by the zoning board of appeals of an application which that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article VII of this chapter.

Special land use permit means the approval of a use of land that the mayor and city council is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article VII of this chapter.

Special permit means a special administrative permit, special exception, or special land use permit.

Specialty store means a store, usually retail, that exhibits and sells specific or specialized types of items or brand. For example, a specialty store may sell cellular phones or organic food, or video games exclusively.

Specified anatomical areas shall include any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities shall include any of the following:

- (1) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;

-
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
 - (4) Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
 - (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
 - (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being;
 - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Sporting goods store means a store that exclusively exhibits and sells items related to sports including, but not limited to, instruments, gears, shoes, and clothes.

Stadium means a structure with tiers of seats rising around a field or court, intended to be used primarily for the viewing of athletic events. The structure may also be used for entertainment and other public gathering purposes, such as conventions, circuses, or concerts.

State means the State of Georgia.

Steady tonal quality means sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three dB(A).

Stealth telecommunications facility. See section 46-1200(b).

Stepback means a step-like recession in the profile of a building, whereby the exterior wall surface of each successive story is located farther towards the interior of the building than the exterior wall of the story below it. Stepbacks may result from the transitional height plane requirement. See *Transitional height plane*.

Stoop means a small porch, platform, or staircase leading to the entrance of a house or building.

Storage building means any structure that is used for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

Stormwater management facility means those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, shall be classified as a story.

Street furniture zone in the Northlake Overlay District means that portion of a sidewalk area that is intended to enhance that street's physical character and used by pedestrians, such as benches, trash receptacles, kiosks and newspaper racks.

Street, public, means any right-of-way set aside for public travel deeded to the city or county and any right-of-way which has been accepted for maintenance as a street by the city or county.

Street right-of-way line means the dividing line between a lot, tract or parcel of land and a street right-of-way.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. The term "structure" does not include telephone poles and utility boxes.

Structure, accessory. See *Accessory structure*.

Subdivision means as defined in chapter 22.

Subdivision, major, means all subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street, public or private.

Subdivision, minor, means a division of land into not more than four lots, provided:

- (1) A minor subdivision does not require the construction of any public improvements including street, sidewalks, sewer or water lines and street trees.
- (2) All lots and any remaining tract shall be consistent with all applicable requirements of this zoning ordinance, including lot size, setbacks, frontage on a public road, width to depth ratio, and lot width.
- (3) At the time of filing of a subdivision plat, the property owner shall be required to show all possible lots which are permitted to be created through minor subdivision provisions of this zoning ordinance.
- (4) All driveway permits shall be subject to the review of the city or county department of transportation and development or the state department of transportation.

Supplemental zone means the additional sidewalk area other than the required sidewalk used to support outdoor dining or other amenities.

Support structure. See section 46-1200(b).

Sustainable development means a development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Synagogue. See *Place of worship*.

Tandem parking means a parking space within a group of two or more parking spaces arranged one behind the other such that the space nearest the street serves as the only means of access to the other spaces.

Tattoo establishment and piercing studios means an establishment whose principal business activity, is the practice of one or more of the following:

- (1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- (2) Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.
- (3) Establishments solely applying permanent make-up shall not be considered a tattoo establishment.

Taxi stand means a reserved area where taxis or cabs are parked.

Telecommunications antenna. See section 46-1200(b).

Telecommunications facility/tower. See section 46-1200(b).

Telecommunications tower. See section 46-1200(b).

Telecommunications tower or antenna height. See section 46-1200(b).

Telephone exchange building means a building used exclusively for the transmission and exchange of telephone messages. The term "telephone exchange building" shall not include wireless telecommunication towers or antennas.

Temple. See *Place of worship*.

Temporary outdoor sales or event, seasonal, means outdoor sales of products associated with seasons, holidays and agricultural seasons.

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Temporary produce stand means a temporary vending structure used for the sale and/or display of seasonal produce.

Tennis courts, play and recreation areas, community means a public or private facility for the playing of tennis, swimming, or other type of outdoor recreation, including related retail sales and an accessory restaurant. The term "tennis courts, play and recreation areas, community," does not include amenities for a subdivision or other form of housing.

Theater means a structure used for dramatic, operatic, dance, or music performances, or the rehearsal and presentation of other similar performing arts events, or for motion pictures, for which an admission fee is charged. Such establishments may include related services such as food and beverage sales and other concessions.

Threshold means the top of the subfloor in the opening that is designated as the front door of a dwelling.

Thrift store means a for-profit or non-profit business or organization that engages or specializes in the sale or resale of previously owned or used goods. The term "thrift store" includes antique shops, consignment stores, and secondhand stores.

Tire retreading and recapping means businesses that primarily repair and retread automotive tires.

Total sound level means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

Tow service means establishment that provides for the removal and temporary storage of vehicles, but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles. See *Automobile recovery and storage*.

Townhouse means one of a group of three or more single-family dwelling units, attached side-by-side by a common wall. See *Dwelling, single-family*.

Townhouse, stacked, means multifamily building with the appearance of a townhouse (side-by-side attached), but which has multiple dwelling units whereby a unit is located above or below another.

Trailer means any non-motorized vehicle or wheeled attachment designed to be towable, including, but not limited to, landscape utility trailers, horse trailers, storage trailers, campers, fifth-wheel trailers, pop-up campers, transport trailers, and boat trailers. This includes utility trailers.

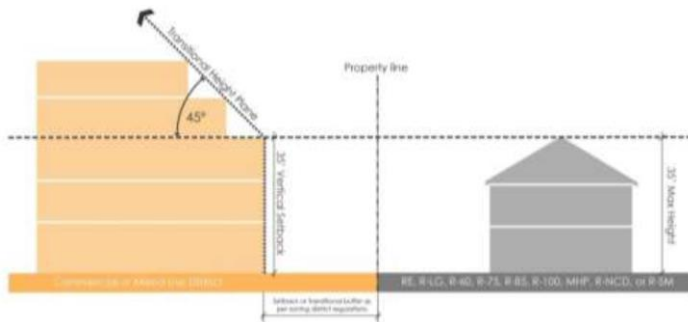
Transit means the conveyance of persons or goods from one place to another by means of a local, public transportation system.

Transit oriented development (TOD) means moderate and high-density mixed-use development which is located along transit routes and encourages pedestrian use of public transportation.

Transitional buffer zone means a natural or planted buffer area between two different land uses which is intended to provide protection between said land uses and which meets the criteria for said buffer specified in article V of this chapter.

Transitional height plane means a geometric plane that establishes the maximum permitted height of a building in a district that allows a greater density than that of an adjoining lower-density residential district. The transitional height plane shall begin at a point 35 feet above setback or transitional buffer line, whichever is furthest from the property line, then extend at an upward angle of 45 degrees over the lot of the building.

Figure 9.11. Transitional Height Plane



Transitional housing facility means a building or buildings in which is provided long-term but no permanent living accommodations for more than six persons who have no permanent residence and are in need of long-term housing assistance. Compare with *Homeless shelter*.

Transparent material means any material which allows light to be transmitted and objects to be seen clearly and with definition.

Transportation equipment and storage or maintenance (vehicle) means any building, premises or land in which or upon which is the storage or maintenance of motor freight vehicles or equipment, without services provided, such as those provided by a truck stop. Compare with *truck terminal*.

Tree means any living, self-supporting, woody perennial plant which has a trunk caliper of two inches or more measured at a point six inches above the ground and which normally attains a height of at least ten feet at maturity usually with one main stem or trunk and many branches.

Tree canopy means the area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

Truck stop means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into such commercial vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Truck terminal means an area and building where vehicles load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Turnaround means a space, as in a driveway, permitting the turning around of a vehicle.

Two-part commercial block style means a building of two stories or greater in height that has a flat roof and is characterized by a horizontal division of the building facade into two distinct zones. These zones may be similar in design but shall be clearly separated from one another. The ground floor level of the building shall contain fenestration equal to 75 percent of the width of the front facade of the building.

Universal barrier means a type of root barrier for street trees.

Understory tree means a deciduous or evergreen tree which attains a mature height of no greater than 30 feet.

University. See *College*.

Urban garden means a lot, or any portion thereof, managed and maintained by a person or group of persons, for growing and harvesting, farming, community gardening, community-supported agriculture, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for beautification, education, recreation, community or personal use, consumption, sale, or donation. An urban garden may be a principal or accessory use on lots including, but not limited to, those owned by individuals, non-profit organizations, and public or private institutions like universities, colleges, school districts, hospitals, and faith communities. The term "urban garden" excludes gardens accessory to an individual's residence.

Usable open space. See *Open space, usable*.

Usable satellite signals means satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

Use means the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Used part dealer means the business of providing services for the purchase and selling of used vehicles parts.

Utility means any public or private agency that provides for the generation, transmission or distribution of electricity, gas, water, stormwater, wastewater, communication, transportation, or other similar service, excluding those utilities that are public uses.

Valet. See *Parking, valet*.

Value added products means prepared farm products such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or other prepared foods.

Van service means a commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination.

Vape shop means a retail business substantially engaged in the retail sales of vape products. This includes but is not limited to electronic smoking devices, component parts or e-liquid. For the purpose of this definition, substantially engaged means one or more of the following conditions are met:

- (1) Ten percent or more of the retail stock in trade consists of the subject products, as measured by the number of individual items available for purchase at any given time;
- (2) Ten percent or more of the value of gross sales receipts for any day that the entity is open is derived from the sale of subject products;
- (3) The subject products make up ten percent or more of the retail value of the retail stock in trade; or
- (4) Ten percent or more of the establishment's floor area is devoted to the marketing of the subject products.

Variance means permission to depart from the requirements of this chapter pursuant to the requirements of article VII of this chapter.

Vehicle storage yard means a building or land that is used principally for long-term parking of any class of passenger or non-passenger vehicles, including, but not limited to, automobile fleets associated with commercial business, delivery trucks or other commercial vehicles, or associated with government operations such as school buses, postal delivery trucks, or sanitation trucks. The term "vehicle storage yard" includes off-site parking of commercial vehicles such as those used in light or heavy landscaping or construction, but does not include transportation vehicle such as semi-tractor trailers. A vehicle storage yard may include minor repair of the vehicles as an accessory use. Compare with *Auto recovery and storage*.

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Vehicle trip means a vehicular movement either to or from the subject property by any vehicle used in a home occupation, any vehicle associated with a home occupation, or any customer or client vehicle.

Vehicular use area means any portion of a site or a property, paved or unpaved, designed to receive or accommodate vehicular traffic, including the driving, parking, temporary storage, loading, or unloading of any vehicle.

Veterinary clinic. See *Animal hospital*.

Videotape sales and rental store means an establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes, or other electronic media. Sales of film, video tapes, laser discs, CD-ROMs, and electronic merchandise associated with VCRs, video cameras and electronic games are permitted accessory uses.

Viewshed means the total visible area from an identified observation position or positions.

Village center means the central shopping or gathering place within a traditional neighborhood which contains commercial uses and open space and which may contain public space.

Wall means a structure used as a solid retaining, screening, or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials.

Wall plane means an area of a wall between a wall offset and another wall offset or a corner.

Waste to energy facility means a solid waste handling facility that provides for the extraction and utilization of energy from county solid waste through a process of combustion.

Weekday means the time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

Wetlands means an area of land meeting the definition of "wetlands" set forth in 33 CFR 328.3(b), as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

Wind turbine means a turbine, a rotating machine which mounted on a tower, is used to capture energy from the wind to produce electricity.

Wine means any alcoholic beverage not more than 24 percent by volume made for fruits and berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagne, and combinations of such beverages, vermouths, special natural wines, rectified wines and like products. Such establishment may include (sell) tastings as an accessory use.

Workforce housing means for-sale housing that is affordable to those households earning 80 percent of median household income for the Atlanta Metropolitan Statistical Area (MSA) as determined by the current fiscal year HUD income limit table at the time the building is built.

Xeriscape means a landscape designed and maintained with the principles that promote good horticultural practices and efficient use of water and is characterized by the use of vegetation that is drought-tolerant or of low water use in character.

Yard means that area of a lot between the principal building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, corner side, means an open-space area of a corner lot between the exterior side lot line and the required exterior side building setback line, extending between the front building setback line and the rear building setback line. Side corner yards have the same regulations and restrictions as front yards.

Yard, front, means an area extending across the total width of a lot between the front lot line and the building. With respect to limitations within the front yard, there can only be one front yard.

Yard, interior side, means a yard extending between the front and rear yards and being that area between the side lot line, where the side lot line is coincidental with the side or rear lot line of an adjacent lot, and that line or lines established by the side wall or walls of the principal structure.

Yard, rear, means a yard extending across the total width of a lot between side lot lines and being that area between the rear lot line and that line or lines established by the rear wall or walls of the principal structure projected to intersect the side lot lines.

Yard, side, means a yard extending between the front and rear yards and being that area between the side lot lines and the principal structure.

Yard sale means the temporary residential sale of tangible personal property, such as but not limited to, household items, clothing, tools, toys, recreational equipment, or other used or secondhand items normally found in and about the home. The term "yard sale" includes the terms estate sale, if held outside, garage sale, basement sale, carport sale, moving sale, or rummage sale. This temporary use may be conducted by an individual, multiple persons, churches, social civic or charitable organizations, a neighborhood group, church or civic association.

Zoning decision means final legislative action by a local government which results in:

- (1) The adoption of a zoning ordinance;
- (2) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- (3) The adoption of any amendment to a zoning ordinance which rezones the property from one zoning classification to another;
- (4) The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality;
- (5) The grant of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by state law; or
- (6) Denial of the aforementioned ordinances or permits.

Zero lot line means when location of a building in such manner that one or more of building's exterior wall is allowed to rest directly on the lot line or property boundary.

(Ord. No. 2016-06-07, att. (9.1.3), 7-11-2016; Ord. No. 2016-07-16, att. (9.1.3), 9-1-2016; Ord. No. 2016-10-37, att. (9.1.3), 11-14-2016; Ord. No. 2017-03-57, § 7, 3-27-2017; Ord. No. O2017-09-76, exh. A(9.1.3), 10-9-2017; Ord. No. O2018-03-7, exh. A(9.1.3), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019; Ord. No. O2019-04-15, exh. A(art. 9), 6-26-2019; Ord. No. O2020-03-07, exh. A, 3-23-2020; Ord. No. O2021-03-05, Exh. A, 4-12-2021)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF TUCKER, GEORGIA, FOR THE PURPOSE OF AMENDING CHAPTER 46 ZONING FOR TUCKER, GEORGIA, INCLUDING REPLACING COMMUNITY DEVELOPMENT DIRECTOR WITH PLANNING AND ZONING DIRECTOR THROUGHOUT ARTICLE 3; REVISING ARTICLE 3 TO ADD/AMEND THE USE TABLE IN THE DOWNTOWN DISTRICTS AND NORTHLAKE DISTRICTS FOR SEVERAL USES; REVISING ARTICLE 4 TO AMEND THE USE TABLE AND/OR SUPPLEMENTAL REGULATIONS FOR A VARIETY OF USES; REVISING ARTICLE 5 REGARDING WALLS, FENCES, AND RETAINING WALLS DESIGN REQUIREMENTS; REVISING ARTICLE 5 TO REFLECT CHANGES MADE IN ARTICLE 4 REGARDING ACCESSORY STRUCTURE MATERIALS; AND REVISING ARTICLE 9 TO ADD DEFINITIONS FOR FLEET VEHICLES AND HOOKAH.

WHEREAS, The Mayor and City Council desires to promote the public health, safety, and general welfare of the residents of the city; and,

WHEREAS, the Mayor and City Council desires to facilitate the creation of a convenient, attractive and harmonious community; and

WHEREAS, the Mayor and City Council desires to encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations; and

WHEREAS, the Mayor and City Council desires to provide clarity on existing regulations; and

WHEREAS, the Mayor and City Council desires to achieve compliance with all applicable state and federal regulations; and

WHEREAS, the Mayor and City Council desires to provide for protection of the constitutional rights and obligations of all citizens within the city; and

WHEREAS, the Mayor and City Council wish to replace Community Development Director with Planning and Zoning Director throughout Article 3 to reflect the reorganization of departments; and

WHEREAS, the Mayor and City Council wish to revise Article 3 Table 3.1 to add a line item for hookah/vapor bar or lounge; and to modify the line item for convenience store in the Downtown Zoning Districts, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to revise Article 3 Table 3.9 to add a line item for hookah/vapor bar or lounge in the Northlake Zoning Districts, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to revise Article 4, Sec. 46-1125 Use Table (Table 4.1) by adding a line item for hookah/vapor bar, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to revise the supplemental regulations in Article 4, Sec. 46-1145 regarding the yard/setbacks and material requirements for accessory buildings, structures, and uses, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to revise the supplemental regulations in Article 4, Sec. 46-1146 regarding the location for detached accessory dwelling units, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to provide clarifying language and correct typographical errors in Article 4, Sec. 46-1157, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Article 4 to add Sec. 46-1204 Hookah/Vapor Bar or Lounge and Sec. 46-1205 Special Event Facilities, including supplemental regulations; and to amend the number for the reserved sections; as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend the numbering for the reserved sections in Article 4, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Article 5, Sec. 46-1340 to add clarifying language and amend regulations for walls, fences, and retaining walls, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Article 5, Sec. 46-1416 to amend accessory structure material language to reflect the changes made to Article 4, Sec. 46-1145, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to revise Article 9, to add the definition of fleet vehicle and hookah, as shown in Exhibit A; and

WHEREAS, Notice to the public regarding said amendment has been duly published in The Champion, the Official News Organ of Tucker; and

WHEREAS, A Public Hearing was held by the Mayor and City Council of Tucker on October 12, 2021 and November 8, 2021; and

WHEREAS, The Mayor and City Council is the governing authority for the City of Tucker;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on November 8, 2021, hereby ordains and approves the amendment of Article 3, 4, 5, and 9 as shown in Exhibit A, which is attached to this ordinance.

So effective this 8th day of November 2021.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: TA-21-0006 (Sidewalk Café and Entertainment District)

Issue:

Expand outdoor dining provisions, including the implementation of a sidewalk café license, and the creation of an entertainment district in downtown to allow businesses to expand seating options for patrons and increase the vibrancy of our downtown.

Recommendation:

Recommendation of approval of TA-21-0006

Background:

The creation of an entertainment district was a recommendation of the Downtown Master Plan.

Planning Commission reviewed the proposed text amendment and recommended approval with modifications at their Sept. 16, 2021 meeting.

Staff reviewed the proposed text amendment at a city council work session on Sept. 27, 2021. Two proposed changes have been made to the draft code based on that discussion. Changes include a reduction of the proposed entertainment district boundary and a limit on hours of consumption.

The proposed boundary of the entertainment district has been amended since the 1st read. An updated map is in the Nov. 8th packet.

Summary:

Staff is proposing to amend the Downtown District regulations in Article 3 to expand on the current outdoor dining standards, introduce the requirement of sidewalk café licenses for outdoor dining in the public right-of-way, and create a downtown entertainment district that allows for the open container of alcoholic beverages.

Financial Impact: None

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF TUCKER, GEORGIA, FOR THE PURPOSE OF AMENDING ARTICLE 3 OF CHAPTER 46: ZONING FOR TUCKER, GEORGIA, TO AMEND THE DOWNTOWN DISTRICT REGULATIONS FOR OUTDOOR DINING STANDARDS AND TO CREATE A DOWNTOWN ENTERTAINMENT DISTRICT.

WHEREAS, The Mayor and City Council desires to promote the public health, safety, and general welfare of the citizens of the city; and

WHEREAS, the Mayor and City Council desires to maintain an aesthetically attractive environment for the city's residents, workers, and visitors and to improve aesthetics; and

WHEREAS, the Mayor and City Council desires to ensure the protection of free speech rights under the Georgia and United States Constitutions; and

WHEREAS, the Mayor and City Council desires to provide for protection of the constitutional rights and obligations of all citizens within the city; and

WHEREAS, the Mayor and City Council desires to provide clarity on existing regulations; and

WHEREAS, the Mayor and City Council desires to implement a recommendation of the Downtown Master Plan in order to attract new development and revitalization to the downtown core; and

WHEREAS, the Mayor and City Council wish to amend Article 3, Division 2, Section 46-998 to reformat this section and add additional regulations to the outdoor dining standards within the Downtown Tucker Zoning Districts, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Article 3, Division 2 to add Section 46-1001 to include the creation of and regulations for a downtown entertainment district within the Downtown Tucker Zoning Districts, as shown in Exhibit A; and

WHEREAS, Notice to the public regarding said amendments have been duly published in The Champion, the Official News Organ of Tucker; and

WHEREAS, A Public Hearing was held by the Mayor and City Council of Tucker on October 12, 2021 and November 8, 2021; and

WHEREAS, The Mayor and City Council is the governing authority for the City of Tucker;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on November 8, 2021, hereby ordains and approves the amendment of Article 3 of Chapter 46, as shown in Exhibit A.

So effective this 8th day of November 2021.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL

DIVISION 2. DOWNTOWN TUCKER ZONING DISTRICTS

Sec. 46-998. Outdoor dining.

- (a) General standards. The following applies to all outdoor dining, including on-site and when authorized within a public right-of-way:
 - (1) All tables and chairs must be metal.
 - (2) Each umbrella canopy must be a single solid color. Different umbrellas may have a different colored canopies.
 - (3) No signage may be placed on tables, chairs, or umbrellas.
 - (4) The hours of operation for the outdoor dining area may be no greater than that of the principal use.
 - (5) Outdoor dining shall not be located in required parking spaces.
- (b) Outdoor dining in the Right-of-Way.
 - (1) It is unlawful to place outdoor dining in the public right-of-way without first obtaining a sidewalk café license.
 - (2) A sidewalk café license is required to be renewed annually and is subject to an application process set by the Planning and Zoning Director.
 - (3) Conditions of approval may be placed on the license by the Planning and Zoning Director to insure the protection of the public right-of-way and the rights of all adjoining property owners and the health, safety, and general welfare of the public.
 - (4) The outdoor dining area shall not extend beyond the width of the façade of the business.
 - (5) A 5 feet minimum pedestrian passageway shall be provided and maintained at all times.
 - (6) The outdoor dining area, including furnishings, shall be maintained in a clean, neat, and orderly condition. All debris and litter shall be removed daily.
 - (7) Only tables, chairs, and umbrellas are permitted in the outdoor dining area.

(Ord. No. O2019-04-15, exh. A(3.2.18), 6-26-2019)

Sec. 46-1001. Downtown entertainment district.

Outside consumption of alcoholic beverages shall be permitted in the following area per the regulations listed below:

- (a) Definition of downtown district. The area of the city **right-of-way** bounded on the north by the northern right-of-way line of Lynburn Drive (between Lavista and Main), then traveling south along the eastern right-of-way line of Main Street, then traveling east along the northern right-of-way line of 1st Avenue, and then traveling south

along the eastern right-of-way line of 4th Street, then traveling west along the southern right-of-way line of Railroad Avenue, then traveling north along the western side of 2nd Street, then traveling east along the northern right-of-way line of 1st Avenue, then traveling north along the western right-of-way line along the alley towards Lynburn to complete the entertainment district boundary.

(b) One drink on-street limit. Any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises or as a manufacturer is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.

(c) *Size limited to a maximum of 16 ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size. Nothing set forth in this subsection shall be construed to permit the possession of open alcoholic beverages in any public place within the downtown district except as otherwise expressly authorized under this section.

(d) *Drinking from can, bottle, or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(e) *Purchase from licensed premises within downtown district.* Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed premises within the downtown district.

(f) *Consumption limited to certain areas in downtown district.* No alcoholic beverage purchased pursuant to this provision may be consumed outside of the downtown district or upon any private property without the express written consent of the property owners.

(g) *Consumption hours.* No alcoholic beverage purchased pursuant to this provision shall be consumed after 10:00 P.M. any night of the week, except when authorized by a special event permit issued by the city.

(h) *Festivals; special events.* Unless otherwise specified by this article or the terms of a special event permit issued by the city, the provisions of this article shall also apply to special events and festivals.

Secs. 46-1003—46-1030. Reserved.



0 250 500 1,000 Feet



Tucker Downtown Entertainment District

Date Exported: 9/14/2021 11:22 AM

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Downtown Tucker

OPEN CONTAINER RECOMMENDATIONS

The City of Tucker does not have an open container ordinance for Downtown.

Today, open containers are only allowed during permitted special events. The proposed recommendations in this Master Plan would allow open containers without a permit, but contained within a few blocks (highlighted in blue on the facing map). The idea is to let downtown patrons move easily between restaurants and enjoy a bit of the outdoors while sipping an alcoholic beverage.

Open container has become a big trend across metro Atlanta. Neighboring cities such as Smyrna, Acworth, Roswell, Powder Springs, and Woodstock have in recent years, approved for open containers areas in their downtowns. The City of Smyrna believes this will encourage residents to enjoy the comfort and beauty of their downtown, as well as encourage the additional support of local businesses by residents and visitors.

Benefits of having an Open Container Policy for a specified area in Downtown Tucker:

- Attract new development and revitalization to downtown core
- Enhance vibrancy and street life
- Increase the number of festivals and improve the night-life
- Clarity for police enforcement

The proposed area is recommended to be contained within a few blocks downtown and restricted to the following streets:

- Railroad Avenue from 2nd Street to 4th Street
- 2nd Street from Railroad Avenue to 1st Street
- 1st Avenue from 2nd Street to 4th Street
- Main Street from Lynburn Drive to Railroad Avenue

Downtown Festival at the Parsons Alley in Duluth, GA

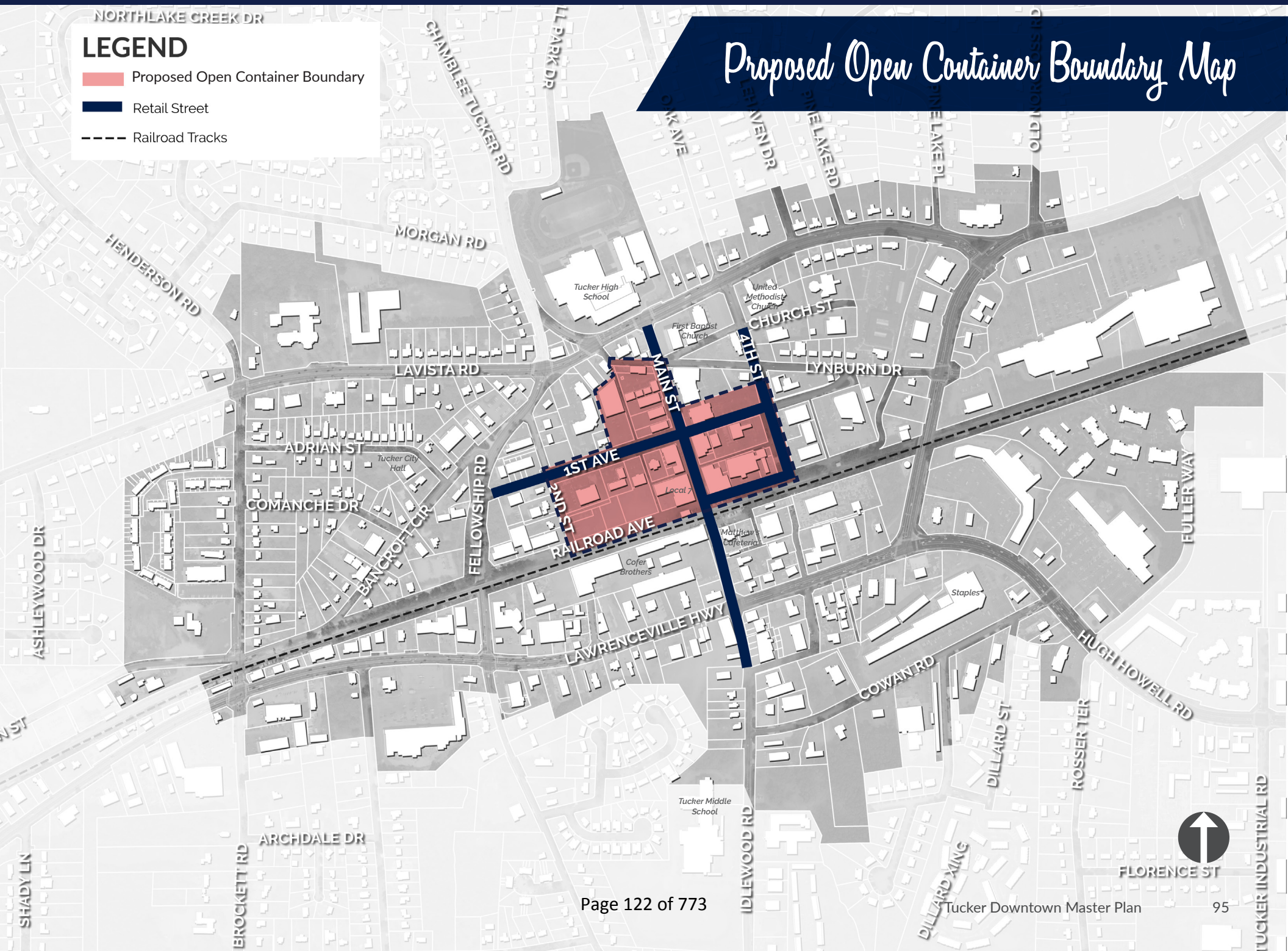


Allowing open containers at select times will spark urban renewal and allow citizens to have responsible fun outdoors

LEGEND

- Proposed Open Container Boundary
- Retail Street
- Railroad Tracks

Proposed Open Container Boundary Map





MEMO

To: Honorable Mayor and City Council Members
From: Robert J. Porche, Jr.
CC: Tami Hanlin, City Manager
Date: November 8, 2021
RE: 401(a) Defined Contribution Plan

Issue: The IRS had updated the defined contribution plan that GMA has adopted and, therefore, each participant is required to adopt the plan design changes to stay in compliance with the current federal regulations.

Recommendation:
Council to adopt changes

Background:

Summary: Changes noted include Beneficiary updates, lump-sum payment options, option to freeze employees

Financial Impact: None



March 30, 2021

TRANSMITTED VIA E-MAIL

RISK MANAGEMENT AND
EMPLOYEE BENEFIT SERVICES
BOARD OF TRUSTEES

(thanlin@tuckerga.gov)

Chairman
W. D. Palmer, III
Councilmember, Camilla

Vice Chairman
Rebecca L. Tydings
City Attorney, Centerville

Secretary-Treasurer
Larry H. Hanson
Executive Director

TO: Tami Hanlin, City Manager

FROM: Gwin Hall, Senior Associate General Counsel and Caroline Dorsey, Associate General Counsel

SUBJECT: Action Required; Restatement of the City of Tucker's Georgia Municipal Association 401(a) Defined Contribution Plan

Trustees:

Shelly Berryhill
Councilmember, Hawkinsville

Linda Blechinger
Mayor, Auburn

Ronald Feldner
City Manager, Garden City

Marcia Hampton
City Manager,
Douglasville

Meg Kelsey
City Manager, LaGrange

Sam Norton
Mayor, Dahlonega

David Nunn
City Manager, Madison

James F. Palmer
Mayor, Calhoun

John Reid
Mayor, Eatonton

Kenneth L. Usry
Mayor, Thomson

Clemontine Washington
Mayor Pro Tem, Midway

Donna Whitener

Vince Williams
Mayor, Union City

The City of Tucker's previously adopted the Georgia Municipal Association ("GMA") 401(a) Defined Contribution Plan ("DC Plan"), which is comprised of the Master Plan document ("Master Plan") and Adoption Agreement. GMA recently restated the DC Plan and received a favorable determination letter from the Internal Revenue Service ("IRS"). An employer providing retirement benefits through the GMA DC Plan has the assurance that GMA is maintaining a qualified defined contribution program.

To ensure continued tax-favored treatment for GMA member plans, the IRS requires that all employers participating in the GMA DC Plan adopt the enclosed draft Adoption Agreement reflecting the benefit design currently in place under your DC Plan. We have also enclosed the Master Plan and Amendment 1 and a Summary of Key amendments that have been made to the DC Plan since it was last approved by the IRS in 2014.

Please take this time to review the provisions of the Adoption Agreement to ensure it accurately reflects your current practices. Page AA-1 of the Adoption Agreement states that the City does not have another defined contribution plan. Additionally, the Adoption Agreement provides that the City makes matching contribution in the amount of 100% of a participant's contribution to the City's GMA 457(b) Plan, up to 3% of salary per payroll period, plus 50% of the participant's contribution in excess of 3%, for a maximum matching contribution of 4% of salary per payroll period. The City also makes a nonmatching contribution in the amount of 10% of a participant's compensation per payroll period. If these provisions are no longer accurate, please let us know.

The draft Adoption Agreement will take effect on its date of approval by the City. Please review the restated DC Plan documents and Summary of Key Amendments. If the Adoption Agreement is acceptable as drafted, please execute it where indicated (pp. 5 and AA-16). Following execution, please scan the entire document and email it to Gina Gresham at rgresham@gacities.com. **We ask that you complete this process by June 15, 2021.**

GMA will then countersign the Adoption Agreement and return it to you for your files. **Please keep the fully executed Adoption Agreement, along with the GMA 401(a) DC Master Plan document and Amendment 1, as part of the permanent records for your GMA 401(a) Plan. The City does not need to adopt the Master Plan or Amendment 1.**

Please contact GMA Legal Assistant Gina Gresham at 678-686-6258 or rgresham@gacities.com with any questions.

C: Brian Anderson, City Attorney, City of Tucker (w/encl.)
Michelle Warner, Director, Retirement Field Services and DC Program (w/o encl.)

THE GEORGIA MUNICIPAL ASSOCIATION, INC.

401(a) DEFINED CONTRIBUTION PLAN

**Amended and Restated
As of January 1, 2018**

**RESOLUTION AND
ADOPTION AGREEMENT**

City of Tucker

**Administered by:
Georgia Municipal Association, Inc.
201 Pryor Street, SW
Atlanta, Georgia 30303
Telephone: 404-688-0472
Facsimile: 678-686-6289**

RESOLUTION

WHEREAS, the City of Tucker, Georgia, (hereinafter referred to as the "Participating Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a defined contribution plan, funded by employer contributions;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering ☒ matching and/or ☒ non-matching contributions;

WHEREAS, the Participating Employer has reviewed the Georgia Municipal Association, Inc. ("GMA") Defined Contribution Plan, as amended and restated effective as of January 1, 2017 ("Plan");

WHEREAS, the Participating Employer wishes to ☐ participate or ☒ continue participating in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

WHEREAS, the Participating Employer has executed an Adoption Agreement (and, if applicable, an Addendum) for the Plan; and

WHEREAS, the Mayor and Council of the City of Tucker ("Governing Authority") is authorized by law to adopt this resolution approving the Adoption Agreement (and, if applicable, Addendum) on behalf of the Participating Employer;

Therefore, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement ("Trust") for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan ("Trustees") are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

Section 3.

(a) The Participating Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this resolution. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan. The

Participating Employer acknowledges that it is solely responsible for submitting Employer Contributions in accordance with the terms of this Adoption Agreement, including submitting said Employer Contributions as scheduled based on its Payroll Period or the end of the Plan Year, as applicable.

(b) The Participating Employer acknowledges that it may not be able to rely on the opinion letter if it makes certain elections under the Adoption Agreement or the Addendum, and that the failure to properly complete the Adoption Agreement may result in a failure of the Participating Employer's Plan to be a qualified plan.

Section 4. The Participating Employer hereby authorizes Georgia Municipal Association, Inc. ("GMA"), the Provider who sponsors the Plan on behalf of the Trustees, to amend the Plan on its behalf as provided under Revenue Procedures 2017-41, 2011-49, and 2007-44. The Participating Employer understands that the implementing amendment reads as follows:

GMA will maintain a record of the Participating Employers, and GMA will make reasonable and diligent efforts to ensure that Participating Employers have actually received and are aware of all Plan amendments and that such Participating Employers adopt new documents when necessary. The provisions of this subsection shall supersede other provisions of the Plan to the extent those other provisions are inconsistent.

The Trustees or GMA, as directed by the Trustees, hereby reserves the right to terminate the Plan without consent of the Participating Employers or of Participants (or any Beneficiaries thereof) and, likewise, to amend the Plan without consent of the Participating Employers or of Participants (or any Beneficiaries thereof) to make desired changes in the design of the Plan. A true copy of the resolution of the Trustees approving such amendment shall be delivered to the Administrator and the Participating Employers. The Plan shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, the Administrator, and all others having any interest under the Plan shall be bound thereby.

On and after February 17, 2005, GMA shall have the authority to advise and prepare amendments to the Plan, for approval by the Trustees, on behalf of all Participating Employers, including those Participating Employers who have adopted the Plan prior to the January 1, 2018, restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Participating Employers. Any amendment prepared by the Provider and approved by the Trustees will be provided by the Administrator to Participating Employers. Notwithstanding the foregoing paragraphs, effective on or after June 27, 2016, for any Participating Employer as of either:

- the date the Internal Revenue Service requires the Participating Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Participating Employer to incorporate a type of Plan not allowable in a pre-approved plan, as described in Revenue Procedure 2017-41; or
- as of the date of the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments,

such Participating Employer shall execute a resolution to adopt any amendments that are approved by the Trustees after the date under subparagraph (1) or (2) above, as applicable, within the earlier of (i) ninety (90) days after such Trustees' approval, or (ii) if applicable, the remedial amendment period under Code Section 401(b) as applicable to governmental plans. If the Participating Employer is required to obtain a determination letter for any reason in order to maintain reliance on the opinion letter, GMA's authority to amend the Plan on behalf of the Participating Employer is conditioned on the Plan receiving a favorable determination letter. The Participating Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the pre-approved plan opinion letter.

Section 5.

(a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan made under Section 4 and to the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts.

Section 6.

(a) The Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (i) A resolution must be adopted terminating its participation in the Plan.
- (ii) The resolution must specify when the participation will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 7. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 8. This resolution and the Adoption Agreement (and any Addendum) shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement (and any Addendum) by an Employer that does not have legal authority to participate in the Plan. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Adoption Agreement (and any Addendum) are adopted and executed in accordance with the requirements of applicable law.

Section 9. As provided in Revenue Procedure 2017-41, the Participating Employer may relay on the Plan's Opinion Letter, provided that the Participating Employer's Plan is identical to the GMA Plan, and the Participating Employer has not amended or made any modifications to the Plan other than to choose the options permitted under the Plan and Adoption Agreement.

Adopted by the Governing Authority on _____, _____, in
accordance with applicable law.

By: _____
Signature

Name and Title

Attest: _____

Date: _____

**[Governing Authority should assure that applicable law is followed in the adoption and
execution of this resolution.]**

GMA 401(a) DEFINED CONTRIBUTION PLAN ADOPTION AGREEMENT

ADMINISTRATOR

Georgia Municipal Association, Inc.
201 Pryor Street, SW
Atlanta, Georgia 30303
Telephone: 404-688-0472
Facsimile: 678-686-6289

PARTICIPATING EMPLOYER

Name: City of Tucker, Georgia

GOVERNING AUTHORITY

Name: Mayor and Council and the City of Tucker, Georgia
Address: 4119 Adrian Street, Tucker, Georgia, Georgia 30005
Phone: (678) 597-9040
Facsimile: (470) 719-8229
Title of Person Authorized to receive Official Notices from the Plan or
GMA: City Manager

DISCLOSURE OF OTHER 401(a) PLAN(S)

This Participating Employer ☐ does or ☒ does not have an existing defined contribution plan(s). If the Participating Employer does have one or more defined contribution plans, the Governing Authority must provide the plan name, name of the plan's provider, and such other information requested by the Administrator.

TYPE OF ADOPTION AND EFFECTIVE DATE

NOTE: This Adoption Agreement, with the accompanying Master Plan Document, is designed to comply with Internal Revenue Code Section 401(a), as applicable to a governmental qualified defined contribution plan, and is part of the GMA Defined Contribution and Deferred Compensation Program. Plan provisions designed to comply with applicable provisions of additional changes in federal law and guidance from the Internal Revenue Service under Internal Revenue Service Notice 2017-37 (the 2017 Cumulative List) are effective as of the applicable effective dates set forth in the Adoption Agreement and Master Plan Document. By adopting

this Adoption Agreement, with its accompanying Master Plan Document, the Participating Employer is adopting a plan document intended to comply with Internal Revenue Code Section 401(a) and the 2017 Cumulative List with the applicable effective dates.

This Adoption Agreement is for the following purpose (**check one**):

- ☐ This is a new defined contribution plan adopted by the Participating Employer for its Employees effective _____, _____ (**insert effective date of this Adoption Agreement but not earlier than the beginning of the plan year in which the plan is adopted**), with respect to Contributions as approved by the Board of Trustees below.
- ☐ Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.
- ☒ This is an amendment and restatement of the current GMA 401(a) Defined Contribution Plan or other defined contribution plan of the Participating Employer, the effective date of which shall be **the date of its approval by the Governing Authority** (**insert effective date of this Adoption Agreement but not earlier than the first day of the plan year in which the plan is restated or the beginning of the plan year in which the plan is adopted**). This Adoption Agreement is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on **November 13, 2018** (**insert original effective date of preexisting plan**).
- ☐ Check this box if (i) any preexisting plan provisions will be preserved from a superseded non-GMA plan or (ii) any non-conforming provisions will be included in Plan provisions. An Addendum must be completed as part of the Adoption Agreement.
- ☐ This is an amendment to be effective as of _____, _____, (**insert effective date of this Adoption Agreement but not earlier than then beginning of the remedial amendment period for such amendment**) of the current GMA 401(a) Defined Contribution Plan previously adopted by the Participating Employer, which was originally effective _____, _____, as follows (**must specify elective provisions in this Adoption Agreement**):
 - ☐ _____
 - ☐ Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be completed as part of the Adoption Agreement.

PLAN YEAR

Plan Year means the Participating Employer's Fiscal Year. For purposes of the limitations under Code Section 415(c) set forth in Article V of the Master Plan Document, the limitation year means the calendar year.

The Employer's Fiscal Year starts on: **July 1** (insert month and day e.g., July 1).

COVERED DEPARTMENTS

A Participating Employer may cover all of its departments in the Plan or only those listed (check one):

- ☒ All Departments
- ☐ Covered Departments (must specify): _____

ELIGIBLE EMPLOYEES

Only Employees as defined in the Plan may be covered by the Adoption Agreement. Independent contractors may not participate in the Plan. Subject to other conditions in the Plan and this Adoption Agreement, the following Employees of the Covered Departments are eligible to participate in the Plan, provided that they satisfy any additional eligibility requirements specified under "Other Eligibility Requirements" below (**check one**):

- ☐ All
- ☒ All with the following exclusions:
- ☐ Municipal Legal Officer
 - ☐ Elected or appointed officials
 - ☒ Other¹ (must specify and clearly define the ineligible classification of employees):
An elected or appointed official in office with the City on November 13, 2018, will not participate in this Plan unless he or she makes a one-time irrevocable election, on a form provided for such purpose, to participate in the Plan, and not in Social Security, before November 28, 2018. An elected or appointed official who initially takes office or returns to office after November 13, 2018, will not participate in this Plan with respect to such Service unless he or she makes a one-time irrevocable election to participate in this Plan, and not in Social Security, on a form provided by the City for such purpose, prior to the date on which the elected or appointed official takes office or

¹ Do not specify the inclusion or exclusion of a participant by using the name of the employee.

returns to office (following a vacation of office). An elected or appointed official who does not make an affirmative election to participate in this Plan, and not in Social Security, on a form provided by the City for such purpose and within the applicable time periods described above, will be presumed to have elected (affirmatively or by default) to participate in Social Security, and will not participate in this Plan, unless he or she subsequently vacates office, becomes reelected or reappointed (after vacation of office) and makes an affirmative written election, on a form provided for such purpose, to participate in this Plan. Additionally, Regular Employees initially employed or reemployed on or after February 24, 2020 who do not work at least 5 months per year (regularly scheduled) are not eligible to participate in this Plan.

- ☐ Only employees in any eligible 457(b) plan of the Employer. Note: Please check this box if the sole purpose of this Plan is to provide Employer contributions to match Employee contributions to any eligible 457(b) Plan of the Employer.
- ☐ Only employees in the Employer's GMA 457(b) plan. Note: Please check this box if the sole purpose of this Plan is to provide Employer contributions to match Employee contributions to the Employer's GMA 457(b) Plan.
- ☐ Other¹ (must specify and clearly define the classification of Eligible Employees; Eligible Employees shall not include non-governmental employees, independent contractors, or any other ineligible individuals):

No employee may be excluded based on the attainment of a maximum age.

The Employer shall provide the Administrator with the name, address, Social Security Number, and date of birth for each Eligible Employee, as defined by the Adoption Agreement.

OTHER ELIGIBILITY REQUIREMENTS

Minimum Hours Per Week -- A Participating Employer may prescribe a minimum number of hours that an Employee must be scheduled and normally work in order to be an Eligible Employee under the Plan. The Employer hereby elects the following (elect either "No Minimum Hours Required" or "Minimum Hours Required" below. If you elect to have a minimum hour requirement you must specify the number of hours required in the space provided below). The Minimum Hour Requirement below only applies to common law Employees of the Employer and does not apply to elected or appointed officials.

- ☒ **No Minimum Number of Hours Required**
- ☐ **Minimum Hours Required Per Week (regularly scheduled):**

- ☐ _____ (must not exceed 40 hours/week)
- ☐ **Other Minimum Hour Requirement (must specify):** _____.

Exceptions: If a different minimum hour requirement applies to a particular class or classes of Eligible Employees, please specify below the classes to whom the different requirement applies and indicate the minimum hour requirement applicable to them.

Class(es) of Eligible Employees to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Minimum hour requirement applicable to excepted Eligible Employees:

- ☐ **No Minimum Number of Hours Required**
- ☐ **Minimum Hours Required Per Week (regularly scheduled):**
- ☐ _____ (must not exceed 40 hours/week)
- ☐ **Other Minimum Hour Requirement (must specify):** _____.

If any Eligible Employee ceases to meet the Minimum Hour Requirement (if any), he or she becomes ineligible for additional contributions until he or she once again meets the requirement. It is the Participating Employer's responsibility to monitor this requirement and to report to the Administrator a change in employee eligibility.

Waiting Period -- A Participating Employer may establish a waiting period before an Eligible Employee may become a Participant in the Plan. The Employer hereby elects the following (elect "no waiting period" or one of the waiting period options below):

- ☒ **No waiting period.** An Eligible Employee may become a Participant immediately upon meeting the eligibility conditions of the Plan.
- ☐ **A waiting period described under one of the following options (check one):**
- ☐ **Minimum Period of Service (please complete items below):**

The waiting period for participation in the Plan shall be _____ (not to exceed 12 months) of service, calculated from the commencement of the Eligible Employee's employment with the Employer.

Eligible Employees who are employed on the date the Plan is adopted
☐ will be ☐ will not be given credit for prior service as an Employee for purposes of satisfying the waiting period.

Different periods of service ☐ will be ☐ will not be added together to determine whether the waiting period has been satisfied.

☐ **Minimum Period of Contributions to 457(b) Plan (please complete items below):**

The waiting period for participation in the Plan shall be _____ (not to exceed 12 months) of the Eligible Employee's making contributions to the Employer's eligible 457(b) plan(s).

Eligible Employees who are employed on the date the Plan is adopted
☐ will be ☐ will not be given credit for prior contributions made to the eligible 457(b) plan(s) for purposes of satisfying the waiting period.

After initially meeting the waiting period, any interruption of employee contributions to the eligible 457(b) plan(s) ☐ will ☐ will not require the employee to meet another waiting period to qualify for matching contributions.

Different periods of service in which deferrals are made as an Eligible Employee ☐ will ☐ will not be added together to determine if the waiting period has been satisfied.

Exceptions: If a different waiting period requirement applies to a particular class or classes of Eligible Employees, please specify below the classes to whom the different requirement applies and indicate the waiting period requirement applicable to them.

Class(es) of Eligible Employees to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Waiting period requirement applicable to excepted Eligible Employees:

☐ **No waiting period.** An Eligible Employee may become a Participant immediately upon meeting the eligibility conditions of the Plan.

☐ **A waiting period described under one of the following options (check one):**

☐ **Minimum Period of Service (please complete items below):**

The waiting period for participation in the Plan shall be _____ (not to exceed 12 months) of service, calculated from the commencement of the Eligible Employee's employment with the Employer.

Eligible Employees who are employed on the date the Plan is adopted
☐ will be ☐ will not be given credit for prior service as an Employee for purposes of satisfying the waiting period.

Different periods of service ☐ will be ☐ will not be added together to determine whether the waiting period has been satisfied.

- ☐ **Minimum Period of Contributions to 457(b) Plan** (please complete items below):

The waiting period for participation in the Plan shall be _____ (not to exceed 12 months) of the Eligible Employee's making contributions to the Employer's eligible 457(b) plan(s).

Eligible Employees who are employed on the date the Plan is adopted ☐ will be ☐ will not be given credit for prior contributions made to the eligible 457(b) plan(s) for purposes of satisfying the waiting period.

After initially meeting the waiting period, any interruption of employee contributions to the eligible 457(b) plan(s) ☐ will ☐ will not require the employee to meet another waiting period to qualify for matching contributions.

Different periods of service in which deferrals are made as an Eligible Employee ☐ will ☐ will not be added together to determine if the waiting period has been satisfied.

EMPLOYER CONTRIBUTIONS

A Participating Employer may make Matching Contributions **and/or** Non-Matching Contributions as specified below. Matching Contributions and Non-Matching Contributions that are tied to Payroll Periods (as defined in this Adoption Agreement) must be remitted to the Administrator no later than 15 business days after the end of the Payroll Period. Annual Contributions must be remitted to the Administrator no later than 15 days after the end of the Plan Year. A Participating Employer may establish one or more classes of employees for contribution purposes in this Adoption Agreement. However, no employee may be excluded from contributions based on the attainment of a maximum age.

The Participating Employer hereby elects to make contributions as follows (**check matching, non-matching, or both as applicable**):

- ☒ **Matching Contributions**

Employer Contributions shall be made to match all or a portion of a Participant's contribution to an eligible 457(b) deferred compensation plan, including but not limited to the GMA Deferred Compensation Plan. The Employer must identify the class or classes of Participants for whom contributions will be made and the contribution formula:

Class A Matching Contributions will be made on the following basis for Class A Participants:

Class A Participants are (**check one**):

- ☐ All Eligible Employees

- ☒ Other (must specify; specific positions are permissible; must be Eligible Employees; specific individuals may not be named): All Eligible Employees except for elected or appointed officials.

The Employer elects the following matching contribution formula for Class A Participants (check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below):

- ☐ **Percentage Match:** For each Payroll Period in which the Participant contributed to _____ (insert plan name), an eligible 457(b) Plan of the Employer, the Employer will contribute _____% (insert percentage) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to an eligible 457(b) Plan, the Employer will contribute \$5 to this Plan).

Cap on Percentage Match - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (check and fill in \$ or % of compensation limit to apply below, or check "no cap" below):

- ☐ **Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (complete as applicable):

\$ _____ per weekly Payroll Period
\$ _____ per bi-weekly Payroll Period
\$ _____ per semi-monthly Payroll Period
\$ _____ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

- ☐ **Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed _____% of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

☐ **No Cap**

- ☐ **Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ _____ (may be \$1 to \$25) to an eligible 457(b) Plan of the Employer,

the Participating Employer will contribute a flat dollar amount as shown below
(complete as applicable):

\$ _____ per weekly Payroll Period
\$ _____ per bi-weekly Payroll Period
\$ _____ per semi-monthly Payroll Period
\$ _____ per monthly Payroll Period

- ☐ **Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**
For each Payroll Period in which the Participant contributes to the GMA 457(b) Plan, the Employer will contribute 100% of the dollar amount contributed to the GMA 457(b) Plan up to a maximum of 3% of such Participant's §457(e)(5) includable Compensation. In addition, for each Payroll Period in which the Participant contributes more than 3% to the GMA 457(b) Plan, the Employer will contribute 50% of the dollar amount contributed to the GMA 457(b) Plan that is in excess of 3% of the Participant's §457(e)(5) includable Compensation. The maximum Matching Contribution amount shall be 4% of a Participant's 457(e)(5) includable Compensation.

[Do not complete following section on Class B Matching Contributions if all Eligible Employees are included in Class A above].

Class B Matching Contributions will be made on the following basis for Class B Participants:

Class B Participants are (must specify; specific positions are permissible; must be Eligible Employees; specific individuals may not be named):

_____.

The Employer elects the following matching contribution formula for Class B Participants (check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below):

- ☐ **Percentage Match:** For each Payroll Period in which the Participant contributed to _____
(insert plan name), an eligible 457(b) Plan of the Employer, the Employer will contribute _____% (insert percentage) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to an eligible 457(b) Plan, the Employer will contribute \$5 to this Plan).

Cap on Percentage Match - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (**check and fill in \$ or % of compensation limit to apply below, or check "no cap" below**):

☐ **Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (**complete as applicable**):

\$ _____ per weekly Payroll Period
\$ _____ per bi-weekly Payroll Period
\$ _____ per semi-monthly Payroll Period
\$ _____ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

☐ **Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed _____ % of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

☐ **No Cap**

☐ **Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ _____ (**may be \$1 to \$25**) to an eligible 457(b) Plan of the Employer, the Participating Employer will contribute a flat dollar amount as shown below (**complete as applicable**):

\$ _____ per weekly Payroll Period
\$ _____ per bi-weekly Payroll Period
\$ _____ per semi-monthly Payroll Period
\$ _____ per monthly Payroll Period

☐ **Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

[Skip to "Payroll Period" below if Employer is not going to make Non-Matching Contributions]

☒ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Plan without regard to a Participant's contribution to an eligible 457(b) plan(s). The Employer must identify the class or classes of Participants for whom these contributions will be made and the contribution formula:

Non-Matching Contributions shall be made on the following basis for Class C Participants:

Class C Participants are (check one):

- ☒ All Eligible Employees
☐ Other (must specify; specific positions are permissible; must be Eligible Employees; specific individuals may not be named):

The Employer elects the following contribution formula for Class C Participants (check one):

- ☐ Year-End Contributions: A one-time Plan Year-end contribution of \$ _____ or _____% of Compensation per Participant.
- ☒ **10%** of Compensation per Participant for each Payroll Period.
- ☐ A flat dollar amount per Payroll Period as shown below (complete as applicable):
- \$ _____ per weekly Payroll Period
\$ _____ per bi-weekly Payroll Period
\$ _____ per semi-monthly Payroll Period
\$ _____ per monthly Payroll Period
- ☐ Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):

[Do not complete the following section on Class D Non-Matching Contributions if all Eligible Employees are included in Class C above].

Non-Matching Contributions shall be made on the following basis for Class D Participants:

Class D Participants are (must specify; specific positions are permissible; must be Eligible Employees; specific individuals may not be named):

_____.

The Employer elects the following contribution formula for Class D Participants (**check one**):

☐ Year-End Contributions: A one-time Plan Year-end contribution of \$ _____ or _____ % of Compensation per Participant.

☐ _____ % of Compensation per Participant for each Payroll Period.

☐ A flat dollar amount per Pay Period as shown below (**complete as applicable**):

\$ _____ per weekly Payroll Period

\$ _____ per bi-weekly Payroll Period

\$ _____ per semi-monthly Payroll Period

\$ _____ per monthly Payroll Period

☐ **Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

For purposes of computing non-matching contributions, "Compensation" is defined in the Plan, subject to the limits imposed by Georgia Code Section 47-1-13(b) and Internal Revenue Code Section 401(a)(17), as adjusted for cost-of-living increases under Internal Revenue Code Section 401(a)(17)(B).

The Participating Employer must monitor contributions to the Plan on behalf of a Participant to this Plan and any other 401(a) plan maintained by the Participating Employer to confirm compliance with Internal Revenue Code Section 415 and Article 5 of the Master Plan. To the extent an amendment to this Adoption Agreement is needed to satisfy the Internal Revenue Code Section 415 limit that could not otherwise be provided for in the above Sections, please complete as applicable: _____

COMPENSATION

Compensation Paid After Severance From Employment -- A Participating Employer may elect to include certain post-severance payments in Compensation for purposes of computing contributions under the Plan, but only if these amounts are paid no later than 2½ months after severance from employment or, if later, the end of the calendar year that includes a Participant's severance from employment, and only if it is a payment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. The Participating Employer makes the following election with respect to including post-severance payments in Compensation (Note: if the following is not completed, no post-severance payments will be included in Compensation by default):

- ☒ No post-severance payments will be included in Compensation for purposes of computing contributions under the Plan (if this box is checked, skip to "Payroll Period" below).
- ☐ For purposes of calculating contributions under the Plan, the following post-severance payments will be included in Compensation, as long as: 1) they are paid no later than 2½ months after severance from employment or, if later, the end of the calendar year that includes the Participant's severance from employment; and 2) absent a severance from employment, they would have been paid to the Participant while the Participant continued in employment with the Participating Employer (check all that apply):
 - ☐ regular compensation paid after severance from employment for services rendered prior to severance during the Participant's regular working hours
 - ☐ compensation paid after severance from employment for services rendered prior to severance outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments
 - ☐ post-severance payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued
 - ☐ Other: _____

VESTING FOR EMPLOYER CONTRIBUTIONS

A Participating Employer may establish a vesting schedule for Employer Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified period of service (not to exceed 5 years), the Participant forfeits all or part of the Employer's Contributions. However, upon Death or Disability or the termination of the

Plan, the Participant is 100% vested in the Participant's Employer Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified below, for purposes of vesting, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer and the Participant's service begins with the first day of employment as an Eligible Employee. The Employer hereby elects the following (check one):

- ☒ **Immediate Vesting.** No vesting schedule. Employer Contributions are 100% vested from the time credited to the Participant's Account **(if this option is elected, do not complete the rest of this section).**
- ☐ **Cliff Vesting.** Employer Contributions are 100% vested after a Participant has been employed as an Eligible Employee for _____ years **(not to exceed 5 years)** (the "Vesting Period"). Matching contributions remain 0% vested until the Participant satisfies the full Vesting Period.
- ☐ **Graduated Vesting Schedule.** Employer Contributions are vested on the following graduated scale **(insert vesting % for each completed year of service as an Eligible Employee. Note: Maximum waiting period for 100% vesting may not exceed 5 years):**

<u>Completed Years of Service as Eligible Employee</u>	<u>Vested %</u>
1 year	_____ %
2 years	_____ %
3 years	_____ %
4 years	_____ %
5 years	<u>100</u> %

Complete the following items if Employer has elected Cliff Vesting or Graduated Vesting:

In determining the Participant's total years of service for vesting purposes, Eligible Employees who are employed on the date the Plan is adopted by the Employer **(check one)**: ☐ will be ☐ will not be given credit for prior service as an Eligible Employee.

In determining the Participant's total years of service for vesting purposes, different periods of employment as an Eligible Employee **(check one)**: ☐ will be added together ☐ will not be added together ☐ will be added together if the Participant is reemployed with the Employer before completing a period of separation of _____ years (not to exceed 5 years).

TREATMENT OF FORFEITURES

If a Participant separates from service, the Participant's non-vested Employer Contributions shall be forfeited as of the date of the Participant's Separation from Service. Amounts forfeited during a Plan Year shall be held unallocated until they are used to reduce or otherwise supplement Employer Contributions as of the earliest possible date such contributions are required to be made to the Plan. If there are no future Employer Contributions (as in the case of a frozen plan), forfeitures shall be used for administrative expenses; after which, any remaining forfeitures shall be allocated to Participants' Accounts.

MODIFICATION OF THE TERMS OF THE ADOPTION AGREEMENT

If a Participating Employer desires to amend any of its elections contained in this Adoption Agreement (or any Addendum), the Governing Authority by official action must adopt an amended Adoption Agreement (and any Addendum, if applicable) and forward the amended Adoption Agreement (and any Addendum) to the Trustees for approval. The amended Adoption Agreement (and Addendum) is not effective until approved by the Trustees and other procedures required by the Plan have been implemented.

The Administrator will inform the Participating Employer of any amendments made by the Trustees to the Plan. If there are no future Employer Contributions (as in the case of a frozen plan), forfeitures shall be used for administrative expenses, and, if forfeitures remain, shall be allocated to Participants' accounts.

TERMINATION OF THE ADOPTION AGREEMENT

This Adoption Agreement (and any Addendum) may be terminated only in accordance with the Plan.

The Administrator will inform the Participating Employer of the discontinuance or abandonment of the Plan by the Trustees.

EXECUTION BY EMPLOYER

This Adoption Agreement (and any Addendum) may only be used in conjunction with the Georgia Municipal Association 401(a) Defined Contribution Plan Master Plan Document approved by the Internal Revenue Service under an opinion letter Q702380a dated June 30, 2020.

The failure to properly complete this Adoption Agreement (or any Addendum), or to operate and maintain the Plan and Trust in accordance with the terms of the completed Adoption Agreement (and any Addendum), Master Plan Document and Trust, may result in disqualification of the Plan under the Code. Inquiries regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the IRS opinion letter should be directed to the Administrator. The Administrator is the Georgia Municipal Association, Inc., with its primary business offices located at: 201 Pryor Street, SW, Atlanta, Georgia 30303. The business

telephone number is: (404) 688-0472. The primary person to contact is GMA General Counsel or Deputy Executive Director, Risk Management and Employee Benefits.

The foregoing Adoption Agreement is hereby adopted and approved on the _____ day of _____, _____, by the _____.

Signed: _____

Printed Name: _____

Title: _____

Date of Signature: _____

TRUSTEES APPROVAL

The Adoption Agreement is approved by the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan.

[Complete the following if the purpose of this Adoption Agreement is to establish a new defined contribution plan or to restate a preexisting defined contribution plan of the Participating Employer (other than a GMA 401(a) Defined Contribution Plan).]

Contributions shall first be remitted as follows:

☐ within 15 business days after the Payroll Period ending _____, _____.

☐ On the following prospective date (**specify a specific date**): _____.

Dated: _____

By: _____

Title: _____
on behalf of the Board of Trustees

**SUMMARY OF CHANGES
TO THE RESTATED
GEORGIA MUNICIPAL ASSOCIATION
401(a) DEFINED CONTRIBUTION PLAN**

I. GENERAL OVERVIEW

On June 30, 2020, the IRS issued a favorable advisory letter for the Pre-Approved Georgia Municipal Association 401(a) Defined Contribution Plan ("401(a) DC Plan"). The 401(a) DC Plan, as approved, is intended to comply with Internal Revenue Code Section 401(a), additional changes in federal law and guidance from the Internal Revenue Service Notice 2017-37 (the 2017 Cumulative List). As a result of these changes, each Employer is required to adopt an updated GMA 401(a) DC Plan Adoption Agreement and Addendum, if applicable.

II. SUMMARY OF CHANGES TO THE MASTER PLAN DOCUMENT

The following summarizes the changes in the restated 401(a) DC Master Plan document:

- ❖ Incorporates previous amendments to the Master Plan document.
- ❖ Provides that upon a transfer of assets to the GMA DC Plan, the Trustees will invest the participant's account in an investment fund(s) which are must similar to the fund(s) in which the participant's account was invested under the prior plan until the participant makes a valid change of investment direction for the assets.
- ❖ Clarifies that payment options under the plan are in the form of lump sums unless otherwise permitted by the Administrator.
- ❖ Provides that if a participant dies without a valid beneficiary designation on file for the DC Plan and he or she is a participant in the GMA Deferred Compensation Plan (457(b) Plan), the participant's beneficiary for purposes of the DC Plan will be the beneficiary who was most recently designated under the 457(b) Plan. If the participant dies without a valid beneficiary designation on file for either the DC Plan or the 457(b) Plan, the benefit payment will be made to the participant's surviving spouse, and if there is no surviving spouse to the participant's estate in a lump sum.
- ❖ Adds the option for employers to freeze participation in the DC Plan. Previously, the only option was to terminate the DC Plan.

III. SUMMARY OF CHANGES TO THE ADOPTION AGREEMENT

The following summarizes the changes in the restated 401(a) DC Adoption Agreement:

- ❖ Specifies that the minimum hour requirement, if applicable, only applies to common law employees of the employer and does not apply to elected or appointed officials.

- ❖ Eliminates the payroll period section to provide flexibility to employers who modify payroll periods.
- ❖ Eliminates separate vesting sections for matching and non-matching employer contributions. One vesting section now applies to all types of employer contributions.
- ❖ Removes references to the GMEBS Defined Benefit Plan.

As has been the case in the past, all amendments were approved by the Board of Trustees of the GMA DCDC Program prior to implementation.



MEMO

To: Honorable Mayor and City Council Members
From: Tami Hanlin, City Manager
Date: 11/4/2021
RE: 2022 Calendar .

Issue and background:

1. Approval of Council Meeting Calendar:

Due to the land use and zoning cases in the system it is necessary to adopt a City Council meeting calendar for at least the month of January. Given that four new people will be joining the Council in January, it is likely, that the 2nd & 4th Monday at 7 p.m. may be re-visited and alternative dates and times will be discussed.

Recommendation: Council meetings in January 2022 be held on January 11th and 24th.

The City Charter in Section 2.09 (a) states: The city council shall meet on the seventh working day in January immediately following each regular municipal election. This would be January 11th. Also, I would like to point out that there is a significant sporting event that occurs on the 2nd Monday of January, which might interfere with a January 10, 2022, 7 p.m. Council meeting.

Issue and background:

2. Approval of the Annual Calendar for City Hall Closures for Holidays:

Attached please find the chart of Federal holidays and a survey of holidays taken by cities in DeKalb and across the State. Which and how many holidays to observe is both a practical and philosophical matter. The city is in a unique position because it must balance the service to the public, the responsibility as an employer and social responsibilities when choosing which days to close city hall. Last year, a new Federal holiday was approved, Juneteenth, which is observed on June 19th of each year.

The city, Jacobs and InterDev staff have ample leave time as part of their benefit package and staff often works on holidays that fall in the middle of the week, which is what makes floating holidays attractive.

Recommendation: The Mayor and Council consider making Veterans Day a floating holiday for staff, leaving city hall open and close city hall in observation of Juneteenth. This proposal keeps the number of closure days the same provides staff flexibility. In addition, I recommend that staff and Council collaborate to develop new city traditions for the observation of Veterans Day and Juneteenth.

A RESOLUTION TO ADOPT THE CITY OF TUCKER CALENDAR FOR JANUARY 2022 AND DESIGNATE THE DAYS FOR WHICH CITY HALL WILL BE CLOSED

WHEREAS, the Mayor and Council of the City of Tucker are authorized by the City Charter to adopt rules to govern the governance of its business; and

WHEREAS, the Mayor and Council desire to set the official 2022 calendar of meetings for the City Council and the Boards and Commissions of the City of Tucker; and

WHEREAS, the Mayor and Council desire to set the 2022 holidays for its employees and designate the days for which City Hall will be closed for business; and

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Tucker while at a regular meeting on November 8, 2021, the attached Exhibit A calendar for January 2022 is approved and City Hall will be closed to the operations of business on the scheduled holidays. The attached calendar for January 2022 shall be effective upon its adoption;

SO RESOLVED, this the 8th day of November, 2021

APPROVED:

Frank Auman, Mayor

ATTEST:

Bonnie Warne, City Clerk

(seal)

EXHIBIT A 2022 MEETING CALENDAR

January							July						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
					31	1						1	2
2	3	4	5	6	7	8	3	4	5	6	7	8	9
9	10	11	12	13	14	15	10	11	12	13	14	15	16
16	17	18	19	20	21	22	17	18	19	20	21	22	23
23	24	25	26	27	28	29	24	25	26	27	28	29	30
30	31						31						
February							August						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5		1	2	3	4	5	6
6	7	8	9	10	11	12	7	8	9	10	11	12	13
13	14	15	16	17	18	19	14	15	16	17	18	19	20
20	21	22	23	24	25	26	21	22	23	24	25	26	27
27	28						28	29	30	31			
March							September						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5					1	2	3
6	7	8	9	10	11	12	4	5	6	7	8	9	10
13	14	15	16	17	18	19	11	12	13	14	15	16	17
20	21	22	23	24	25	26	18	19	20	21	22	23	24
27	28	29	30	31			25	26	27	28	29	30	
April							October						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2							1
3	4	5	6	7	8	9	2	3	4	5	6	7	8
10	11	12	13	14	15	16	9	10	11	12	13	14	15
17	18	19	20	21	22	23	16	17	18	19	20	21	22
24	25	26	27	28	29	30	23	24	25	26	27	28	29
							30	31					
May							November						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6	7			1	2	3	4	5
8	9	10	11	12	13	14	6	7	8	9	10	11	12
15	16	17	18	19	20	21	13	14	15	16	17	18	19
22	23	24	25	26	27	28	20	21	22	23	24	25	26
29	30	31					27	28	29	30			
June							December						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4					1	2	3
5	6	7	8	9	10	11	4	5	6	7	8	9	10
12	13	14	15	16	17	18	11	12	13	14	15	16	17
19	20	21	22	23	24	25	18	19	20	21	22	23	24
26	27	28	29	30			25	26	27	28	29	30	31

- Council Meeting – 7:00 PM
- Planning Commission – 7:00 (3rd Thu)
- Zoning Board of Appeals – 7:00 (1st Tue)
- DDA – 6:30 (1st Mon)

Holidays 2022

DEC 31, 2021*	New Year's Day
JAN 17	MLK Day
FEB 21	Presidents Day
MAY 30	Memorial Day
JUN 20*	Juneteenth (Tentative)
JUL 4	Independence Day
SEP 5	Labor Day
NOV 11	Veteran's Day (Tentative)
NOV 24	Thanksgiving Day
NOV 25	Day after Thanksgiving
DEC 23*	Christmas Eve
DEC 26*	Christmas Day

DATES TO BE DETERMINED

* observed



MEMO

To: Honorable Mayor and City Council Members
From: Ken Hildebrandt
CC: Tami Hanlin, City Manager
Date: November 8, 2021
RE: Contract Award – Engineering Design for MIB @ Tuckerstone Parkway

Issue:

Award of a task order for the design of an intersection improvement at Mountain Industrial Boulevard at Tuckerstone Parkway.

Recommendation:

Staff recommends the award of Task Order #34 to Kimley Horn in the amount of \$29,800.00.

Background:

This is one of the priority projects identified in the Tucker Summit CID Freight Cluster Plan that was adopted earlier this year. While many of the improvements identified in the plan are being packaged together for an application for federal funding, this intersection improvement was intended to be locally funded. Planned safety design features include improvements to sight distance, installing a vehicle activated warning signal, constructing a median opening to allow for u-turns, and prohibiting left turns out of Tuckerstone onto MIB.

Summary:

This contract is for the survey, traffic analysis, and engineering design for improvements at the intersection of MIB and Tuckerstone Pkwy.

Financial Impact:

\$29,800 would be funded from the SPLOST Quick Response account.

G/L#320-4200-54.14000-SP2203

Scope of Services:

Kimley—Horn will perform the following scope of services:

Project Understanding:

The City of Tucker desires to implement intersection improvements that improve operations and better accommodate necessary truck movements at Mountain Industrial Boulevard at Tuckerstone Parkway. Modifications will be made to restrict movements to and/or from Tuckerstone Parkway; this will be accomplished with the installation of a median at the intersection and the potential modification of existing medians. In addition, the area has current truck traffic that requires a U-turn movement, which will be accommodated with median modifications and the installation of an “eye-brow”. Kimley-Horn will recommend a proposed location between Tuckerstone Parkway and the Ram Tool driveway to install the “eye-brow” based on current geometry and sight lines. A retaining wall may be required to minimize parcel impacts. It is assumed that any necessary walls will be GDOT standard retaining walls.

Task 1 – Project Management and Data Collection

Up to two (2) Kimley-Horn staff will attend a kickoff meeting with the Client. Project management tasks also include monthly invoicing, internal coordination meetings, and project administrative activities.

Kimley-Horn will gather and collect data to analyze the study corridor. Up to two (2) Kimley-Horn staff will complete a site visit to gather existing roadway data and to observe existing conditions and travel behaviors. Kimley-Horn will take existing conditions photos and note general site observations including information about the roadway characteristics, geometric conditions, and driveway conditions.

Kimley-Horn will coordinate the collection of a topographic survey from Terramark at the previously mentioned intersections for approximately 1.2 acres. Specific location and acreage will be determined after the design team receives concurrence from the City of Tucker on the location of the proposed U-turn and “eye-brow” determined as part of the concept development in Task 2B below. Data will be accumulated utilizing conventional Ground Run Survey techniques. Ornamental landscape trees, as well as trees measuring 6” in diameter and larger within wooded areas will be located and provided on the final survey deliverable. Contours will be generated and shown at 1-foot intervals. Necessary boundary work will be performed in order to establish the property boundary lines within the scope areas. All survey data will be tied to control established in accordance with the NAD83 Georgia State Plane Coordinate System (West Zone) and NAVD88. Terramark will coordinate to have existing underground utilities marked within the scope areas only, prior to beginning field location of improvements. TerraMark will locate utility markings upon completion of the service by others and combine information within the overall database survey. Services performed by the private utility marking company will be provided at Quality Level B for the area.

Kimley Horn will provide utility coordination to determine potential conflicts with existing utilities at the proposed intersections noted above. Plans will be distributed to potentially affected utility owners for their review and verification of existing facilities identified through survey and via GA811. Utility owner

markups will be incorporated into the construction documents. No utility design is included in this scope of services. It is assumed that the Contractor will coordinate with utility owners during construction regarding their relocations.

Task 2 — Construction Documents

Kimley-Horn will develop an initial concept for the intersection improvements Mountain Industrial Blvd at Tuckerstone Parkway described above. The concept drawing will be a single plan sheet that will consist of revised curb and gutter, sidewalk, drainage layout, and signal equipment locations. AutoTURN will be utilized to design radius returns to accommodate a design vehicle to be coordinated with the City of Tucker. Up to two (2) Kimley-Horn staff will attend one (1) concept review meeting to review concept drawing. Kimley-Horn will respond to reasonable comments and make concept revisions resulting up from to one (1) round of review.

Upon completion of the concept, receipt of the topographic survey gathered under Task 2A, and receiving concurrence from the City, Kimley-Horn will develop construction plans based on the completed concept. Using the topographic survey gathered under Task 2A, construction plans will be developed as noted below.

The construction plans will consist of the following sheets:

- Cover Sheet/Index
- Project General Notes
- Roadway Mainline Plans
- Roadway Grading Plans
- Drainage Profile Sheets
- Retaining Wall Envelope Sheet (assume 1 GDOT standard design wall)
- Erosion Control BMP Location Plans (Kimley-Horn assumes that the project will disturb less than one acre, therefore a Notice of Intent (NOI) will not be required. Erosion control plans will show a single perimeter control phase only. Multi—phase erosion control plans are not included.)
- Construction Details
 - No special details are anticipated.
 - It is anticipated that standard items will be governed by GDOT standard specifications, current edition. GDOT details will be referenced.
- A right-of-way plat will be developed for one (1) parcel where acquisition is anticipated. No other right-of-way acquisition assistance is included in this scope. Kimley-Horn will make one (1) revision to the plat based on comments.
- An opinion of probable construction cost (OPCC) will be developed based on the construction plans.

Kimley-Horn will submit construction plans and OPCC to the City Engineer for review and approval. Kimley-Horn will respond to reasonable comments and make plan revisions resulting up from to one (1) round of review. Client will prepare general bidding documents and will be responsible for bid

advertisement. This scope has been prepared under the assumption that GDOT and DeKalb County permitting or coordination is not required.

Task 3 — Traffic Count Collection – (Optional)

Kimley-Horn will coordinate the collection of 24—hour bidirectional counts, including vehicle classification will be acquired for each leg of the intersection as well as a 4-hr turning movement counts. Traffic count data will be Collected by Marr Traffic on atypical weekday (Tuesday, Wednesday, or Thursday) during the DeKalb County school year. This task will not be performed without written confirmation from the City of Tucker.

Additional Services:

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Graphical Renderings
- Collision Diagrams
- Traffic Operations Analysis
- Public Involvement
- Geotechnical services, including pavement evaluation
- Lighting and Electrical Design
- Landscaping and Tree Protection Plans
- Additional retaining walls beyond the improvements specifically described above
- Special design retaining walls
- Additional signal design beyond the improvements specifically described above
- Roadway and sidewalk design beyond the improvements specifically described above
- Environmental Documentation (Special Studies, NEPA, FTA Documents), analysis, detailed
- Construction phase services and coordination with construction contractor
- Meetings beyond those described in the scope of services

Schedule:

We will provide our services as expeditiously as practicable on a mutually agreed to schedule.

Terms of Compensation:

Kimley-Horn will perform the above scope of services on a labor fee plus expense basis with the maximum labor fee shown below.

Task 1 – Project Management and Data Collection	\$8,500
Task 2 — Construction Documents	\$20,500
Task 3 – Traffic Data Collection (Optional)	\$800
<u>Maximum Fee</u>	<u>\$ 29,800</u>

Kimley-Horn will not exceed the total maximum fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.



**PROFESSIONAL ENGINEERING SERVICES
CONTRACT AGREEMENT (RFQ #2018-016)
TASK ORDER #34
Mountain Industrial Boulevard at Tuckerstone Parkway
ENGINEERING
SCOPE OF SERVICES**

This TASK ORDER between the parties is entered pursuant to the CONTRACT AGREEMENT (RFQ #2018-016), and shall serve as authorization by the City of Tucker to Kimley-Horn & Associates, Inc. (“CONSULTANT”) to perform the services described herein pursuant to the terms and conditions, mutual covenants and promises provided herein and in the CONTRACT AGREEMENT (RFQ #2018-016). Now therefore, the parties agree as follows:

Location of Project:

Mountain Industrial Boulevard at Tuckerstone Parkway

Description of Services: The services to be performed by the CONSULTANT pursuant to this TASK ORDER (the “WORK”), include, but are not limited, to the following: Database collection, speed study, concept design, and final construction documents for a traffic calming plan, further described in the Kimley-Horn proposal attached as Attachment A.

CONSULTANT Deliverables to CITY

- All electronic documents, project files, material invoices, tickets, inspection reports, photographs, and permits associated with this project

Design Specifications and Guidelines: The database preparation and concept plans will be performed on an hourly basis utilizing the previously approved rates from RFQ #2018-016 with a Not to Exceed amount as follows: **\$29,800.00**

This TASK ORDER is subject to the terms and conditions of the original CONTRACT AGREEMENT (RFQ #2018-016) entered between the parties.

General Scope of Service: The WORK under this TASK ORDER is to be commenced upon receipt of “Notice to Proceed” (NTP). The WORK will be completed within 120 calendar days after Notice to Proceed.

The CONSULTANT shall prepare a schedule showing milestone completion dates based on completing the WORK within 10 calendar days (hereinafter referred to as the "Schedule for Completion"), excluding City review time. The Schedule for Completion will be revised to reflect the actual NTP date and will be updated as required throughout the project duration.

Every 30 days commencing with the execution of the TASK ORDER, the CONSULTANT shall submit a report which shall include, but not be limited to, a narrative describing actual work accomplished during the reporting period, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, and any newly planned activities or changes in sequence (hereinafter referred to as "Narrative Report"). No invoice for payment shall be submitted and no payment whatsoever will be made to the CONSULTANT until the Schedule for Completion, and the completion of Narrative Reports are updated and submitted to the City. Payment of each invoice will be made to the CONSULTANT within 35 days of receipt. In no event shall payment be made more often than once every 30 days.

The CONSULTANT shall coordinate and attend periodic meetings with the CITY regarding the status of the TASK ORDER. The CONSULTANT shall submit transmittals of all correspondence, telephone conversations, and minutes of project meetings.

The CONSULTANT shall accomplish all of the pre-construction activities for the TASK ORDER as part of the WORK. The pre-construction activities shall be accomplished in accordance with the all local codes and ordinances (where applicable), the applicable guidelines of the American Association of State Highway and Transportation Officials (AASHTO), current edition, the GDOT's Standard Specifications Construction of Roads and Bridges, current edition, the Manual on Uniform Traffic Control Devices (MUTCD), current edition, TASK ORDER schedules, and applicable guidelines of the Georgia Department of Transportation.

The CONSULTANT agrees that all reports, plans, drawings studies, specifications, estimates, maps, computations, computer diskettes and printouts and any other data prepared under the terms of this TASK ORDER shall become the property of the City. This data shall be organized, indexed, bound and delivered to the City no later than the advertisement of the PROJECT for letting. The City shall have the right to use this material without restriction or limitation and without compensation to the CONSULTANT.

The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of interpreting all designs, drawings, specifications, and other services furnished by or on behalf of the City pursuant to this TASK ORDER, to the degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the WORK is provided. The CONSULTANT shall correct or revise, or cause to be corrected or revised, any errors or deficiencies in the designs, drawings, specifications, and other services furnished for this TASK ORDER. All revisions shall be coordinated with the CITY prior to issuance. The CONSULTANT shall also be responsible for any claim, damage, loss or expense resulting from the incorrect interpretation of provided designs, drawings, and specifications pursuant to this TASK ORDER.

For each “Phase” enumerated in “Design Specifications and Guidelines,” the fees shall be paid for such phase as provided however, CONSULTANT agrees that fees are earned pursuant to the WORK performed, which in no event shall exceed the amount set forth in the attached Fee Schedule and which hourly rate shall in no event exceed that provided in the Contract Agreement. Accordingly, invoices shall be submitted pursuant to completion of the Work performed based upon percentage completion of the relevant Phase.

Attachments:

Attachment A – Kimley-Horn Proposal

CONSULTANT:

CITY:

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____



MEMO

To: Honorable Mayor and City Council Members
From: Rip Robertson, Director, Parks and Recreation
CC: Tami Hanlin, City Manager
Date: November 8, 2021
RE: Consideration for approval of a Cofer Pool Repairs contract

Issue:

The City of Tucker acquired Cofer Park and Pool in 2018 and added the Splash Pad in 2019. For the 2021 swim season, the city added an aqua swing. To continue with the many improvements made since acquiring the Cofer Pool, the city needs to remove the existing plaster and tiles and replaster and replace the tiles along the rim of the pool.

Recommendation:

Staff recommends awarding this contract to Aquatic Consulting & Equipment, Inc in the amount of \$76,815.00. The work will take place during the winter months and be completed prior to the 2022 swim season.

Background:

This scope contained details for the removal of the tiles and 5 layers of paint and plaster. New plaster will be installed with new water line tile not later than May 1, 2022. This is needed repairs to improve the surface and operation of the pool. This has not been completed in numerous years and is overdue. Pools should be replastered every 10 – 12 years.

The city received 4 bids for this project:

- United Pool Management
- Poolside, Inc.
- Sear's Pool Management
- Aquatic Consulting & Equipment, Inc.

Summary: We analyzed the current bids and Aquatic Consulting is well known in the industry and has performed work in Tucker previously. The bids were higher than normal due to the amount of paint that needed to be removed and the repairs to the water line tiles. Based on submitted bids, we are confident in our recommendation.

Rosenfeld Pool was replastered within the last 5 years, prior to our acquisition.

Financial Impact: This item was included as part of the Parks and Recreation FY2022 SPLOST CIP budget – 320-6212-54-12000 (SP2011).

ITB# 2021-017

EXHIBIT B

LUMP SUM BID PROPOSAL FORM

This Bid Proposal is respectfully submitted by:

Aquatic Consulting & Equipment, Inc
BIDDER (Company Name)

Lump Sum \$ 76815.00 in words Seventy six thousand eight hundred fifteen dollars
et no /x

Company Physical Address:

905 Nightingale Walk
Suite B
Alpharetta GA 30022

Company Mailing Address:

SAME

Point(s) of Contact:

Brad Bachman

Point of Contact's Phone Number:

770 346 9643

Point of Contact's E-Mail Address:

acepools@bellsouth.net

Signed and sealed this 18th day of October, 2021

By: Brad Bachman
Signature

Brad Bachman
Printed Name

Owner

(Seal)

Title



AQUATIC CONSULTING & EQUIPMENT, INC.

City of Tucker
ITB # 2021-017

2. SUBCONTRACTORS

Suave Pools- Luis Osorio

3. PROJECT SCHEDULE

- Work will commence within 1 week of approval from City of Tucker
- Removal of approximately 5 layers of paint and plaster down to the original gunite- 7-10 days
- Remove existing water line tile- 1 day
- "Brown out" and prepare water line tile area for new tile- 2 days
- Apply new water line tile will take- 2 days
- Apply bond coat- 1 day
- Resurface will take- 1 day
- Final cleanup- 1 day

TOTAL PROJECT WILL TAKE 15-20 days.

4. REFERENCES ATTACHED

5. DISCLOSURE FORM ATTACHED

6. BID BOND NOT NEEDED

7. ADDENDUMS ATTACHED



AQUATIC CONSULTING & EQUIPMENT, INC.

FIRM DESCRIPTION

**Aquatic Consulting and Equipment, Inc
905 Nightingale Walk
Suite B
Alpharetta, GA 30022**

(770) 346-9643

E-Mail- acepools@bellsouth.net

Website- acepools.net

Year Established- 2002

Primary Contact- Brad Bachman- Owner

REFERENCES

**Job Name: Gwinnett County Recreation/ Collins Hill Aquatic Center
Date: January 2020
Contact: Jim Cyrus
Address: 2200 Collins Hill Road
Lawrenceville GA 30043
Phone: 770-639-4674**

Work Performed: Resurface multiple pools, includes complete demolition, water line tile and lane line tiles

**Job Name: Atlanta Athletic Club
Date: January 2021 and January 2020
Contact: Neil Doldo
Address: 1930 Bobby Jones Drive
Johns Creek, GA 30097
Phone: 770-448-2166**

**Work Performed: 50M lap pool- complete resurface pool and lane lines
Slide pool- completely remove 2 layers of plaster and install new Diamond Brite surface**

**Job Name: Metro Atlanta YMCA
Date: September 2020
Contact: Tomeca Johnson- Johns Lang LaSalle**

**Aquatic Consulting and Equipment, Inc
905 Nightingale Walk
Suite B
Alpharetta, GA 30022**



AQUATIC CONSULTING & EQUIPMENT, INC.

Address: 3010 Johnson Ferry Road
Mareitta, GA 30062

Phone:

Work Performed: Remove 4 layers of plaster down to the gunite shell, resurface with blue quartz and install new lane lines and targets.

ITB# 2021-017
EXHIBIT C

CITY OF TUCKER DISCLOSURE FORM

BIDDERS MUST RETURN THIS FORM WITH THE SUBMITTED PROPOSAL

This form is for disclosure of campaign contributions and family member relations with City of Tucker officials/employees.

Please complete this form and return as part of your bid package when it is submitted.

Name of Bidder Aquatic Consulting & Equipment, Inc

Name and the official position of the Tucker Official/Employee to whom the campaign contribution was made. (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)

N/A
List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Tucker Official.

Amount/Value:

Description:

Please list any family member that is currently (or has been employed within the last 9 months) by the City of Tucker and your relation:

Name:

Relation:

Mark Bach
Signature

10-16-21
Date

Brad Bachman
Print Name

CITY OF TUCKER

ACKNOWLEDGE RECEIPT OF ADDENDUM #1 FORM

ITB #2021-017

COFER PARK: Pool Plastering and Improvements

Upon receipt, please print and add to your proposal

I hereby acknowledge receipt of the supplement pertaining to the above referenced bid.

COMPANY NAME: Aquatic Consulting & Equipment Inc

CONTACT PERSON: Brad Baehman

ADDRESS: 905 Nightingale Walk Suite B

CITY: Alpharetta STATE: GA ZIP: 30022

PHONE: 770 346 9643 FAX: _____

EMAIL ADDRESS: acepools@bellsouth.net

Brad Baehman

10/20/21

SIGNATURE

DATE

ADDENDUM #1

1. Q: Will the City of Tucker request a warranty for the project? if so, What is the term?

A: Yes. A minimum of a 1 year all-inclusive warranty is required.

2. Q: Does the project contain liquidated damages? if so what is the monetary amount per day?

A: There will be a 60 day start to finish timeline from the notice to proceed. Liquidated damages will commence on April 16th in the amount of 1% per day.

3. Q: Is the project prevailing wage?

A: There are no federal funds used for this project, so there are no wage requirements.

4. Q: Is this project Tax-exempt?

A: The City of Tucker is tax exempt.

5. Q: Do you still not release estimated construction budget for the projects?

A: No estimated budget will be released.



MEMO

To: Honorable Mayor and City Council Members
From: **Rip Robertson, Director, Parks and Recreation**
CC: Tami Hanlin, City Manager
Date: **November 8, 2021**
RE: Consideration of approval for Henderson Field 6 Lighting – Change Order #1 - footers

Issue:

The City of Tucker is preparing to add lighting to Field 6 at Henderson Park. While installing the new lighting poles, rock prohibited normal pole footers. This change order is necessary to install spread footers for the 4 poles.

Recommendation:

Staff recommends approving Change Order #1 to Henderson Park Field #6 Lighting to Cornatzer in the amount of \$29,782.00.

Background:

As the contractor began to drill the holes for the light bases, it became evident that the rock would inhibit sufficient depth for the bases. We requested MUSCO to develop a footer to accommodate the height and weight of the lighting system. MUSCO developed the new plan for spread footers.

Summary:

We continue to make improvements to our parks and this addition will expand the programming with tournaments and league play. The spread footers are the best and least expensive alternative for pole installation. The contractor has worked on several projects with these type footers and has had great results

Financial Impact:

This item was budgeted as part of the FY 2020 SPLOST fund: 320-6210-54-12000 (SP2012). The initial bid was \$180,911.00 and with the change order, the new total is \$210,693.00. This total will keep the final bid amount below the projected and budgeted cost of \$225,000.00.



6720 Whitmire Rd
Cumming, GA 30028

(678) 682-6000 Office (770) 530-2232 Mobile

Change Order Request

Date	Quote #
10/22/2021	10222021.1

P.O. No.	

Name / Address
City of Tucker c/o Procurement 1975 Lakeside Pkwy Suite 350 Tucker, GA 30084

Ship To
Henderson Park 4000 Henderson Park Rd Tucker, GA 30084 Field # 6 Sports Field Lighting

Description	Total
1) Excavate 8 1/2 x 8 1/2 square with a depth of 6 1/2'. Attached Musco design included. 2) We will use an excavator with 7,500lb hammer to break up rock and remove via dump truck to an off site location. We have included a return trip of clean fill dirt once the footing is installed. 3) Engineer is calling for (2) steel mats and ground ring as detailed in attached design. 4) We will take the original drilling and concrete that was included and subtract that from this change order. Original (10) yds is now (27) yds resulting in adding (17) yds of additional concrete. 5) This proposed work is a week long process with excavator/hammer to get footings ready. Dump trucks will be (3) loads brought out and (2) loads of fill brought in.	29,782.00
Quote valid for 5 days. These prices do not allow and are not limited to the excavation of any unforeseen obstacles such as rock, asphalt, concrete, and buried debris. Excavation shall be on a cost plus basis in addition to any contract or agreement. Private locate of utilities and any other buried items not covered by the "UPC". We are not responsible for damages due to improper or no locates. Site lighting: Pole locations to be surveyed and staked by others. Grade stakes to have center point with 5' offset. If awarded job, all payments due within thirty (30) days of billing. Spoils shall be adjacent to hole: Spoil removal by others. Derrick Cornatzer @ 770.530.2232 or derrick@cornatzerinc.com.	Total \$29,782.00

Henderson Park Field #6
Tucker, GA
Musco Project #197453

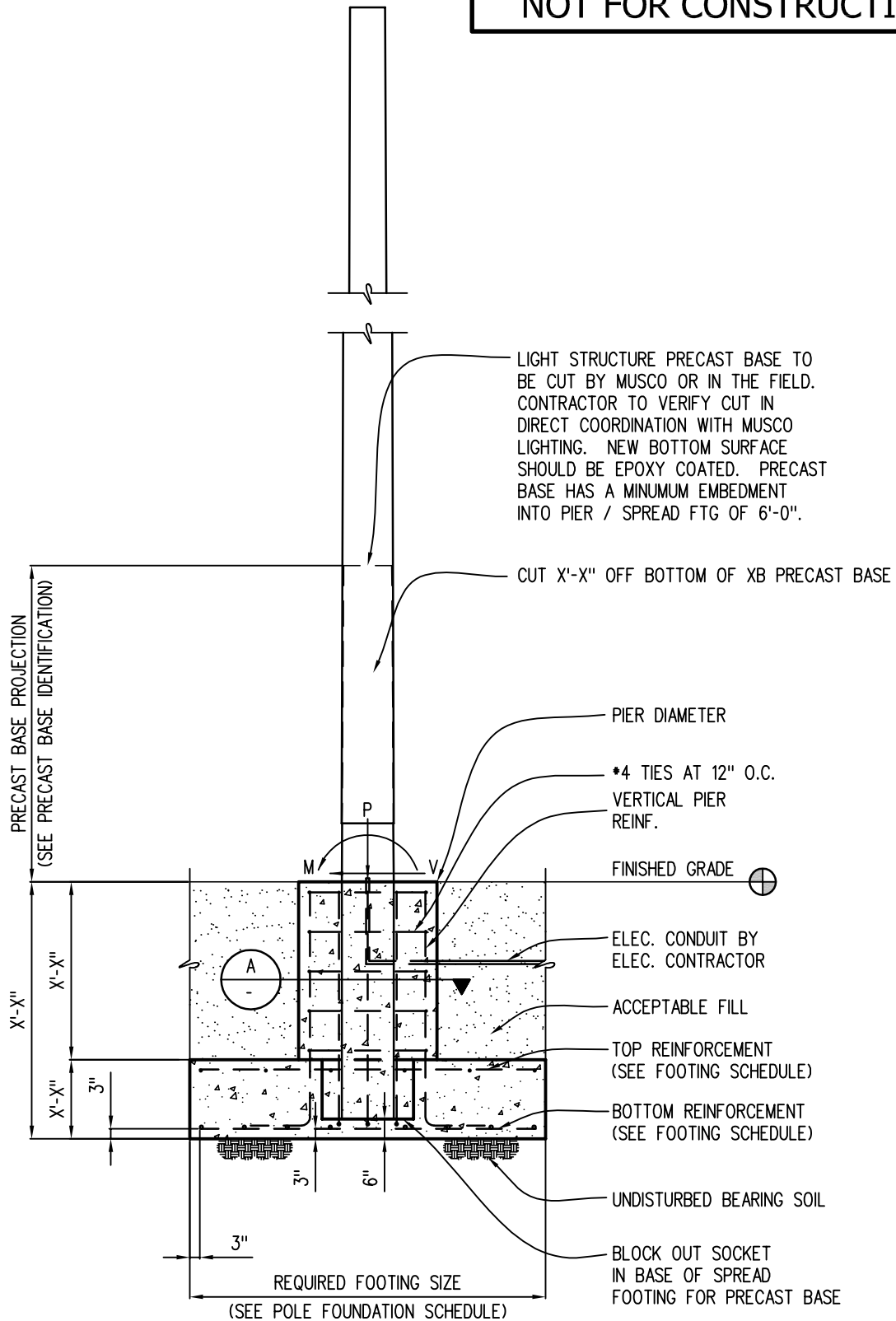
Poles S1 – S4; LSS70b 5 (5)

Recommended Spread Footing alternate foundation w\ Block-out;
8.5ft square x 2ft thick (bottom of footing at -6.5ft) with a 42in diameter pier (4.5ft high) in the middle that runs to the surface. Footing requires 48 - #6's, 12 each way, top and bottom for reinforcement to be symmetrically placed 3in off the bottom & 3in below the top. The pier requires 16 - #6 vertical dowels (with an 18in, 90 degree hook per dowel) with #4 ties at 12in on center (35in core diameter). Vertical dowels must be in place during pouring of spread portion of footing. Cut 6ft off the bottom of the precast base, epoxy coat the new bottom surface. The bottom of the precast base needs to be kept 6in off the bottom of the footing to allow for the bottom layer of reinforcement steel to be symmetrically placed (symmetrically place top layer around block-out as needed). This may be accomplished by using a block-out during the pouring of the spread portion of the footing. The block-out should be 18in deep and have a diameter of 24in. The cut precast base may then be centered inside the block-out when the pier is poured. The block-out may be left in place if it is steel or plastic, but must be removed if it is any other material. After concrete has cured, backfill remaining void above/around footing with acceptable structural fill. Special consideration should be given to the electrical conduit installation, as this design covers the conduit entrance with concrete. Use alternate grounding method. See generic details on next two pages.
Concrete strength is 4,500 psi.

If you have questions or require additional information, please contact me.

Rob Gray
Structural Engineers, P.C.
Ph#: 641-752-6334
Rob.Gray@SEPC.biz

GENERIC SPREAD FOOTING NOT FOR CONSTRUCTION



GENERIC SPREAD FOOTING ELEVATION

SCALE: NOT TO SCALE

Installation Instructions: **Spread Footing Lightning Ground**

Overview

Proper pole grounding is important to protect people and property from the hazards of lightning. Light-Structure Green™ installations with a spread-footing foundation require additional grounding as detailed below. This installation instruction is based on the recommendations found in NFPA 780 for lightning protection. Check local and other applicable codes for any additional requirements.

Tools/Materials Needed

Musco Supplied

- ☐ Grounding electrode conductor, 2/0 AWG, 36 ft (11 m) long
- ☐ Alternative foundation drawing

Contractor Supplied

- ☐ $\frac{5}{32}$ inch hex key
- ☐ Torque wrench with $\frac{5}{16}$ inch hex bit
- ☐ Rebar ties

Installation Procedure


1 After setting precast concrete base, but before pouring concrete, route grounding electrode conductor through base to pole foundation as shown. Leave approximately 3 ft (1 m) of conductor at top of base for termination.

2 Wrap grounding electrode around foundation as shown. Secure to reinforcing steel using rebar ties.

Note: A minimum of 2 inches (51 mm) of concrete must cover the grounding electrode conductor. Ensure minimum setback from concrete edge when installing.

3 Pour foundation as directed on alternative foundation drawing.

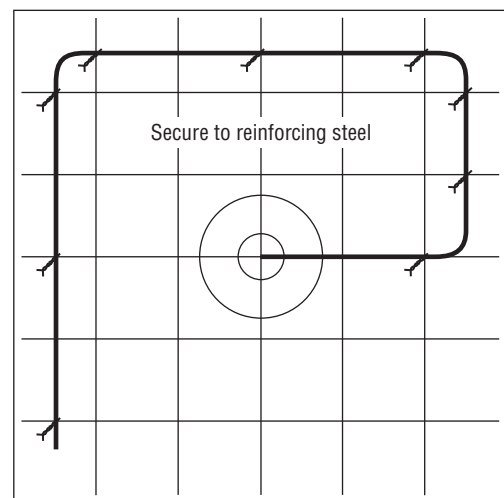
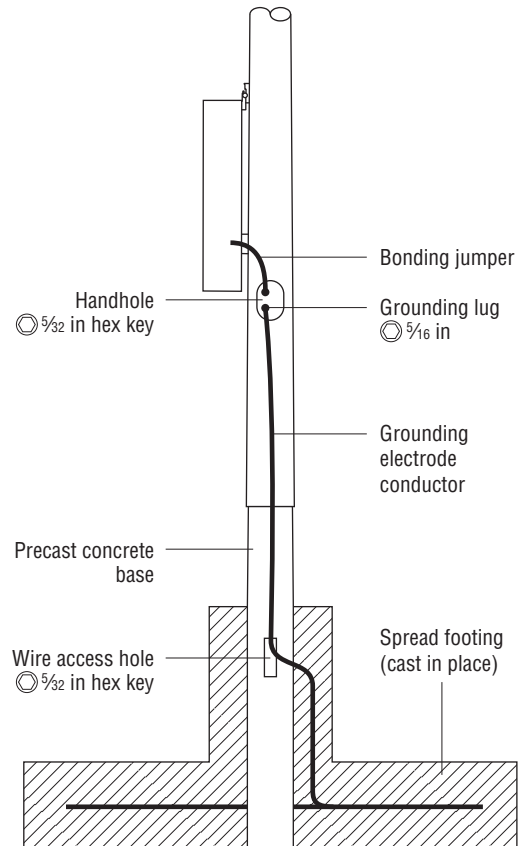
4 Install galvanized steel pole.

 See section: *Galvanized Steel Pole, Installation Instructions Light-Structure Green.*

5 After pole installation, open handhole on steel pole using $\frac{5}{32}$ inch hex key.

6 Bond grounding electrode conductor to lug inside handhole. Torque to 23 ft·lb (31 N·m) using torque wrench with $\frac{5}{16}$ inch hex bit.

7 Replace handhole cover.





MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: RZ-21-0002; 3281 Tucker Norcross/Spring Valley Change of Conditions

Issue:

The applicant is requesting a major modification to a large, unfinished, single-family attached development site, to remove and amend several conditions of zoning that currently exist on the property. The subject site is approximately 8.43 acres and was rezoned in DeKalb County, most recently in 2015, pursuant to CZ-15-19934, to allow for a development that was never constructed. The requested amendments to existing conditions specifically relate to allowing the proposed development to consist of 80 rental townhomes rather than fee-simple, owner-occupied, townhomes.

Recommendation:

Staff recommends denial of RZ-21-0002.

Planning Commission recommended denial at their October 21, 2021 meeting.

Background:

In 1978, the subject property was rezoned from R-85 to OI and was developed as a tennis center (CZ-78020). In 2003, the parcel was rezoned from O-I to RM-100, pursuant to CZ-02042, to allow for the development of 100 townhomes. Additional condition changes/rezoning requests followed in 2006, 2009, 2012, and 2015 (see staff report for more detail).

In 2020, the subject property received a Land Disturbance Permit (LDP) from the City of Tucker. Rocklyn Homes acquired the site and began development. During the land development stage, Rocklyn submitted the current application to amend several conditions in order to create a rental townhome product rather than a fee-simple development.

Summary:

While this proposed type of rental development would offer a unique housing type in the city, the proposed development and the modification requests do not meet the intent of the comprehensive plan nor does it provide sufficient protection to the surrounding residential properties. The condition changes that have been requested would further intensify the development and renege on conditions that were fundamental in previous approvals.



Land Use Petition: RZ-21-0002

Date of Staff Recommendation Preparation: September 28, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	3281 Tucker Norcross Road
APPLICATION NUMBER	RZ-21-0002
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 288
ACREAGE:	8.43 acres
EXISTING ZONING	MR-1 (Medium Density Residential – 1) CZ-15-19934
EXISTING LAND USE	Townhome Development Site
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Dennis Webb Jr. – Smith, Gambrell & Russell, LLP
OWNER:	Rocklyn Homes, Inc.
PROPOSED DEVELOPMENT:	Major modification to approved conditions of zoning for CZ-15-19934
STAFF RECOMMENDATION:	Denial of RZ-21-0002

Background

In 1978, the subject property was rezoned from R-85 to OI and was developed as a tennis center (CZ-78020). In 2003, the parcel was rezoned from O-I to RM-100, pursuant to CZ-02042, to allow for the development of 100 townhomes. With this rezoning, 25 conditions were placed on the property regarding required materials, minimum square footage requirements, sidewalks throughout the development, maximums on the number of bedrooms, guest parking spaces, additional plantings and a fence along properties to the south, and 50' landscape strips along the boundaries common to single-family residential zoning districts.

In 2004, the property changed hands and in 2006, the new owner, Spring Village Holdings, LLC, requested a change in conditions to delete condition 17, which limited the number of townhome units to 100 and prohibited more than 15% of the units be developed as three bedroom units. The change in conditions was approved, pursuant to Z-06-1164, to delete the 15% limitation on three-bedroom units and to reduce the total number of units to be developed from 100 to 88 units. In 2006, the infrastructure for the townhomes had been constructed, including street, curb, and gutter.

In 2009, Spring Village Holdings, LLC, requested to rezone the property from RM-100 to RM-75 for the development of an apartment community, consisting of 150 multi-family units, at a density of 17.80 units per acre. The applicant hosted a community meeting in which at least 32 community members attended. Through documentation obtained from DeKalb County, the applicant withdrew the 2009 application after being heard by the Board of Commissioners, however the reason for and date of the withdrawal were not included.

In 2011, a new owner, Cornerstone Bank, obtained the property. In 2012, Cornerstone Bank filed a major modification to allow for a change in conditions to eliminate the requirement for an acceleration/deceleration lane. The application was approved, pursuant to CZ-12-17717, with two additional conditions which required a sidewalk along the Norcross-Tucker Road frontage and required mitigation of stormwater run-off from the Spring Meadows subdivision to the north.

In 2015, Lifestyle Family Group, LLC was granted a major modification of approved zoning conditions, pursuant to RZ-15-19934. With this modification, 24 conditions were amended/added to the property including a reduction in the number of allowed units from 88 to 84, additional material standards for the townhomes, elimination of the requirement for internal sidewalks for lots adjacent to the detention pond, reduction in the number of required guest parking spaces, reduction in the required landscape strips adjacent to the Arbor Cove subdivision, and the addition of "a deed restriction to establish that a maximum of 25% of the units can be rented, including to tenants with hardships."

The previous zoning cases have had extensive neighborhood involvement, with many conditions being agreed upon by the North Tucker Neighborhood Alliance, the Spring Meadow Neighborhood Association, and DeKalb County. These conditions include the one limiting 25% of the units as rentals.

In 2020, the subject property received a Land Disturbance Permit (LDP) from the City of Tucker. Rocklyn Homes acquired the site and began development. During the land development stage, Rocklyn submitted the current application to amend several conditions in order to create a rental townhome product rather than a fee-simple development.

Project Data

The applicant is requesting a major modification to a large, unfinished, single-family attached development site, to remove and amend several conditions of zoning that currently exist on the property. The subject site is approximately 8.43 acres and was rezoned in DeKalb County, most recently in 2015, pursuant to CZ-15-19934, to allow for a development that was never constructed. The requested amendments to existing conditions specifically relate to allowing the proposed development to consist of 80 rental townhomes rather than fee-simple, owner-occupied, townhomes.

The subject property is a large, somewhat triangularly shaped parcel, located on the southeastern side of Tucker-Norcross Road, along the northern boundary of the city of Tucker. The site is completely graded and partially developed, consisting of a single-full access curb cut, at the northern end of the parcel, streets, curb and gutter. Proposed access to the site would be provided via two drives, a full access curb cut and a right-in/right-out only curb cut. A wireless telecommunications facility exists along the southern property line, near the southwestern corner of the parcel. A stream and its buffers are located in the northern portion of the site, adjacent to the northeastern property line.

The City of Tucker approved an administrative modification to condition 10 in December of 2019. This condition previously required a sidewalk to be constructed along the Tucker Norcross frontage of the subject parcel and also required that the sidewalk be extended to the south to Pleasentdale Road and north to the Gwinnett County boundary line. The modification allowed the cost of the sidewalk extensions (beyond the Tucker Norcross frontage) to be paid to the City of Tucker sidewalk fund in lieu of constructing the extensions. This was approved based on the challenges presenting with installing an off-site sidewalk.

The applicant is currently proposed to remove the words “fee-simple” from condition one and remove conditions 14 and 24 entirely.

1. The development shall consist of 87 ~~fee-simple~~ townhome units.

14. The developer shall establish a mandatory homeowners’ association and shall record a declaration of covenants, conditions, and restrictions. (CZ-02042)

24. The developer shall execute a deed restriction to establish that a maximum of 25% of the units can be rented, including to tenants with hardships.

If approved, the townhomes will remain under single ownership and will be leased individually to residents. Therefore, the developer is proposing to have all 80 units on one lot, similar to an apartment development. In discussions with the owner, Rocklyn Homes would be amenable to a condition placed on the property regarding short-term rentals and minimum lease lengths. Staff has included a condition regarding a 6-month lease minimum, per the applicant’s statement. A growing model in Georgia, the rental townhomes will be marketed to those with the means to own, but with the desire to rent.

The Tucker Zoning Ordinance does not define building types by ownership. A townhouse is defined as “one of a group of three or more single-family dwelling units, attached side-by-side by a common wall.” A multifamily dwelling unit is defined as “one or more rooms with a private bath and kitchen

facilities comprising an independent, self-contained residential unit in a building containing four or more dwelling units.”

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and ensuring that new development does not diminish the character of existing neighborhoods. While a greenspace is proposed central to the development, the comprehensive plan specifically states “higher density developments should incorporate suburban aesthetic of increased greenspace, such as cottage and courtyard developments, with large greens and an expanse of open and natural spaces.” The proposed development does not meet the intent of the Comprehensive Plan in terms of density, as the design considerations of the Suburban Character Area state up to 4 units per acre may be allowed. The proposed project would have a density of approximately 9.5 units per acre, more than double the recommended amount for this area. While the density is not increasing with this proposal, it is important to note that the development is not consistent with the Tucker Tomorrow Comprehensive Plan.

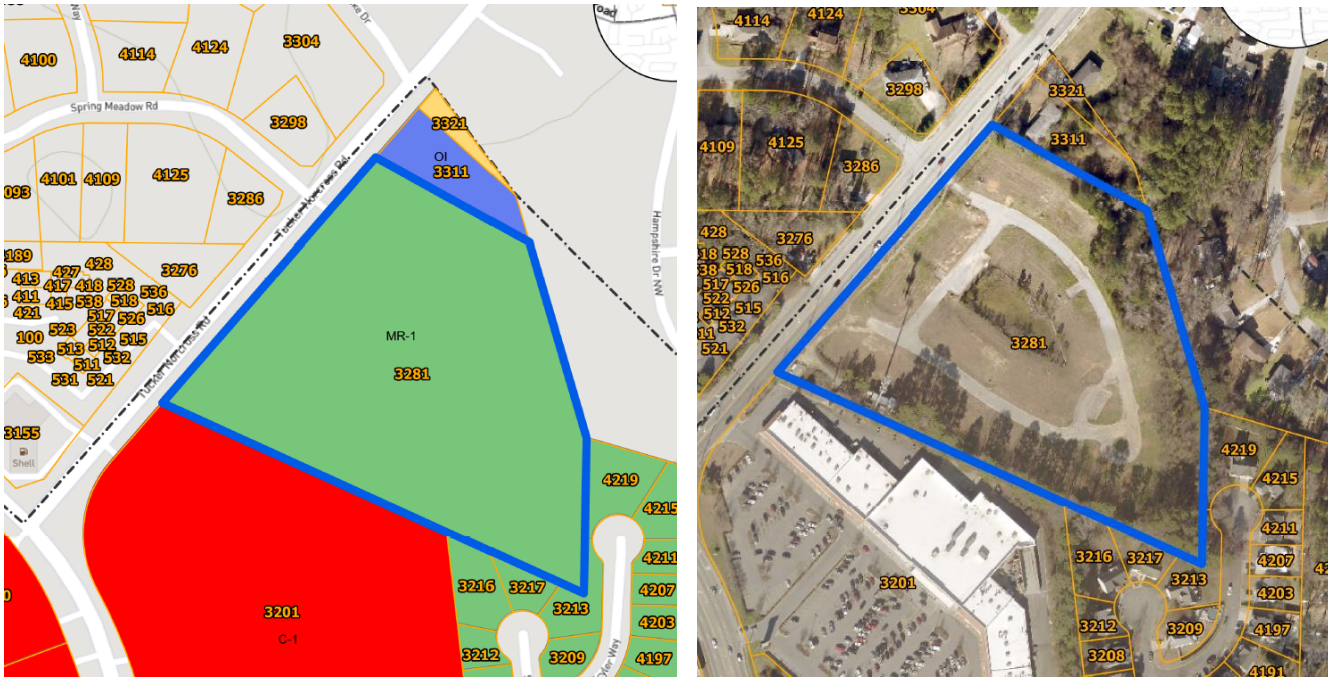
PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted two virtual public participation meetings. Because of improper notification to the City of the first meeting, a second public participation was required. Both meetings were held via zoom and lasted approximately an hour on August 5, 2021 and September 9, 2021, respectively. Prior to both meetings, the applicant mailed a letter and site plan explaining the proposed project to all property owners within 500 feet of the subject parcel. Forty people were in attendance for the August 5th meeting and 26 people were in attendance on September 9th.

During the meeting the project and site plan were explained to the audience, then questions were taken. Several questions were asked regarding traffic, schools, plans for a traffic signal at the entrance, limitations on guest occupancy, lease terms, onsite management, parking for residents and visitors, the leasing model (as opposed to a for-sale product), and screening for the residents in the neighboring homes. Other concerns related to sidewalks, the size of the units, amenities, and rental increases were also discussed. It does not appear that any changes were made to the site plan as a result of the Public Participation Meeting, although the request is only to change the conditions of approval, not the site plan

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	OI (Office-Institution)	Residential structure
Adjacent: East	Unincorporated Gwinnett County	Single-family detached homes
Adjacent: South	C-1 (Local Commercial) and MR-1 (Medium Density Residential -1)	Commercial shopping center and Arbor Cove Subdivision
Adjacent: West	Unincorporated DeKalb County	Condominiums



Zoning and Aerial Exhibits showing surrounding land uses.

Major Modification/Rezoning (RZ-21-0002)

The process and regulations for modifications and changes to approved conditions of zoning are outlined in Sec. 46-1565 of the City of Tucker Zoning Ordinance. This section falls under Division 3: Zoning and Comprehensive Plan Amendments and Procedures. Minor changes can be handled administratively, but major changes such as changes to conditions of approval require the full public hearing process and review. Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed development does not meet the policy and intent of the Tucker Tomorrow comprehensive plan. The subject property is located within the Suburban Character Area. The plan specifically states, "along major corridors, in areas of existing commercial development or with the redevelopment of existing multi-family developments, up to 6 units per acre may be allowed." While townhomes are consistent with the Suburban Character Area, the proposed density, at approximately 9.5 units per acre, is too great for this area.

Although the property was most recently rezoned in 2015, prior to the incorporation of Tucker, with an allowable density of over 9 units per acre, conditions were placed on the property ensuring that surrounding property owners were protected. Altering conditions that intensify the development would not appropriate in the Suburban Character Area.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

Amending and eliminating several conditions of zoning to allow for the development of an 80-unit rental townhome community that is under common ownership will permit a use that is not suitable in the view of the use and development of adjacent and nearby properties at the present time. The surrounding properties include neighborhood commercial uses to the south and are surrounded by single-family detached homes to the north, east, and part of the south. While townhomes do serve as an appropriate use transition from commercial to residential, incorporating a rental component more typically seen with multifamily would not be appropriate abutting single-family residential.

In 2003, a condition of zoning was placed on the property requiring “a 50-foot landscape strip to be placed along the boundaries common to single-family attached residential zoning districts to provide for infill plantings and additional landscaping”. In 2015, the condition was revised to read “a 30-foot landscape strip be provided along the southeastern boundary common to the Arbor Cove subdivision, and a 20-foot landscape strip shall be provided along the southern boundary common to the Arbor Cove subdivision.” The protection to adjacent single-family residences has already diminished during previous modifications. Increasing the intensity of the development while maintaining smaller buffers would not be suitable and could adversely impact adjacent residential properties.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property does have a reasonable economic use as currently zoned. The existing parcel is conditionally zoned to allow for fee simple, single-family attached homes. The developer purchased and began developing the site under the existing conditions.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The zoning proposal may adversely affect the existing use or usability of nearby properties as it intensifies a legal non-conforming development with limited buffers to protect neighboring properties.

5. 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 zoning proposal.

There are no known existing or changing conditions that affect the use and development of the parcels that are a part of this rezoning application. The developer closed on this property on December 14, 2020 and began developing the site under the 2015 zoning conditions.

Staff will note that there have been some delays in developing this site over the years. One big issue has been access to sewer. This portion of Tucker is currently served by Gwinnett Water Resources (DWR). However, Gwinnett County has demanded DeKalb Watershed find a way to divert all sewer back to DeKalb County treatment facilities. The developer previously had a written agreement with

Gwinnett, but the agreement was never signed so Gwinnett refused to honor it. The applicant is having to construct a pump station on site to address these issues. Staff does not consider these conditions to affect the condition changes that are a part of this application.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

When fully constructed, this development would be expected to generate 19 students: 6 at Livsey Elementary, 2 at Tucker Middle School, 6 at Tucker High School, 2 at other DCSD schools, and 2 at private schools. Although enrollment at Tucker HS, Tucker MS, and Livsey Elementary are already over capacity, the development is expected to have minimal impact.

A previous zoning condition required a minimum of a one-car garage. The City of Tucker code requires a two-car garage to provide ample parking. Providing one car garages could be burdensome on the streets within this development.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning modification request will not impact the physical site. However, it is important to note that there is a stream and associated buffers on the site.

CONCLUSION

While this type of rental development would offer a unique housing type in the city, the proposed development and the modification requests do not meet the intent of the comprehensive plan nor does it provide sufficient protection to the surrounding residential properties. The condition changes that have been requested would further intensify the development and remove conditions that were fundamental in previous approvals.

Therefore, Staff recommends **DENIAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition **RZ-21-0002**.

Should the governing bodies choose to approve the major modification/rezoning request, Staff recommends the request be approved subject to the following conditions, with amendments that no longer are relevant to the development (*changes in italics*):

1. The development shall consist of *80 rental* townhouse units.
2. The development shall substantially comply with the site plan *received by the City of Tucker Community Development Department on September 15, 2021*.
3. Where sidewalks cross driveways, pedestrian crossing strips shall be demarcated with striping, a contrasting texture or color, or a contrasting material.
4. An entrance door shall be provided for each of the units located in the nine-unit building next to Tucker-Norcross Road. A walkway shall connect each door to the sidewalk along Tucker-Norcross Road. At least 60% of each façade that faces Tucker-Norcross Road shall consist of window and door openings.
5. At least 30% of the side walls of the units with their sides to Tucker-Norcross Road shall consist of window or door openings.
6. A 30-foot landscape strip shall be provided along the southeastern boundary common to the Arbor Cove subdivision, and a 20-foot landscape strip shall be provided along the southern boundary common to the Arbor Cove subdivision. *No structure or patio shall encroach into the required landscape strips.*
7. Sidewalks shall be installed along public streets within the development, except in front of the lots that abut the detention structure located in the center of the development.
8. There shall be a minimum of 22 visitor parking spaces in addition to the spaces required for the townhouse units.
9. No acceleration and deceleration lane shall be required, in accordance with the letter dated April 4, 2012 from David W. Pelton to Michele L. Battle re: Spring Meadow Village Development on Tucker Norcross Road.
10. A sidewalk shall be constructed along the Tucker-Norcross Road frontage of the subject property and shall be extended to connect with the curb ramp at the Pleasantdale Road signal and with the existing sidewalk at the Gwinnet County line. The cost of the sidewalk extensions (beyond the Tucker Norcross frontage) can be paid to the City of Tucker sidewalk fund in lieu of constructing the extensions.
11. The storm water drainage system shall be modified to prevent stormwater runoff from the subject property from flowing to the northwest side of Tucker-Norcross Road, as follows:
 - a. Stormwater catch basins located on the southeast side of Tucker-Norcross Road, which abut the subject property, shall be connected to appropriately-sized and engineered stormwater drainage and detention pond facilities located on the Subject Property, in substantial accordance with the Grading and Drainage Plan for Spring Meadow Village dated June 12, 2012,

prepared by Southeast Engineering, Inc., dated and submitted to the Board of Commissioners on June 26, 2013, subject to any amendments and modifications required by the Dekalb County Land Development Department, and in accordance with all Dekalb County and Georgia regulations.

- b. Stormwater modification requirements shall be attached to the subject property in perpetuity.
 - c. Pursuant to Section 14-40(b)(16)(G), the County shall assume maintenance responsibility for the detention pond one (1) year after the release of the performance bond for subdivision streets.
 - d. The modifications to the stormwater drainage facilities must be completed prior to the issuance of any building permits for the subject property.
12. Exterior walls shall be finished in brick, stacked stone, hardi-plank siding, or a combination of same. No stucco or vinyl siding shall be used. The buildings that front Tucker-Norcross Road shall have the same exterior materials on all four sides and shall have rear garages.
 13. The average size of the townhouse units, calculated as an average of all the units in the development, shall be a minimum of 1,400 square feet.
 14. Each unit shall have a garage with space for a minimum of one passenger vehicle.
 15. The entrance sign(s) shall be constructed of brick or stacked stone and shall comply with the Sign Ordinance.
 16. Lights that illuminate all signs in the development shall be designed to eliminate glare.
 17. Utilities shall be underground.
 18. The southernmost access point on Norcross-Tucker Road shall be right-in, right-out only, subject to approval by the Department of Transportation.
 19. There shall be no access to the proposed development from Skylar Place or Skylar Way.
 20. In order to avoid confusion with the single-family subdivision across the street from the Subject Property, the words "Spring Meadow" will not be used in the name of the subdivision.
 21. *The minimum lease term shall not be shorter than 6 months.*
 22. *An on-site leasing office with property maintenance staff shall be provided to serve as a contact point for residents and local authorities.*

PLANNING COMMISSION RECOMMENDATION

Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **DENIAL** of **RZ-21-0002**.

Department Comments

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

Applicant has addressed sewer capacity.

DEKALB COUNTY FIRE MARSHAL OFFICE

- If building height is greater than 30 ft, the access road shall be 26 feet wide.
- Fire Lane signs shall be posted along fire apparatus access roads that are 20 to 26 feet wide.

DEKALB COUNTY SCHOOL SYSTEM

When fully constructed, this development would be expected to generate 19 students: 6 at Livsey Elementary, 2 at Tucker Middle School, 6 at Tucker High School, 2 at other DCSD schools, and 2 at private schools. Although enrollment at Tucker HS, Tucker MS, and Livsey Elementary are already over capacity, the development is expected to have minimal impact.

CITY ENGINEER

No comments.

LAND DEVELOPMENT

No comments.







Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
Email: LandDevelopment@tuckerga.gov
Website: www.tuckerga.gov

Land Use Petition Application Checklist

FOR ALL REZONINGS, COMPREHENSIVE PLAN AMENDMENTS, SPECIAL LAND USE PERMITS, MODIFICATIONS, AND CONCURRENT VARIANCES

REQUIRED ITEMS	NUMBER OF COPIES	CHECK <input checked="" type="checkbox"/>
One (1) digital copy of all submitted materials	• One (1) flash drive or CD in .JPEG, .PDF format	<input checked="" type="checkbox"/>
Pre-Application Meeting Form	• One (1) Copy	<input type="checkbox"/> N/A
Public Participation Report	• One (1) Copy	<input checked="" type="checkbox"/>
Application, Signature Pages, Disclosure Form	• One (1) Copy each	<input checked="" type="checkbox"/>
Written Legal Description	• One (1) 8 1/2" x 11" Legal Description	<input checked="" type="checkbox"/>
Boundary Survey and Proposed Site Plan (See Page 9 for Requirements)	• Five (5) Full-Size (24" x 36") Copies of each • One (1) 8 1/2" x 11" or 11x17 Site Plan of each	<input checked="" type="checkbox"/>
Building Elevations (renderings or architectural drawings to show compliance with Article 5)	• One (1) Copy	<input checked="" type="checkbox"/>
Letter of Intent	• One (1) Copy	<input checked="" type="checkbox"/>
Analysis of Standards/Criteria (See page 5)	• One (1) Copy (included in letter of intent)	<input checked="" type="checkbox"/>
Environmental Site Analysis Form	• One (1) Copy	<input checked="" type="checkbox"/>
Trip Generation Letter (ITE Trip Generation Manual)	• One (1) Copy	<input checked="" type="checkbox"/>

THE FOLLOWING ITEMS MAY BE REQUIRED

Traffic Impact Study (See Sec. 46-1309)	• Three (3) Copies	<input type="checkbox"/>
Development of Regional Impact Review Form	• Three (3) Copies	<input type="checkbox"/>
Environmental Impact Report	• Three (3) Copies	<input type="checkbox"/>
Noise Study Report	• Three (3) Copies	<input type="checkbox"/>
Other items required per the Zoning Ordinance	• Three (3) Copies	<input type="checkbox"/>

LAND USE PETITION FEE SCHEDULE

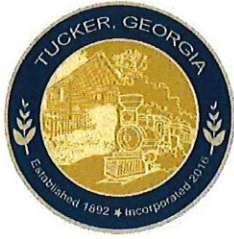
Residential Rezoning	\$500	<input type="checkbox"/>
Multifamily Rezoning	\$750	<input type="checkbox"/>
Non-Residential Rezoning	\$750	<input type="checkbox"/>
Special Land Use Permit	\$400	<input type="checkbox"/>
Comprehensive Plan Amendment	\$1000	<input type="checkbox"/>
Modification	\$250	<input checked="" type="checkbox"/>
Variance (includes Concurrent Variance)	\$300	<input type="checkbox"/>
Public Notice Sign Fee	\$80 (per required sign)	<input type="checkbox"/>

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Department

RZ-21-0002



Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
Email: permits@tuckerga.gov
Website: www.tuckerga.gov

Land Use Petition Application

Type of Application: ☐ Rezoning ☐ Comprehensive Plan Amendment ☐ Special Land Use Permit
☐ Concurrent Variance ☒ Modification

APPLICANT INFORMATION

Applicant is the: ☐ Property Owner ☒ Owner's Agent ☐ Contract Purchaser

Name: Dennis J. Webb, Jr. - Smith, Gambrell & Russell, LLP

Address: 1105 W. Peachtree Street, NE

City: Atlanta State: Georgia Zip: 30309

Contact Name: Dennis J. Webb, Jr.

Phone: 404.815.3500 Email: djwebb@sgrlaw.com

OWNER INFORMATION

Name: Rocklyn Homes, Inc.

Address: 3505 Koger Boulevard, Suite 275

City: Duluth State: Georgia Zip: 30096

Contact Name: Timothy Jenkins

Phone: 404.424.6723 Email: tjenkins@rocklynhomes.com

PROPERTY INFORMATION

Property Address: 3281 Tucker Norcross Road, Tucker, Georgia

Present Zoning District(s): MR-1 Requested Zoning District(s): --

Present Land Use Category: Suburban Requested Land Use Category: --

Land District: 18th Land Lot(s): 288 and 290 Acreage: 8.43

Proposed Development: Rental Townhomes

Concurrent Variance(s): N/A

RESIDENTIAL DEVELOPMENT

~~XXXXXX~~/Dwelling Units: 80 Dwelling Unit Size (Sq. Ft.): +/- 1,500 sf Density: 9.49 units /acre

NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots: -- Total Building Sq. Ft.: -- Density: --

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LAND USE PETITION APPLICATION - REVISED JULY 15, 2020

RZ-21-0002

APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.



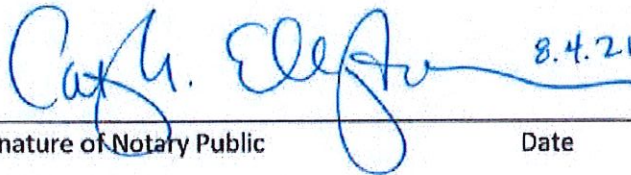
Signature of Applicant

8.4.21

Date

Dennis J. Webb, Jr. - Smith, Gambrell & Russell, LLP

Type or Print Name and Title



Signature of Notary Public

8.4.21

Date



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SEP 15 2021

Community Development
Department

LAND USE PETITION APPLICATION • REVISED JULY 16, 2020

R2-21-0002

PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), Modification (M) & Concurrent Variance (CV) in request of the items indicated below.

I, Rocklyn Homes, Inc., authorize, Dennis J. Webb, Jr./Smith, Gambrell & Russell, LLP
(Property Owner) (Applicant)

to file for _____, at 3281 Tucker Norcross Road, Tucker, GA
(RZ, CA, SLUP, M, CV) (Address)

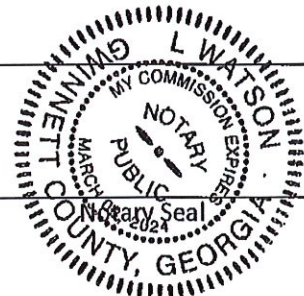
on this date July 22ND, 2021
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Rocklyn Homes, Inc. Timothy Jenkins 7-22-21
Signature of Property Owner Date

TIM JENKINS V.P.
Type or Print Name and Title

[Signature] 7/22/21
Signature of Notary Public Date



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RZ-21-0002

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4);

NO (if NO, complete only point 4)

1. CIRCLE ONE: **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1.

5.

2.

6.

3.

7.

4.

8.

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Kathryn M. Zickert

Signature: Kathryn M Zickert

Date: 07.22.2021

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RZ-21-0002

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Name (print) Dennis J. Webb, Jr.

Signature: 

Date: 07.22.2021

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B2-21-0002

DISCLOSURE REPORT FORM

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CIRCLE ONE:

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4. _____	8. _____

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Name (print) Rocklyn Homes, Inc.

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City of Tucker

Signature: Timothy A. Hudson

Date: 7-22-21

SEP 15 2021

Community Development
Department

RZ-21-0002

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4);

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In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

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2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

3. CAMPAIGN CONTRIBUTIONS:

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4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) J. Alexander Brock

Signature: _____

Date: 07.22.2021

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Department

RZ- 21-0002



Contact Name: Dennis J. Webb, Jr. - Smith, Gambrell & Russell, LLP

Meeting Date: August 5, 2021 and September 9, 2021

Meeting Location: via Zoom

Meeting Start Time: 7:00 pm

Meeting End Time: 8:00 pm

Number of people in attendance: 40 (08.05.21) and 26 (09.09.21)

Date of Filing of Land Use Petition Application:

General Introduction:

The Applicant held two community meetings via Zoom: one on August 5, 2021 and the second meeting on September 9, 2021. Notifications were sent to each property owner within 500' of the Subject Property (a copy of the letters and mailing lists are attached) listing the time and a link to the Zoom meeting. At each meeting, the Applicant gave an overview of the proposed Modification to allow 100% rental units at the townhome development. The Applicant then answered questions and concerns from the neighbors in attendance. A summary of each of the neighbors' questions and the responses are also attached to this report, as well as demonstratives used.

Summary of concerns and issues raised at the meeting: (See attached)

X
X

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Department

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B2-21-0002

- ☒ Meeting sign-in sheet (attendee report)
- ☒ Meeting minutes (question and answer report)
- ☒ Copy of the plan that was presented at the neighborhood meeting

I, the undersigned, as the applicant or an authorized representative of the applicant do solemnly swear and attest that the information provided is true and accurate. I have included a complete record of the neighborhood meeting, as well as an honest response regarding the intentions for development.

09.10.2021	
_____ Signature of Applicant or Authorized Representative	_____ Date
Dennis J. Webb, Jr. - Smith, Gambrell & Russell, LLP	09.10.2021
_____ Type or Print Name of Applicant or Authorized Representative	_____ Date

09.10.2021	
_____ Signature of Notary	_____ Date
My Commission Expires: 03.13.2025	



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SEP 15 2021

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R2-21-0002



EXCLUSIVE
HOMEBUILDER
OF THE
ATLANTA FALCONS

Dear Neighbors of 3281 Tucker Norcross Road,

Rocklyn Homes, Inc. is interested in developing the property at 3281 Tucker Norcross Road for a townhome community. To do so, Rocklyn Homes, Inc. seeks to modify the existing zoning condition that limits rental units to 25% or less. Rocklyn Homes, Inc. is proposing a professionally managed and maintained rental townhome community. The previously approved density, height, layout, and product type will not will not change. Further, all other zoning conditions on the property will remain unchanged.

Rocklyn Homes, Inc. has been voted Top 5 Home Builder by the Atlanta Business Chronicle. It builds quality single family homes and townhomes in Metro Atlanta providing outstanding pricing, features and buyer incentives.

The first step in the process is to hold a Public Participation (neighborhood) meeting with the community to discuss our proposal with you and receive feedback. This meeting is required before we can submit our application to modify the zoning conditions to the city. You are receiving this letter as you own property within 500' of our project. We hope you will be able to meet with us via ZOOM at the following time:

Meeting Date/Time: August 5, 2021 at 7:00 pm

Meeting Location: ZOOM:

<https://sgrlaw.zoom.us/j/96216056997?pwd=VzNaVIRZSWx4S1NTYzdtQWt1S2Fwdz09>

Or via call in: 301 715 8592 or 312 626 6799; Passcode: 590828

We have included a site plan of our current proposal in which we look forward to discussing with you and getting feedback on August 5, 2021. If you are unable to attend or wish to reach out beforehand, we can be reached at dwebb@sgrlaw.com or 404.815.3500.

A flyer outlining the land use petition process in the City of Tucker is also included. Questions relating to city matters can be addressed to info@tuckerga.gov.

Sincerely,
Rocklyn Homes, Inc.
RocklynHomes.com

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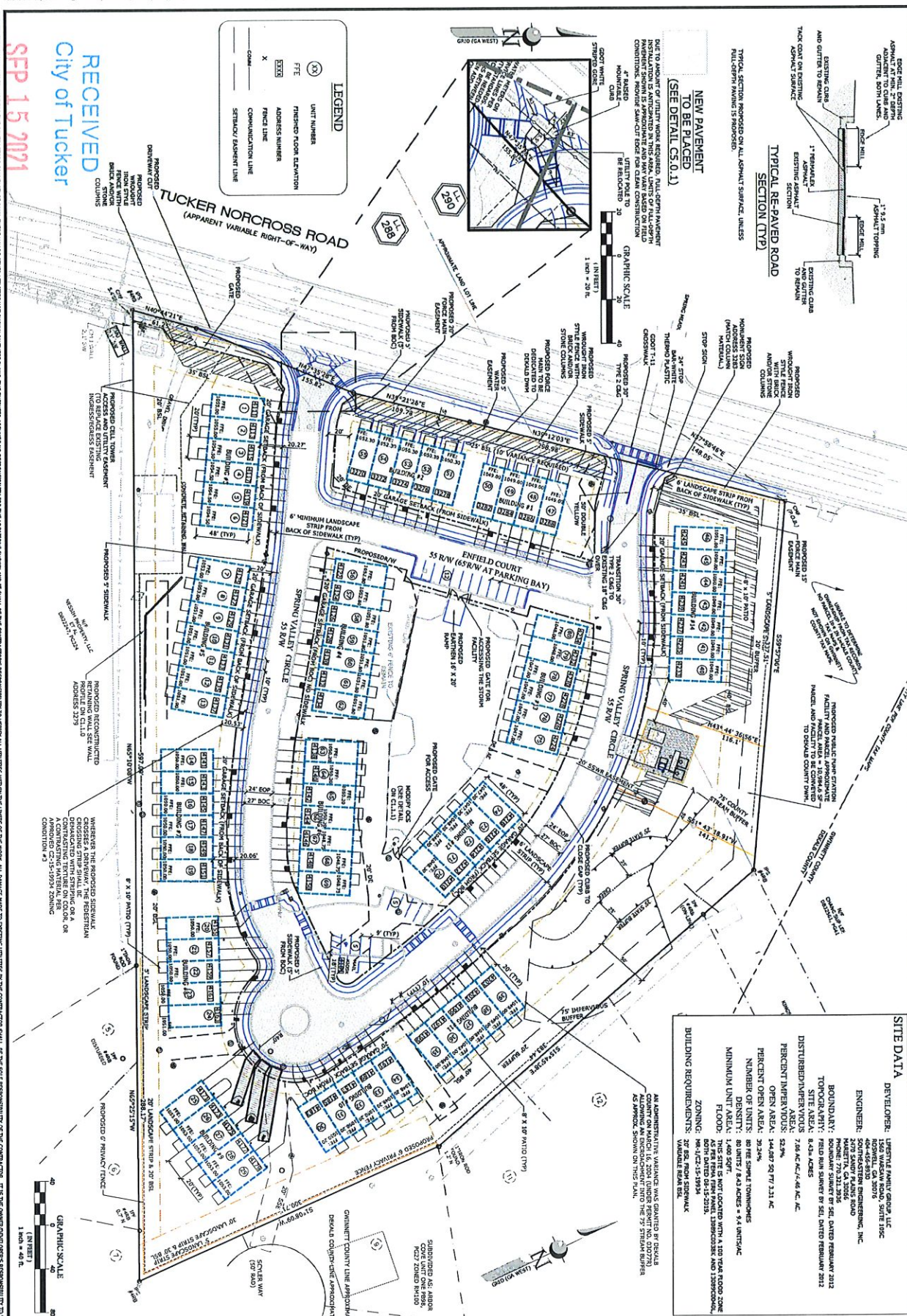
Community Development
Department

RZ-21-0002

Community Development
Department

RZ-21-0002

FILE NAME: I:\US1\CRKRS_PROD\CTSD\1162 Lifestyle Family Group, LLC\1162-19-055 Tucker Hercules Hdr\p\Construction\1162-19-055 C PLAN.dwg PLOT STYLE: SCS-BASE-H.ctb PLOT DATE: 10/19/2020 USER: WAYNE MATTHEW



SITE DATA.

DEVELOPER: LIFESTYLE FAMILY GROUP, LLC
10000 W. 10TH AVE., SUITE 100C
DENVER, CO 80202

ENGINEER: HENNINGSON ENGINEERING, INC.
404-465-8100
10000 W. 10TH AVE., SUITE 100C
DENVER, CO 80202

BOUNDARY: 8.24 ACRES
TOWNSHIP/PIVY: FIELD RUN SURVEY BY SELL DATED FEBRUARY 2012

SITE AREA: 7.68 AC. AC. / 6 AC. AC. AC.
8.24 ACRES

PERCENT IMPERVIOUS: 52.5%

OPEN AREA: 144,087 SQ. FT. / 3.1 AC

PERCENT OPEN AREA: 30.25%

NUMBER OF UNITS: 80 FIVE-SHED TOWNHOMES

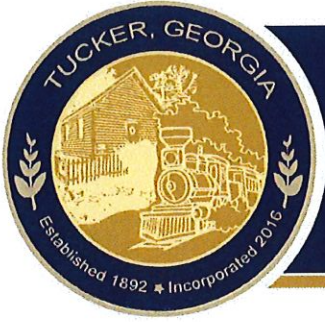
DENSITY: 80 UNITS / 8.24 ACRES = 9.7 UNITS/AC

MINIMUM LOT AREA: 1,068 SQ. FT.

FLOODS: LOT LOCATED WITH A 100 YEAR FLOOD ZONE
AS PER FEMA FIRM PANEL 13869C004C AND 13869C004D.
FLOOD ZONE 100-YEAR FLOOD 100-2015.

ZONING: R-10

BUILDING REQUIREMENTS: 37' MIN. STORY MAXIMUM
VARIABLE HEAD ELEV.



Land Use Petition Process for Rezoning, Special Land Use Permits, and Comprehensive Plan Amendments

1

Before filing, the applicant must host a neighborhood meeting per our Public Participation Plan requirements. The point of this meeting is for the potential applicant to discuss the proposal with neighbors and get feedback or requests for changes. More information can be found here: tuckerga.gov/ppp

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The applicant files an application with the City of Tucker. Deadlines are listed in the Land Use Petition Application.

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Staff completes a technical analysis of the application based on the City of Tucker Zoning Ordinance and Comprehensive Plan. This report includes a staff recommendation.

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The City holds Public Meetings

■ Planning Commission

- Staff presentation of the staff report and staff recommendation
- Public Hearing, which includes the applicant's presentation and a chance for the public to speak for or against the application
- The Planning Commission votes on a recommendation to forward to City Council

■ Mayor & City Council – 1st Read

- Staff presentation of the staff report and staff recommendation
- Public Hearing, which includes the applicant's presentation and a chance for the public to speak for or against the application

■ Mayor & City Council – 2nd Read

- Staff presentation of the staff report and staff recommendation
- Public Hearing, which includes the applicant's presentation and a chance for the public to speak for or against the application
- City Council can take a vote for final action on the request

Decisions on applications are based on the criteria that is set forth in the zoning ordinance. The criteria is located here: tuckerga.gov/landusecriteria

Please note that some applications, such as those that meet the Development of Regional Impact (DRI) standards, will have additional steps between filing an application and the Public Hearing.

For information about current land use petitions, including application information and public meeting dates, please visit: tuckerga.gov/landusepetitions

**John Gary Schaber
438 Bentley Place
Tucker, GEORGIA 30084**

**Zeddie Richardson Britt
277 Woodlands Court
Kingston Springs, Tennessee 37082**

**Howard Kinstlinger
1041 Bunker Drive
Akron, Ohio 44333**

**Hong Wang
Larry Zhang
3217 Seyler Place
Tucker, Georgia 30084**

**Jorge Bucio Garcia
Xochitl G Salgado Mojica
3393 Fowler Blvd
Lawrenceville, Georgia 30044**

**Deborah Aguirre
518 Bentley Place
Tucker, Georgia 30084**

**Errol Joseph Allen Jr
566 Northridge Crossing Drive
Atlanta, Georgia 30350**

**Bonnie Grizzard Payne
4211 Britt Road
Tucker, Georgia 30084**

**Herman B Rolader
Barbara Brady Rolader
4208 Britt Road
Tucker, Georgia 30084**

**Uvaldo L Flores
Maria Flores E Maria
315 Bentley Place
Tucker, Georgia 30084**

**Heather Lee Hartman
Anne M Brannon
4124 Spring Meadow Road
Tucker, Georgia 30084**

**Regina Elner
3151 Red Oak Trail
Decatur Georgia 30034**

**Kimberlee Marie Pryor
432 Bentley Place
Tucker, Georgia 30084**

**Aysha Akhtar
Syed A Awal
526 Bentley Place
Tucker, Georgia 30084**

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**Community Development
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Henry E Vera
Sereriano W Rivas
4207 Scyler Way
Tucker, Georgia 30084

Jennifer Dixon
427 Bentley Place
Tucker, Georgia 30084

Joseph Witkauskis
1821 Lightwood Lane NW
Acworth, Georgia 30102

Sandra L Millard
424 Bentley Place
Tucker, Georgia 30084

Barbara Brady Rolader
Andrea Bonnie Cole Wahl
4220 Britt Road
Tucker, Georgia 30084

3204 Tucker Norcross LLC
3204 Tucker Norcross Road
Tucker, Georgia 30084

Jan Pohl
435 Bentley Place
Tucker, Georgia 30084

Masooda Omar
523 Bentley Place
Tucker, Georgia 30084

Timothy Thompson
336 Bentley Place
Tucker, Georgia 30084

Susan R Gomez
Diana M Gomez
318 Bentley Place
Tucker, Georgia 30084

Jennifer Bruce
414 Bentley Place B1
Tucker, Georgia 30084

Bonnie Grizzard Payne
4211 Britt Road
Tucker, Georgia 30084

Rocklyn Homes Inc.
3505 Koger Blvd., Ste 275
Duluth, Georgia 30096

Roderick Williams
3325 Shorelake Drive
Tucker, Georgia 30084

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Ju Dong
4219 Scyler Way
Tucker, Georgia 30084

Melvin K Feng
Pei Jean Isabel Feng
4109 Spring Meadow Road
Tucker, Georgia 30084

Fikirete G Weldemedhin
Solomon Gebru
531 Bentley Place
Tucker, Georgia 30084

Arthur T Diaz
3009 Spring Branch Way
Tucker, Georgia 30084

Caroline Boccarossa
328 Bentley Place Unit 328
Tucker, Georgia 30084

Cue T Tran
651 Atwater Drive
Smyrna, Georgia 30082

Beatriz Avila Villarimo
535 Morning Mist Court
Alpharetta, Georgia 30022

Dashawn Bakari
P.O. Box 190306
Atlanta, Georgia 31119

Natalece Ivory Washington
337 Bentley Place
Tucker, Georgia 30084

Tracy L Jordan
3212 Scyler Place
Tucker, Georgia 30084

Alberto Andres Soler
238 Bentley Place
Tucker, Georgia 30084

Mahendra J Amin
Varsha Mahendra Amin
323 Bentley Place
Tucker, Georgia 30084

Jacob O Oluwoye
Oyedeji Oluwoye
102 Keystone Drive
Meridianville, Alabama 35759

Ashleigh N McNair
524 Bentley Place
Tucker, Georgia 30084

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Community Development

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R2-21-0002

Ethan Mayo
417 Bentley Place
Tucker, Georgia 30084

Marlen Llorente De Latorre
313 Bentley Place
Tucker, Georgia 30084

Connie Thornton Blasen
4203 Britt Road
Tucker, Georgia 30084

Alma M Smart
Emmett O Smart
433 Bentley Place
Tucker, Georgia 30084

Francisco Bravo
4167 Britt Road
Tucker, Georgia 30084

Erich McCall
425 Bentley Place
Tucker, Georgia 30084

Monica Ramirez Cruz
Sergio Ramirez Jimenez
516 Bentley Drive
Tucker, Georgia 30084

Frances McMahan
4085 Spring Meadow Road
Tucker, Georgia 30084

Eddie Grimes
Mary E Grimes
4215 Scyler Way
Tucker, Georgia 30084

Christopher A Ciamarra
521 Bentley Place
Tucker, Georgia 30084

Eric L Williams
331 Bentley Place
Tucker, Georgia 30084

Sofiya Shapiro
422 Bentley Place
Tucker, Georgia 30084

Rolando E Sanchez
Guevara De Sanchez M Lozano
513 Bentley Place
Tucker, Georgia 30084

Donald R Leady
3213 Scyler Place
Tucker, Georgia 30084

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**Sosna M Desta
3198 Scyler Place
Tucker, Georgia 30084**

**Lisa L Reichle
436 Bentley Place
Tucker, Georgia 30084**

**Debonee Morgan
Kenneth Daniel Howes
4189 Britt Road
Tucker, Georgia 30084**

**Katherine F Salvaras
1128 Country Ln Ne
Atlanta, Georgia 30324**

**Paul Weinfurter
16562 Oak Cir
Fountain Valley, California 92708**

**Yosief Amba
415 Bentley Place
Tucker, Georgia 30084**

**Michelle Engert Ramos
326 Bentley Place
Tucker, Georgia 30084**

**MH Tucker Square Holdings LLC
3717 Roswell Road Ne # 100
Atlanta, Georgia 30342**

**Girma Mammo
4203 Scyler Way
Tucker, Georgia 30084**

**Susana E Martinez Quintero
426 Bentley Place Unit 426
Tucker, Georgia 30084**

**Pablo Correa
Della Moore
527 Bentley Place
Tucker, Georgia 30084**

**Mong Chu Chen
5645 Grove Place Xing Sw
Lilburn, Georgia 30047**

**Daniel Sanchez
535 Bentley Place
Tucker, Georgia 30084**

**Nermin Ljubovic
423 Bentley Place
Tucker, Georgia 30084**

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RZ-21-0002

**Josue Etienne
522 Bentley Place
Tucker, Georgia 30084**

**Abel Henry
532 Bentley Place
Tucker, Georgia 30084**

**Bakul M Mehta
321 Bentley Place
Tucker, Georgia 30084**

**Feyisa Gemed
Aregash Akanaw
327 Bentley Place
Tucker, Georgia 30084**

**Annie Laura Haygood
3337 Shorelake Drive
Tucker, Georgia 30084**

**Hugo Rebollar Salinas
Rubicele VeGeorgia Sanchez
4187 Scyler Way
Tucker, Georgia 30084**

**Leonardo Visi
3202 Scyler Place
Tucker, Georgia 30084**

**Megan C Ahrens
538 Bentley Place # 180
Tucker, Georgia 30084**

**Russell Brantley Mathis Jr
4179 Britt Road
Tucker, Georgia 30084**

**To NGa Thi Dinh
4530 Fairway View Court
Duluth, Georgia 30096**

**Robert B Bailey
4195 Britt Road
Tucker, Georgia 30084**

**Richard Burris
Lisa Burris
Po Box 425
Headland, Alabama 36345**

**Thais Lemos Do Nascimento
3209 Scyler Place
Tucker, Georgia 30084**

**Jonathan W Jimenez
Gabriela Reyes Gonzalez
3234 Tucker Pointe Drive
Tucker, Georgia 30084**

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R2-21-0002

**Elliot W Stone
304 Hillcrest Ave
Warner Robins, Georgia 31088**

**Araujo Chris Leonel Ramirez
Velazquez Leonel Marti Ramirez
3298 Tucker Norcross Road
Tucker, Georgia 30084**

**Muhammad F H Yusuf
Saleha Nargis Yusuf
3216 Scyler Place
Tucker, Georgia 30084**

**Robert Pendergrast
2025 Albion Loop
North Augusta, South Carolina 29860**

**Kaleb G Teklemariam
324 Bentley Place
Tucker, Georgia 30084**

**James L Minyard
Angela Minyard
P.O. Box 88535
Atlanta, Georgia 30356**

**Jose Mario Aguinada
3286 Tucker Norcross Road
Tucker, Georgia 30084**

**Romelio R Solis
Ninfa N Solis
3238 Tucker Pointe Drive
Tucker, Georgia 30084**

**Joyce H Israel
205 E Russell St
Enterprise, Alabama 36330**

**Michael E Willingham
4183 Scyler Way
Tucker, Ga 30084**

**Mary Lynne Bailey
4161 Britt Road
Tucker, Georgia 30084**

**Barbara Ann Cohen
4093 Spring Meadow Road
Tucker, Georgia 30084**

**Carla C Hill
517 Bentley Place
Tucker, Georgia 30084**

**Rasha M Elmobashar
236 Bentley Place
Tucker, Georgia 30084**

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R2-21-0002

**Nermin Ljubovic
423 Bentley Place
Tucker, Georgia 30084**

**Yongfu Ge
505 Gavenwood Drive
Lawrenceville, Georgia 30044**

**Melanie Singleton
512 Bentley Place
Tucker, Georgia 30084**

**Great House Decatur LLC
2958 Pangborn Road
Decatur, Georgia 30033**

**Bentley Place Condominiums LLC
1760 Bass Road
Macon, Georgia 31210**

**Michael Chang
317 Bentley Place
Tucker, Georgia 30084**

**Terry W Kay
Tommie D Kay
314 Bentley Place
Tucker, Georgia 30084**

**Andenet Mengistu
325 Bentley Place
Tucker, Georgia 30084**

**Northfork Bank
P.O. Box 259039
Plano, Texas 75025**

**Robyn C Stokes
2500 Shallowford Road NE # 8532
Atlanta, Georgia 30345**

**Varavudth Rattanawan
434 Bentley Place
Tucker, Georgia 30084**

**Angelicia Barron
4197 Scyler Way
Tucker, Georgia 30084**

**Jeffrey Castillo
226 Bentley Place
Tucker, Georgia 30084**

**Alyssa L Takatori
437 Bentley Place
Tucker, Georgia 30084**

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RZ-21-0002

**James Brandon Chewning
338 Bentley Place
Tucker, Georgia 30084**

**Marcel Drollinger
4125 Spring Meadow Road SW
Tucker, Georgia 30084**

**Adel Yarbou
3070 Mercer Drive Ste 200
Atlanta, Georgia 30341**

**Alisha Investments Inc.
3155 Pleasantdale Road
Tucker, Georgia 30084**

**Katherine Tess Rattanawan
311 Bentley Place
Tucker, Georgia 30084**

**Chang Sup Lee
3321 Tucker Norcross Road
Tucker, Georgia 30084**

**Kyle Lathon
Christine Dempster
431 Bentley Place
Tucker, Georgia 30084**

**Kofan LLC
6595 Roswell Road Ste G794
Atlanta, Georgia 30328**

**L. Rahman MD
Sm Rikta Begum
4114 Spring Meadow Road
Tucker, Georgia 30084**

**Annette Ryans
3208 Scyler Place
Tucker, Georgia 30084**

**Carmel Lewis
Martin Judene Wint
416 Bentley Place
Tucker, Georgia 30084**

**Gena Marie Diaz
515 Bentley Place
Tucker, Georgia 30084**

**Pleasantdale Village L P
Po Box 738
Estero, Florida 33929**

**Viktoria Alexandrou
4211 Scyler Way
Tucker, Georgia 30084**

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Community Development

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RZ-21-0002

**Edgar W Tingley
Karen M Tingley
3668 Prestwick Drive
Tucker, Georgia 30084**

**Mark Cohn
Jill Cohn
525 Bentley Place
Tucker, Georgia 30084**

**Timothy Daniel
533 Bentley Place
Tucker, Georgia 30084**

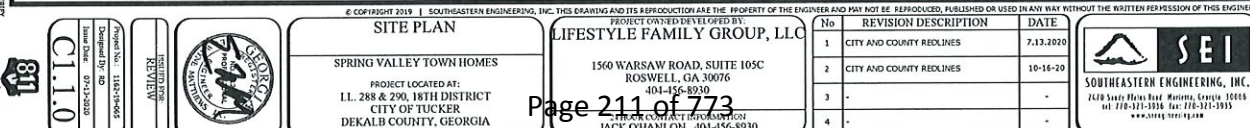
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RZ-21-0002



AUGUST 5, 2021 MEETING SUMMARY

Question	Answer
How many family members can live in one unit?	The maximum occupancy is defined by the following: (1) the Tucker Zoning Code; and (2) the Fire Code.
Traffic safety is our main concern. Has there been any consideration of the impact that this will have on congestion?	The impacts of the development are no different. 84 units have been approved and Rocklyn is proposing 80 units. So, the development will result in a net decrease in traffic impacts overall. Further, the traffic impacts of 80 units are the same under both an ownership and rental structure.
How long will Rocklyn continue to manage this property?	Rocklyn has engaged Lincoln Property Company to manage the property. Rocklyn intends to own the property long-term but did not specify a duration.
What is the size of each unit? 2 BR or 3 BR?	All units are 3 Bedroom.
Is this a rent to own situation?	No.
Are you going to be installing sidewalks along the Tucker-Norcross property line?	Yes, and we showed a streetscape elevation at the second meeting.
How long does Rocklyn PLAN to own it? do they plan to convert to condo after a few years or sell it as an investment property as soon as it is fully leased?	Rocklyn Homes, Inc. plans to own the property long-term as a rental townhome community.
We have a 25% cap in our community, if this is changed to 100%, will that not force other communities to follow suit?	No. The change will only affect this one community.
What are the amenities in the community (green space, pool, playground)?	There is only one amenity: green space. There will be no pool, tennis courts, etc.
On average, how much did Lincoln increase rents for tenants in place this year?	The long-term national average is 3-4%.

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EXCLUSIVE
HOMEBUILDER
OF THE
ATLANTA FALCONS

Dear Neighbors of 3281 Tucker Norcross Road,

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The first step in the process is to hold a Public Participation (neighborhood) meeting with the community to discuss our proposal with you and receive feedback. Rockland already held a meeting on August 5th. The meetings are required before we can submit our application to modify the zoning conditions to the city. You are receiving this letter as you own property within 500' of our project. We hope you will be able to meet with us via ZOOM at the following time:

Meeting Date/Time: September 9, 2021 at 7:00 pm

Meeting Location: ZOOM: <https://zoom.us/join>

Webinar ID: 933 3565 8154 - Passcode: 511252

Or via call in: 301 715 8592 or 312 626 6799

We have included a site plan of our current proposal in which we look forward to discussing with you and getting feedback on September 9, 2021. If you are unable to attend or wish to reach out beforehand, we can be reached at dwebb@sgrlaw.com or 404.815.3500.

A flyer outlining the land use petition process in the City of Tucker is also included. Questions relating to city matters can be addressed to info@tuckerga.gov.

Sincerely,
Rocklyn Homes, Inc.
RocklynHomes.com

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THE UTILITIES SHOWN HEREIN ARE FOR THE CONTRACTORS CONSIDERATION ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATION OF UTILITIES. THE ENGINEER MAKES NO GUARANTEES, WARRANTIES OR REPRESENTATIONS, INCLUDING DISTINGUISHING UTILITY LOCATION, CAPACITY OR CONDITION, EXISTING UTILITY CAPACITY PRIOR TO INITIATING DESIGN. THE ENGINEER MAKES NO GUARANTEES, WARRANTIES OR REPRESENTATIONS, INCLUDING DISTINGUISHING UTILITY LOCATION, CAPACITY OR CONDITION.

IN THE EVENT OF ANY DAMAGE TO EXISTING UTILITIES BY THE CONTRACTOR, IT IS THE OWNER/DEVELOPER'S RESPONSIBILITY TO VERIFY



grad Dy: NO
 Date: 07-13-2020
 C1.1.0

ISSUED FOR:
REVIEW



SPRING VALLEY TOWN HOMES
PROJECT LOCATED AT:
LL 288 & 290, 18TH DISTRICT
CITY OF TUCKER
DEKALB COUNTY, GEORGIA

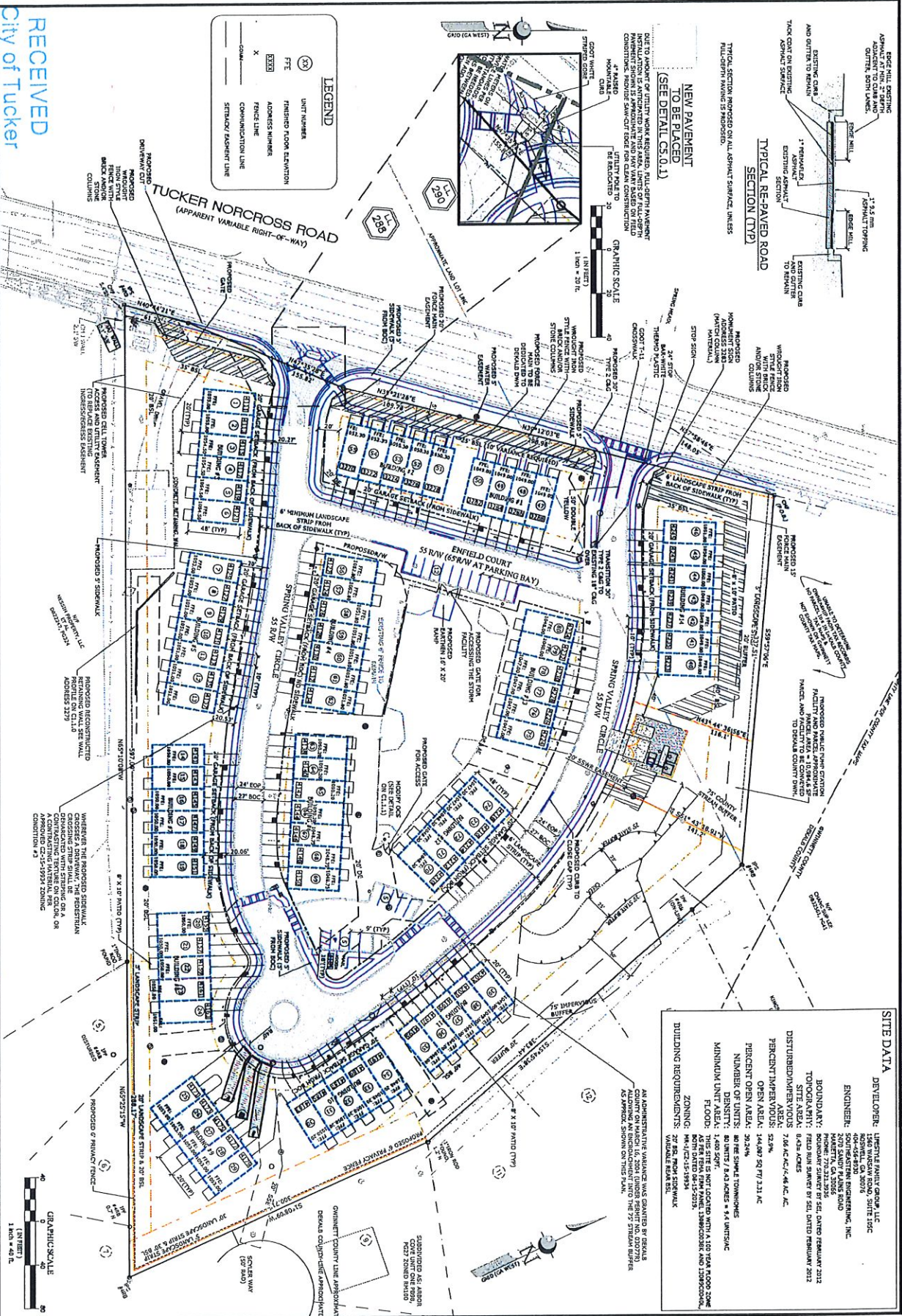
1560 WARSAW ROAD, SUITE 105C
ROSWELL, GA 30076
404.456.8970

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24 HOUR CONTACT INFORMATION
LACEY, OTTAWA, 404.456.8970

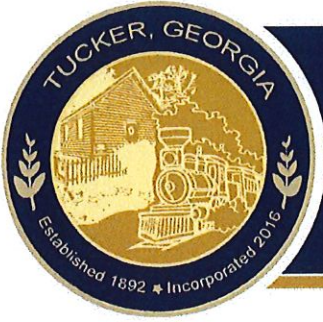
AP#: 3055765

1167.10.649



No	REVISION DESCRIPTION	DATE
1	CITY AND COUNTY REDLINES	7.13.2020
2	CITY AND COUNTY REDLINES	10-16-20
3	.	.
4	.	.





Land Use Petition Process for Rezoning, Special Land Use Permits, and Comprehensive Plan Amendments

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The applicant files an application with the City of Tucker. Deadlines are listed in the Land Use Petition Application.

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Staff completes a technical analysis of the application based on the City of Tucker Zoning Ordinance and Comprehensive Plan. This report includes a staff recommendation.

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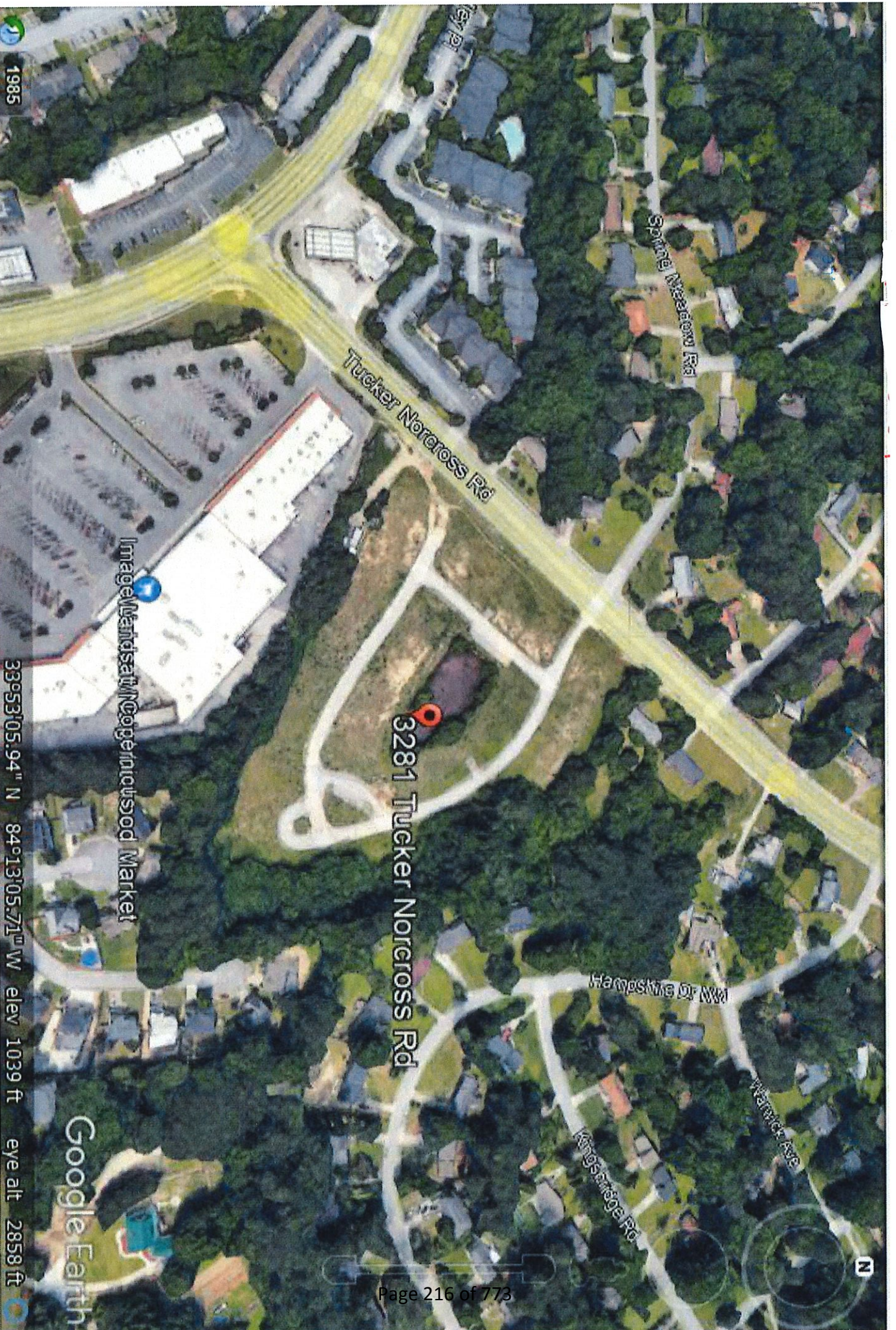
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 - Public Hearing, which includes the applicant's presentation and a chance for the public to speak for or against the application
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Please note that some applications, such as those that meet the Development of Regional Impact (DRI) standards, will have additional steps between filing an application and the Public Hearing.

For information about current land use petitions, including application information and public meeting dates, please visit: tuckerga.gov/landusepetitions



R2-21-0002

SITE DATA

DEVELOPER: LIFESTYLE REALTY GROUP, LLC
1560 WALKWAY ROAD, SUITE 100C
HOUSTON, TEXAS 77057
409-465-9300

ENGINEER: SCOTT STEINBERG ARCHITECTURAL INC.
10000 WEST 10TH STREET, SUITE 100
HOUSTON, TEXAS 77036
281-461-1100

BOUNDARY: BOUNDARY SURVEY BY S&L DATED FEBRUARY 2012
TOPOGRAHY: FIELD AND SURVEY BY S&L DATED FEBRUARY 2012
SITE AREA: 8.43 ACRES
DISTURBED/INTERFERED: 7.99 AC AC/46 AC AC
PERCENT IMPERVIOUS: 52.3%

OPEN AREA: 1.44/0.92 BY 7.31 AC
PERCENT OPEN AREA: 30.24%

NUMBER OF UNITS: 80 TO 200+ SINGLE TOWNHOUSES
DENSITY: 1.80 UNIT/AC
MINIMUM UNIT AREA: 1,400 SQFT
FLOOD: FLOOD ZONE COASTAL WITH OCEAN WAVE 1-A15 WITH FLOOD ZONE ACFT 1-B1A PER FLOOD HAZARD DISSEMINATION AND DETERMINATION, 1999, FIRM NO. HCA-15-0015.

ZONING: 27 RES. HIGH DENSITY
VARIABLE RETAIL BDL



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SEPTEMBER 9, 2021 MEETING SUMMARY

Question	Answer
Can you elaborate on what you mean by 100% will be owned by Rocklyn- so no one can purchase?	Rocklyn Homes, Inc. will own all 80 units. None will be sold to individual owners.
Is Rocklyn paying for the pumping station?	Yes.
Where will the pumping station located?	The location of the pump station is shown on the site plan and we pointed it out on the second call.
Are you counting the storm water detention facility as "green space" ?	Yes.
Are the driveways tandem?	Yes.
How long will the typical lease be for each unit?	The typical lease term is one year.
What schools will serve this area? How many students feeding into Tucker area schools?	We did not have an answer to this question at the meeting and stated that we would provide this information in the Statement of Intent, which we have since done. The school impact will be similar, however where the units are owned or rented.
Will any storm or other water run off be directed under the Tucker Norcross Road into the stream and water system across the street into the Spring Meadow Neighborhood subdivision?	SGR does not recall the answer to this question. It was answered by the architect.
Will the community be gated?	No.
How will the traffic be affected on Tucker Norcross Road-- how will it affect the neighbors?	The current request will not change the traffic impact of what has already been approved. It will be the same whether the units are owned or rented.
Have you applied the for the change in zoning with the City of Tucker?	Not yet. Rocklyn plans to file on September 13.
Where will renters park their vans, construction vehicles?	Each unit has a parking space - construction vehicles are prohibited.
Will there be a stoplight added to make a left out of the community?	There are no plans to add a stoplight and one would only be approved after a warrant study.
Will industrial vehicles be allowed in the neighborhood?	No. The lease will prohibit industrial vehicles.
Is Rocklyn willing to commit to a memo of understanding with specific stipulations?	Rocklyn Homes, Inc. is willing to discuss this with the neighbors.
How can you control the guests that stay for months at a time and park their vans at the property?	There will be a 14-day limitation on guest occupancy, as set by national standards.
How will students be able to walk to the Tucker schools from this site?	We did not have an answer to this question but offered to get the information if requested by follow-up.
Can restrictions against construction trucks and vans be written into the lease?	Yes.
When does Rocklyn anticipate starting the build out?	After entitlements are secure, build-out of the rental community will take 8-months.
Will there be visitor limitations to 14 days?	Yes. The limitation will be specified in the lease.
Is the onsite management in an office, and what would the hours be for that office?	Lincoln Property Company will be on-site every day but will not maintain an office on the property.
Has a temporary power permit been issued?	No.
Could Rocklyn deal with any of the covid "can't evict laws" apply for renters here?	We believe the referenced laws apply to all tenants in the United States so, if still in place, it would apply.
How do we communicate with Rocklyn and Lincoln Properties in the future?	Rocklyn offered to provide the neighbors with 24-hour contacts.

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How will school buses get through the community?	We did not have an answer to this question, but generally pick up locations are established by the school district. This development will not be gated so there is the opportunity for pick up points internal to the site.
What was the completion time for rental versus owner occupied units?	8 months for the rental development; all 80 rental units will be constructed at the same time. As for "for sale" units, build out will take several years as construction would be phased.

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LEGAL DESCRIPTION

ALL THAT TRACT or parcel of land lying and being in Land Lot 288 and 290 of the 18th District of DeKalb County Georgia and being more particularly described as follows:

BEGINNING at a concrete monument found on the Southeasterly right-of-way of Tucker Norcross Road (having a variable right-of-way) as measured NORTH 57 DEGREES 58 MINUTES 46 SECOND EAST a distance of 148.05 feet from the intersection of the centerline of Tucker Norcross Road and Spring Meadow Road; THENCE departing said right-of-way and proceeding SOUTH 59 DEGREES 57 MINUTES 06 SECONDS EAST a distance of 337.51 feet to a point on the Northwesterly right-of-way of Kingsbridge Road (not open); THENCE proceeding SOUTH 15 DEGREES 45 MINUTES 38 SECONDS EAST a distance of 383.44 feet to a point; THENCE proceeding SOUTH 01 DEGREE 08 MINUTES 09 SECONDS WEST a distance of 300.71 feet to a point; THENCE proceeding NORTH 65 DEGREES 25 MINUTES 15 SECONDS WEST a distance of 288.17 feet to a point and one-inch iron rod found; THENCE proceeding NORTH 65 DEGREES 10 MINUTES 08 SECONDS WEST a distance of 597.09 feet to a point on the aforesaid right-of-way of Tucker Norcross; THENCE proceeding NORTH 40 DEGREES 44 MINUTES 21 SECONDS EAST along said right-of-way a distance of 61.25 feet to a point; THENCE proceeding NORTH 47 DEGREES 35 MINUTES 28 SECONDS EAST a distance of 155.82 feet to a point; THENCE proceeding NORTH 39 DEGREES 21 MINUTES 28 SECONDS EAST a distance of 109.78 feet to a point; THENCE proceeding NORTH 39 DEGREES 12 MINUTES 03 SECONDS EAST a distance of 298.98 feet to a point and POINT OF BEGINNING.

Said parcel contains 367,029 square feet or 8.43 acres.

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CMC-03/07/12



LINE TABLE		
LINE	BEARING	LENGTH
L1	N40°44'21"E	61.25'
L2	N47°35'28"E	155.62'
L3	N39°21'28"E	109.78'
L4	N39°12'03"E	298.98'

1	NAME	BRUCE G. COOPER
2	DATE OF BIRTH	12/15/47
3	DATE OF DEATH	12/15/47
4	PLACE OF BIRTH	CHICAGO, ILL
5	PLACE OF DEATH	CHICAGO, ILL
6	SEX	M
7	RACE	W
8	RELIGION	PROTESTANT
9	EDUCATION	GRADUATE
10	DATE OF ENTRY	12/15/47
11	DATE OF RELEASE	12/15/47
12	DATE OF REENTRY	12/15/47
13	DATE OF DEPORTATION	12/15/47
14	DATE OF REENTRY	12/15/47
15	DATE OF DEPORTATION	12/15/47
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97	DATE OF DEPORTATION	12/15/47
98	DATE OF REENTRY	12/15/47
99	DATE OF DEPORTATION	12/15/47
100	DATE OF REENTRY	12/15/47

1. **RESEARCH**—The Department of Health and Human Services has announced that it will conduct a study to determine the extent of the problem of child abuse and neglect in the United States. The study will be conducted by the National Center for Child Abuse and Neglect, which is part of the Department's Administration for Children and Youth. The study will be the first comprehensive national study of child abuse and neglect since the 1970s. It will involve a survey of children's protective services agencies, law enforcement agencies, and health care providers. The study will also involve interviews with children and their families. The results of the study will be used to develop national standards for child abuse and neglect reporting and investigation, and to develop national training standards for child abuse and neglect investigators.

2. **LEGISLATION**—The Department of Health and Human Services has announced that it will introduce legislation to amend the Child Abuse and Neglect Reporting Act of 1974. The proposed amendments would require states to establish a national system for the collection and dissemination of information on child abuse and neglect. The proposed amendments would also require states to establish a national system for the investigation and prosecution of child abuse and neglect cases. The proposed amendments would also require states to establish a national system for the provision of services to children and their families who are victims of child abuse and neglect.

3. **GRANTS**—The Department of Health and Human Services has announced that it will award grants to states to support the development and implementation of child abuse and neglect reporting and investigation systems. The grants will be awarded to states that have demonstrated a commitment to the development and implementation of such systems. The grants will be used to support a variety of activities, including the development of training materials, the development of reporting and investigation procedures, and the provision of technical assistance to state child abuse and neglect investigators.

4. **TRAINING**—The Department of Health and Human Services has announced that it will develop and implement a national training program for child abuse and neglect investigators. The program will be designed to provide investigators with the knowledge and skills necessary to effectively investigate and prosecute child abuse and neglect cases. The program will be developed in collaboration with the National Center for Child Abuse and Neglect, and will be implemented through a network of state child abuse and neglect training centers.

5. **PREVENTION**—The Department of Health and Human Services has announced that it will develop and implement a national program to prevent child abuse and neglect. The program will be designed to identify and intervene with families at risk of child abuse and neglect. The program will be developed in collaboration with the National Center for Child Abuse and Neglect, and will be implemented through a network of state child abuse and neglect prevention centers.

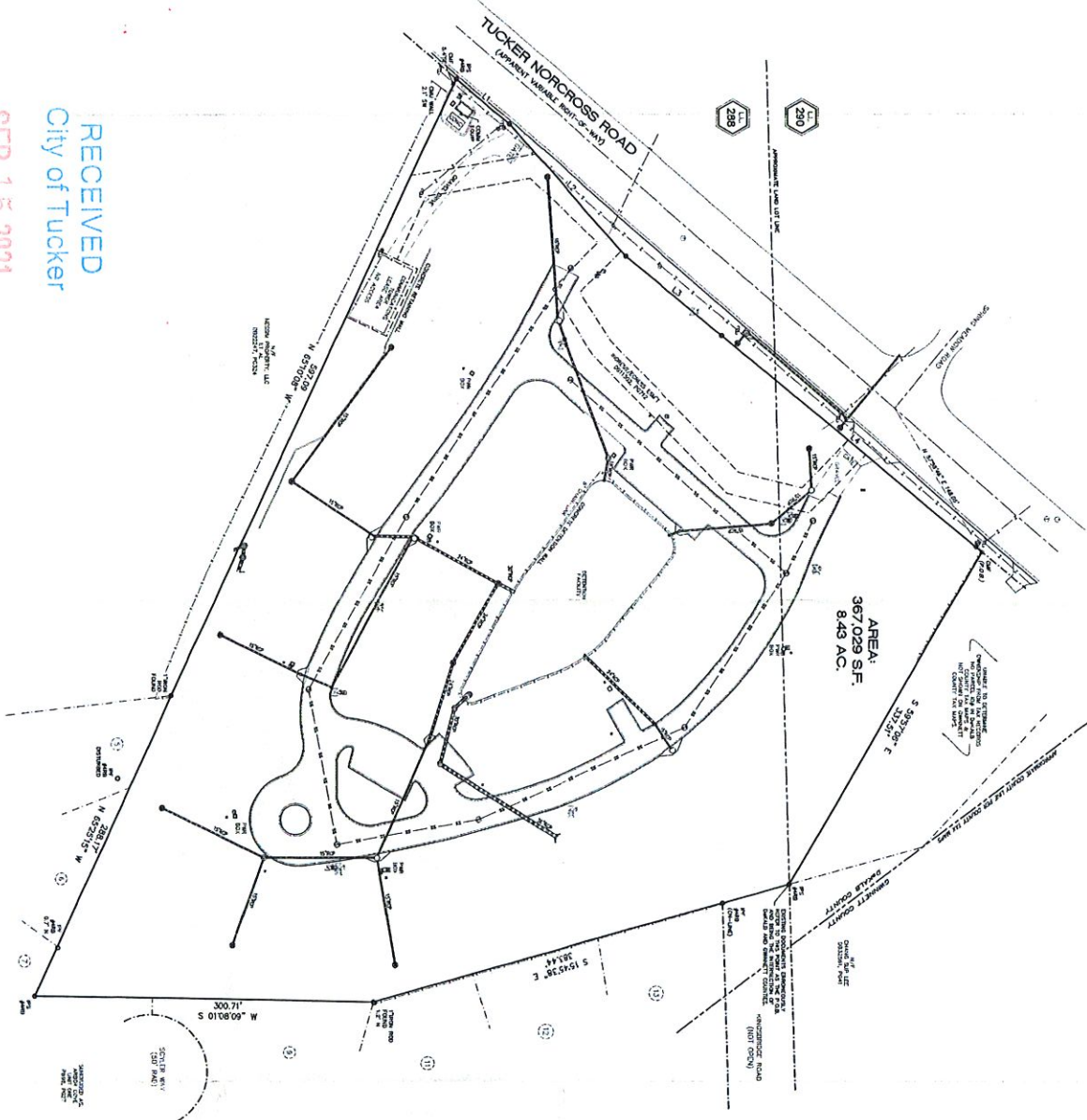
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- REFERENCES:**
- 1) GATROW AND GATROW, *ECORATION AND MINERAL INFORMATION FROM OBTAINED VIA ORIGINALLY USING APPROPRIATE SOLUTIONS (AN INSTRUMENT BASED THAT REPORTS MINERAL, MINERAL SOLUBLE AND GROSS) FROM*.

BOUNDARY SURVEY FOR:
**CORNERSTONE
BANK**
LAND LOTS 288 & 290
OF THE 18TH DISTRICT,
DEKALB COUNTY, GEORGIA

FLAT INFORMATION: SCALE 1"=40' DATE: 29 FEB 12

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 1 INCH PER 1000 FEET. THE ANGLE ERROR IS 10 SECONDS PER STATION. THE PLAT HAS BEEN ADJUSTED USING THE LEAST SQUARES METHOD. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE TO 1 FOOT IN 100000 FEET. AN ELECTRONIC TOTAL STATION WAS USED TO GATHER THE INFORMATION USED IN THE PREPARATION OF THIS PLAT.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON OR PERSONS NAMED HEREON. IT IS NOT TO BE REPRODUCED OR COPIED BY ANY UNAUTHORIZED PERSON, PERSONS OR ENTITY WITHOUT EXPRESS REORIZATION BY THE SURVEYOR NAMED SAID PERSON, PERSONS OR ENTITY.

FOOTNOTES: 18. Do not use any copiers or scanners of any kind or by any means whatsoever. 19. This plat is the property of the State of Georgia (SAVING) ALL MATTERS OF LAW ARE EXCEPTED. © 2011

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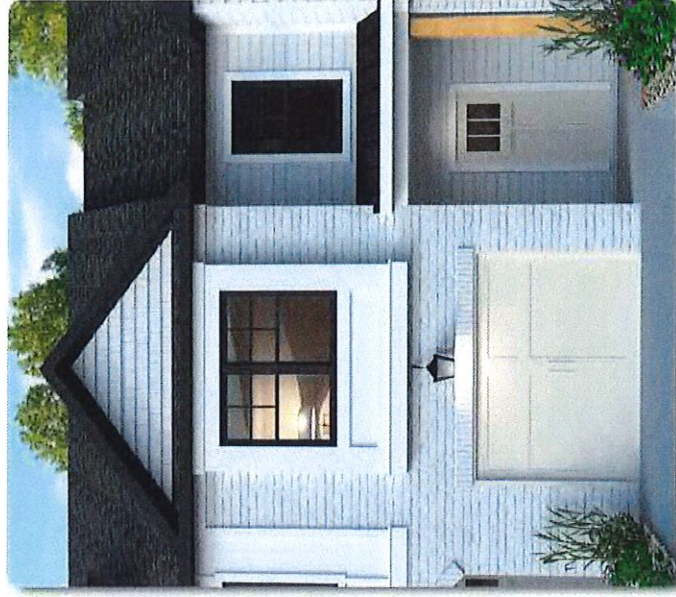
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Mercer
Elevation K





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STATEMENT OF INTENT

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Application for a
Modification to Conditions of Zoning
of

ROCKLYN HOMES, INC.

for

±8.43 Acres of Land
located in
Land Lots 288 and 290, 18th District, DeKalb County

Address:
3281 Tucker Norcross Road

Submitted for Applicant by:

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

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SGR/25740417.1

I. INTRODUCTION AND ANALYSIS

This application seeks a Modification of the Conditions of Zoning for a ±8.43 acre property in the City of Tucker, zoned MR-1 Conditional, to allow a rental townhome development (“Modification”). The property is located in Land Lots 288 and 290 of the 18th District of DeKalb County on the southeast side of Tucker Norcross Road, 385 feet north of its intersection with Pleasantdale Road (“Subject Property”). The Subject Property is more particularly located at 3281 Tucker Norcross Road, (Parcel ID 18 288 02 001).

The Subject Property was rezoned in 2002 for a townhome community, subject to certain conditions, which were repeatedly modified thereafter (refer to Section II below for a detailed history). The current zoning and its twenty-four (24) conditions, approved under ordinance CZ-15-19934, contemplates the development of 84 fee-simple townhomes. The site was partially developed roughly fifteen years ago and has remained a pipe farm since that time. Among the conditions of Ordinance CZ-15-19934 were several that limited the development to 25% rental units with the remaining being fee-simple units only. The Applicant now requests to amend the conditions of CZ-15-19934 to allow a rental product and specifically seeks the following modifications:

- Amend Condition 1 to read “The development shall consist of 84 ~~fee-simple~~ townhome units.”
- Remove Condition 14 requiring the establishment of a homeowners’ association and covenants [*This is condition not required for rental units.*]
- Remove Condition 24 requiring a deed restriction limiting the number of rental units.

The Applicant is seeking the Modification to better position the development with the shifting demands in the residential market. There is a growing trend for a diversity of housing

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options beyond traditional single family for-sale and multifamily for-rent apartments. An increasing number of individuals wish to have the freedom that comes from renting a home, but want the benefits of a quality, single-family type home that cannot be found in a traditional apartment-style development. This type of housing can come in the form of rental duplex, triplex, quadruplex, or townhome type developments, among others. Unfortunately, this type of housing is noticeably absent in many residential markets, including the City of Tucker, and is commonly referred to as “missing middle” housing. In the City of Tucker, the most common form of housing is the single-family home which comprises approximately 70% of the housing and is predominantly ranch-style homes built between 1950 and 1990. *See Tucker Tomorrow Comprehensive Plan*, pg. 32. On the other end of the spectrum are the typical large-scale multifamily apartments. This leaves very few options for individuals that do not want the burdens of owning a home, yet want something beyond a typical multi-family apartment development.

The Applicant’s proposal for a rental townhome development fills this missing middle void. The Applicant seeks to maintain an 80-unit townhome design (4 units less than allowed by conditions), but allow it as a rental development. The Applicant will have a management company to oversee the operation and maintenance of the townhome community. In addition, the residents will enjoy the benefits of the townhome configuration, including garage parking, open decks attached to the units, common open space, all in a relatively smaller community (when compared to a traditional multi-family development). It is the Applicant’s intent that the proposed community will enhance the area and provide a much needed option for quality rental housing.

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The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and a written justification for the Application as required by the City of Tucker Zoning Ordinance, § 46-1560. A Site Plan has been filed with the original Application, along with the other required materials.

II. ZONING HISTORY

The Subject Property has been the focus of multiple rezoning and zoning modifications over the past forty-three (43) years. In 1978, the Subject Property was rezoned from R-85 to O-I, then in unincorporated DeKalb County, for use as a tennis center (CZ-78020). A two story metal building was developed on the site and used as the Tucker Racquet Fitness Center until it subsequently closed. In late 2002, Focus Development, Inc. brought Rezoning Application No. Z-02042 before the DeKalb County Board of Commissioners. The 2002 Rezoning Application sought to rezone the Subject Property from O-I to RM-100 for the development of a 100-unit townhome community. The rezoning of the Subject Property to RM-100 was approved on May 13, 2003, subject to 6 conditions proposed by staff and 25 conditions submitted by the Applicant. In early 2006, a Change of Condition request was approved (Z-06-1164) to modify the conditions including the reduction of the total number of units to be developed. In 2012, another Change of Conditions application was approved, amending the conditions to remove the requirement for an acceleration and deceleration lane and adding a condition requiring a sidewalk along Tucker-Norcross Road. In 2015, a third Change of Conditions application, CZ-15-19934, was approved by DeKalb County which replaced all prior conditions of CZ-78020, CZ-02-042, CZ-06-1164, and CZ-12-17717.¹ There were the numerous changes to the previous conditions including updating the site plan to the one prepared by John O'Hanlon, P.E., dated

¹ A large number of the prior conditions were incorporated into the final conditions of CZ-15-19934.

May 6, 2015 and revised June 16, 2015; a reduction in the landscape strip along the southeastern boundary; restriction on access from Skylar Place and Skylar Way; and the naming of the development. Finally, in December 2019 an administrative modification was approved by the City of Tucker which modified condition 10 of CZ-15-19934 to allow for the sidewalk extension beyond the Norcross Tucker Road frontage to be paid to the City of Tucker in lieu of constructing the sidewalk. The conditions of CZ-15-19934, with the 2019 administrative modification, are the current conditions effecting the Subject Property and the ones the Applicant now seeks to amend.

III. IMPACT ANALYSIS

A. WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN.

The Subject Property was rezoned prior to the adoption of the current Comp Plan, nonetheless, the proposed rental townhome use is in general harmony with the Comp Plan, which indicates the Subject Property as being within the Suburban (“SUB”) character area. The Comp Plan describes the SUB character area as one whose “neighborhoods are made up of a healthy housing stock consisting of a range of types and price points.” Although the Comp Plan notes the current range of housing as including “single-family homes, apartments, and assisted living”, it does not provide for any existing options in-between. *See Tucker Tomorrow Comprehensive Plan*, pg. 32. The Comp Plan also concedes that “[t]he most common form of housing is the single-family home (nearly 70% of housing units).” *See Tucker Tomorrow Comprehensive Plan*, pg. 49. The Comp Plan also notes a dislike for traditional multi-family apartment housing and a preference for townhomes:

“Rental multi-unit housing is seen as less attractive, particularly due to the desire to maintain the City’s current owner/rental mix. Townhome construction is viewed as being a desirable multi-unit product type and a good choice for infill housing along the city’s major transportation corridors.” *See Tucker Tomorrow Comprehensive Plan*, pg. 33

The proposed for-lease townhomes will introduce an option in-between the typical single family, fee-simple, home and apartments. Townhomes are identified as a primary land use in the SUB character area and the rental development will also meet several of the expressed strategies for development within the SUB character area:

- Ensuring that the expansion or improvement of single family homes within Tucker's existing neighborhoods are compatible with the existing housing stock in terms of building height, footprint and massing, particularly as viewed from the street.
- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.

B. WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY OR PROPERTIES.

Yes. The Applicant is not proposing a new use or zoning that will affect the adjacent and nearby properties. The Subject Property has already been approved for townhome development since 2002 and has been partially developed. Moreover, the Applicant intends to build the townhomes in general conformance with the site plan contemplated by CZ-15-19934. The current request is for a Modification will allow a rental product and has no bearing on the number of units or site dimensional aspects of the development, thus will have no additional impact on the surrounding properties. To the south of the Subject Property is the Tucker Square Shopping Center, zoned C-1, as well as several single family lots within the Arbor Cove subdivision, zoned MR-1. To the north is a parcel, zoned O-I, which fronts directly on Tucker Norcross Road and contains a single family home. To the east are single family residential lots within the Hampshire Hills subdivision, which are zoned R-75 in unincorporated Gwinnett County. The uses of the surrounding properties are compatible with rental townhomes and will not be negatively affected by the proposed Modification.

C. WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED.

No. As it can be seen from the extensive zoning history of the Subject Property, as outlined in Section II, there have been numerous zoning modifications approved in an effort to create a viable development. The Subject Property, however, has been developed but not completed since the original rezoning to R-100 over nineteen (19) years ago and will likely remain so absent a change in the zoning conditions. The proposed Modification will allow the completion of the Subject Property for a housing option that is largely missing in the City of Tucker.

D. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY OR PROPERTIES.

No. As noted in the paragraphs above, the proposed Modification will not affect any site dimensional requirements of the development and is not anticipated to have any negative effects on the adjacent properties.

E. 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 ZONING PROPOSAL.

As stated in previous paragraphs, the housing market in general has shifted towards a desire for a variety of housing types and options. A large portion of this variety comes from the “missing middle” housing which incorporates a housing type between traditional multi-family rental and fee-simple single family housing. The proposed rental townhome community fits neatly within this growing desire for the missing middle range of housing options.

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F. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested. Additionally, the proposed Modification will not affect the site design or scope of the townhome development.

G. WHETHER THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS.

No. The proposed Modification will not add any units, thus there will be no increase in demand on public services beyond what has already been approved for the development. As a result, there will be no increase in demand on the existing streets, transportation facilities, utilities, or schools from the grant of the proposed Modification.

H. WHETHER THE ZONING PROPOSAL ADVERSELY IMPACTS THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.

The Applicant will comply with all federal, state, and City regulations relating to environmental protection to ensure that the proposed development will not adversely affect the environment.

IV. NOTICE OF CONSTITUTIONAL CHALLENGES AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The current conditions of zoning on the Subject Property limiting it to fee-simple development are unconstitutional. The failure to modify the current zoning conditions the Subject Property as requested, would constitute the taking of property without due process and without the payment of adequate compensation in violation of the Fifth and Fourteenth

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Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

A refusal to approve the proposed zoning modification would discriminate unfairly between the owner of the Subject Property and other property owners similarly situated, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

The City of Tucker, Georgia Zoning Ordinance lacks adequate standards for the Mayor and City Council to exercise their power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the Mayor and City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of State of Georgia, 1983.

The Mayor and City Council are granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of the City of Tucker, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

Any limitation on the time for presentation of the issues before the Mayor and City Council who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the

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First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

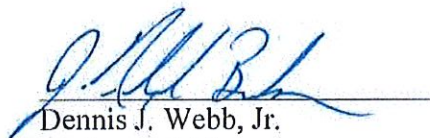
Opponents to this request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal by failing to assert legal and constitutional objections.

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Modification at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Tucker so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 13th day of September, 2021.

Respectfully submitted,



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

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
404-815-3500

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SEP 15 2021

Community Development
Department

RZ-21-0002

MEMORANDUM

TO: City of Tucker, Department of Community Development

FROM: J. Alexander Brock, P.E. Smith, Gambrell & Russell, LLP (GA P.E. 031209) 
Dennis J. Webb, Jr., Smith, Gambrell & Russell, LLP
Kathryn M. Zickert, Smith, Gambrell & Russell, LLP

DATE: July 30, 2021

RE: Environmental Site Analysis – 3281 Tucker Norcross Road

1) CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The property is a ±8.43-acre tract located in Land Lots 288 and 290 of the 18th District of DeKalb County on the northeast side of Tucker Norcross Road, 385 feet north of the intersection of Pleasantdale Road (Parcel ID 18 288 02 001) ("Subject Property"). The Subject Property has been mass graded, but does not contain any structures. The Applicant seeks a Modification of the Conditions of Zoning from Ordinance CZ-15-19934 to allow rental townhome units.

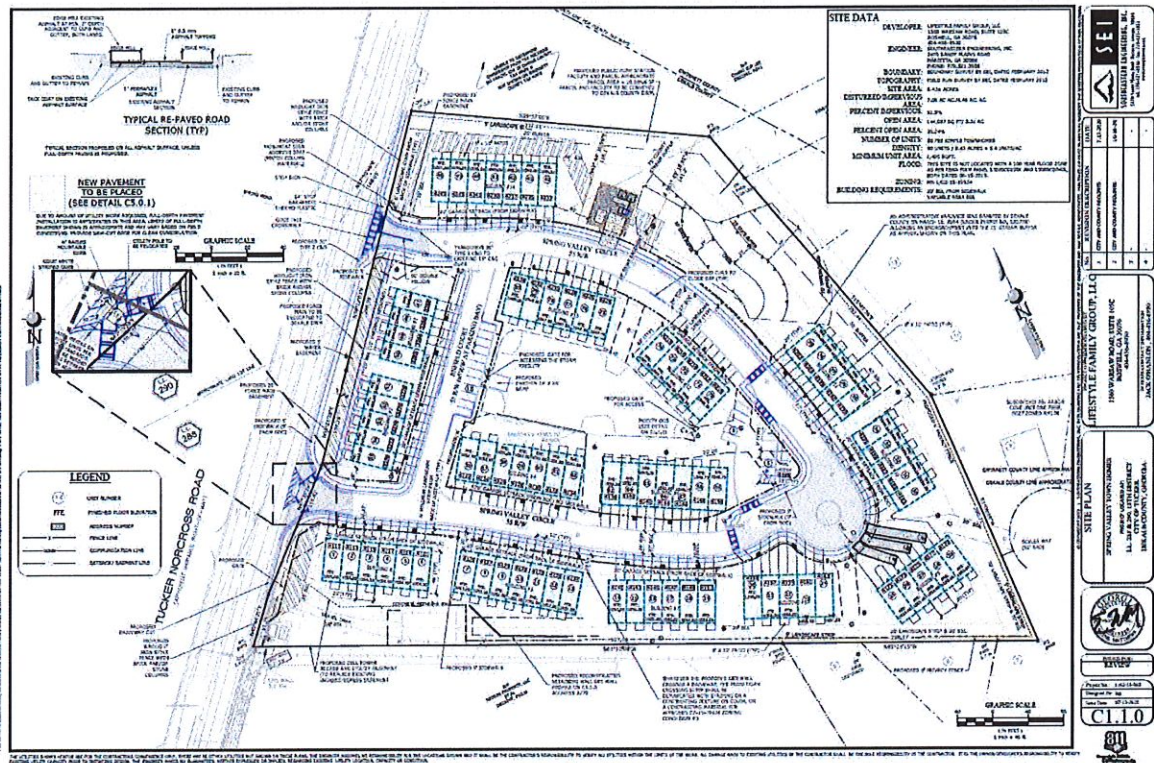
The City of Tucker approved the Tucker Tomorrow Comprehensive Plan (the "Comprehensive Plan") on April 23, 2018. The proposed use was approved prior to the adoption of the current Comprehensive Plan, but is generally consistent with the Comprehensive Plan, which indicates the Subject Property as being within the SUB character area. The Comprehensive Plan's stated policy and intent for the SUB character area is to preserve the suburban character of Tucker's neighborhoods. The proposed rental townhomes will add to the suburban character of Tucker's neighborhoods by increasing housing options.

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2) ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT.

a) Wetlands

There are no wetlands on the property as indicated by the U. S. Fish and Wildlife Service, National Wetlands Inventory Maps. The proposed Application for a Modification to allow the development of rental townhome residences will have no impacts to any wetlands.

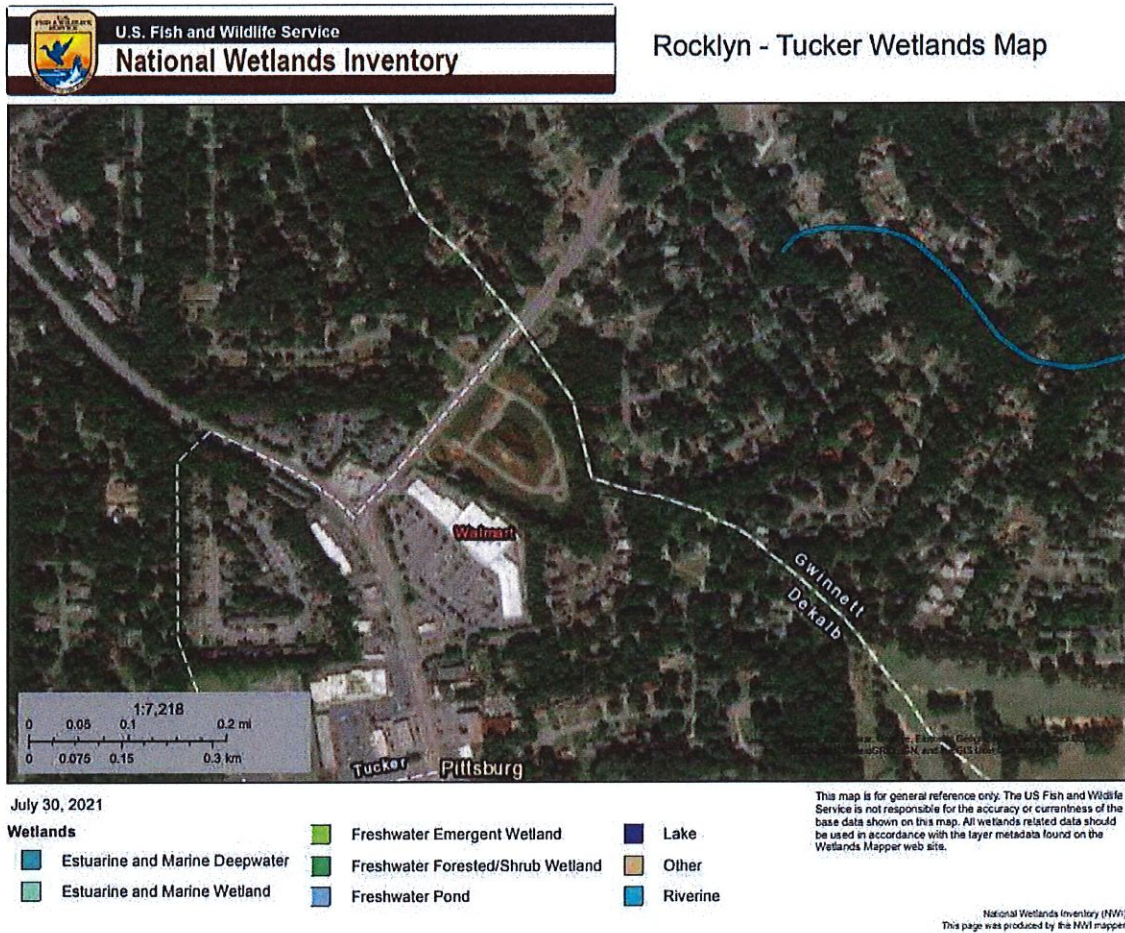


Figure 2. National Wetlands Inventory Map

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b) Floodplain

The Subject Property is not within any floodplain and is designated as an Area of Minimal Flood Hazard according to FEMA FIRM Map, Panel numbers 13089C0040L, effective August 15, 2019 and 13089C0038K, effective August 15, 2019. Accordingly, the proposed townhomes will not encroach into any portion of the floodplain.

National Flood Hazard Layer FIRMette

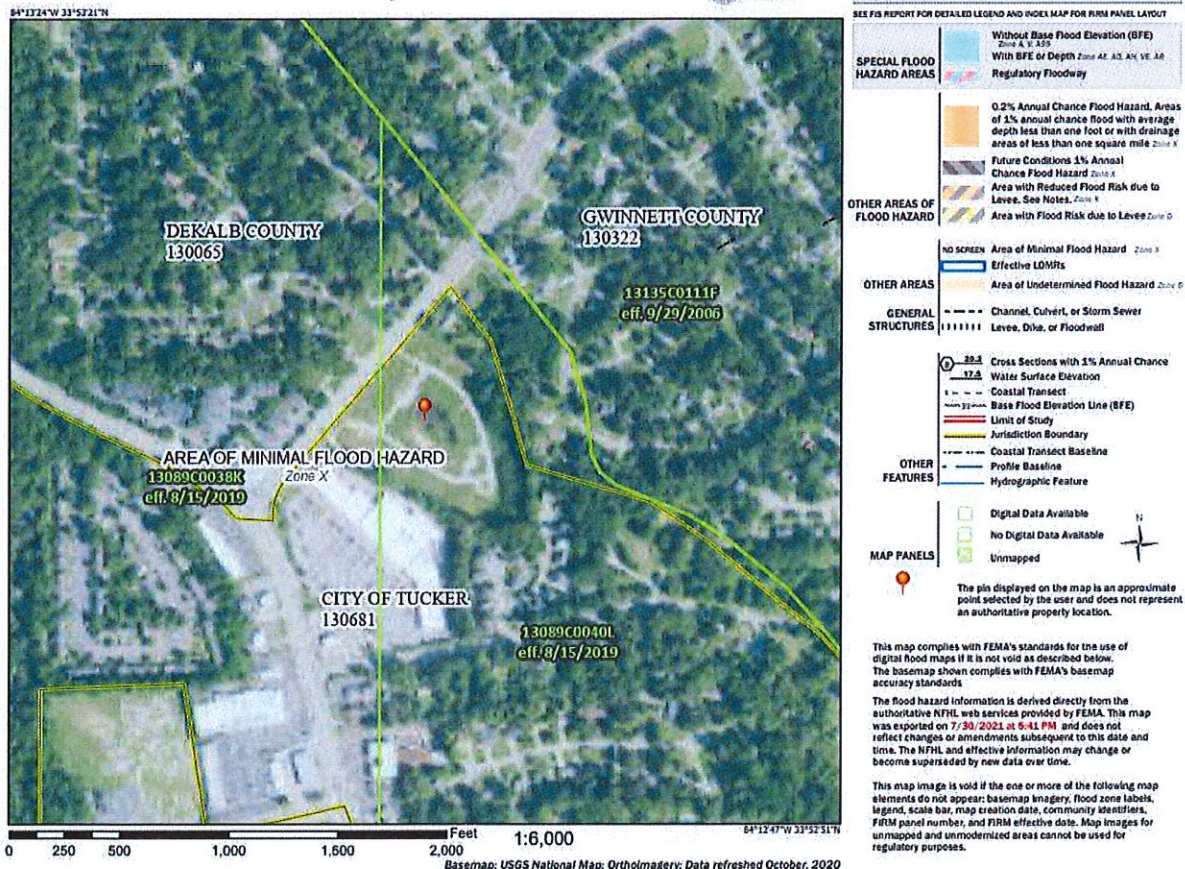


Figure 3. FEMA FIRM Panel

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RZ-21-0002

c) Streams/stream buffers

There are no state waters present on the Subject Property based on site observations and as reflected in the design drawings prepared by Southeastern Engineering, Inc., dated July 13, 2020 and last revised October 16, 2020.

d) Slopes exceeding 25 percent over a 10-foot rise in elevation

Based on topographic maps and site observation there are no slopes in excess of 25% over a 10-feet in rise on the Subject Property.

e) Vegetation

The project site has been mass graded with little remaining vegetation. An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service. The report revealed that there is one plant native to the region (Michaux's Sumac) that is endangered. This species was not found onsite.

f) Wildlife Species (including fish)

An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service, which did not indicate any endangered species in the area. The report did reveal that there are several species of migratory birds in the region. None were found to be present or nesting at the project location during the site visit on July 30, 2021.

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g) Archeological/Historical Sites

According Georgia's Natural, Archaeological and Historic Resources GIS (GNAHRGIS) maps, the project site is not on a historic or archaeological registry. The site is currently developed with several residential houses, a pool building and appurtenant site improvements.

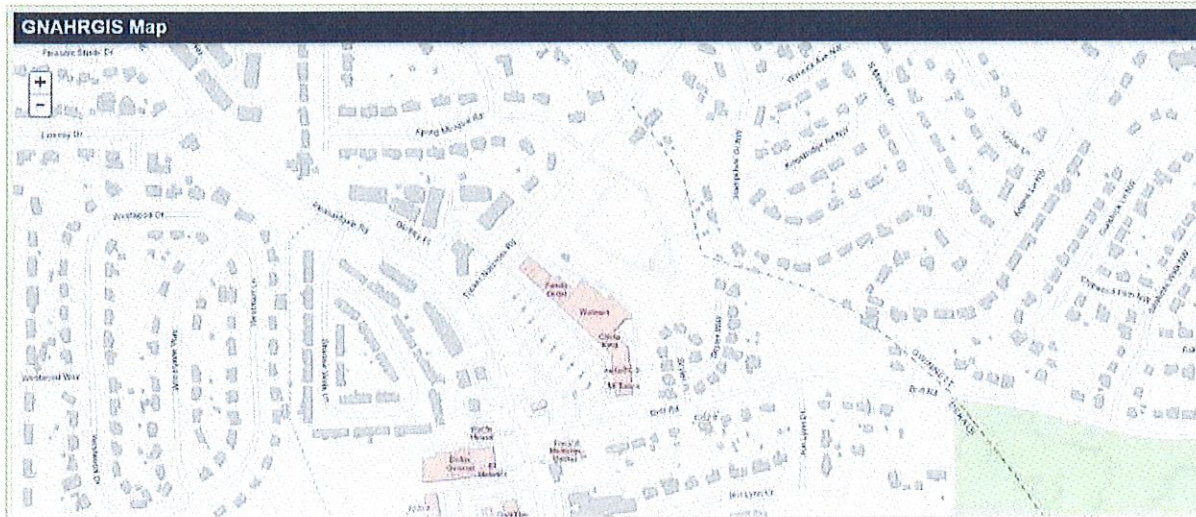


Figure 4. GNAHRGIS Map

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3) PROJECT IMPLEMENTATION MEASURES.

a) Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

There are no environmentally sensitive areas identified on the Subject Property.

b) Protection of water quality

The proposed project will treat stormwater for pollutants prior to discharge from the site. The overall impact to the downstream stormwater infrastructure will be positive, as no stormwater treatment currently exists.

c) Minimization of negative impacts on existing infrastructure

The proposed development has access to existing utilities with sufficient capacity to support the proposed use. The proposed use is not anticipated to overly burden existing utilities.

d) Minimization on archeological/historically significant areas

No archeological/historically significant areas were identified on or adjacent to the site and as a result no impacts are anticipated.

e) Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

There are no environmentally adverse conditions (waste treatment facilities, airports, landfills, etc.) and therefore, the Subject Property is not in an environmentally stressed area.

f) Creation and preservation of green space and open space

The proposed development will incorporate portions of the overall site for open space areas.

g) Protection of citizens from the negative impacts of noise and lighting

The proposed residential development will not have negative impacts on the surrounding uses. The proposed design, however, is incorporating the use of certain setbacks and buffers along the property lines which will minimize noise and lighting impacts to/from nearby properties along the other property lines.

h) Protection of parks and recreational green space

No existing parks will be impacted.

i) Minimization of impacts to wildlife habitats

No sensitive wildlife areas were observed during the July 30, 2021 site visit and as a result no impacts are anticipated.

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Community Development
Department

RZ-21-0002



MEMORANDUM

TO: City of Tucker
FROM: J. Alexander Brock, Smith, Gambrell & Russell, LLP
DATE: September 15, 2021
RE: Trip Generation Report - 3281 Tucker Norcross Road

The property is located in Land Lots 288 and 290 of the 18th District of DeKalb County on the southeast side of Tucker Norcross Road, 385 feet north of its intersection with Pleasantdale Road ("Subject Property"). The Subject Property is zoned MR-1 Conditional pursuant to ordinance CZ-15-19934, which contemplates the development of 84 fee-simple townhomes.

This application seeks a Modification of the Conditions of Zoning to allow rental townhomes ("Modification"). The development proposes 80 townhome units, which is less than the 84 townhomes that are already approved under CZ-15-19934 and will result in a net decrease in vehicular trips. The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition), to calculate vehicle trips for the 80 proposed townhomes. The 80 townhomes are expected to generate ± 465 total weekday trips, ± 35 trips during the AM weekday peak hour and ± 42 trips during the PM weekday peak hour:

Prop. Townhomes (ITE 230)¹

80 Townhomes

	Units	Rate	Total
Weekday	80	5.81	464.8
AM Peak	80	0.44	35.2
PM Peak	80	0.52	41.6

This is compared to the ± 488 total weekday trips, ± 37 trips during the AM weekday peak hour and ± 44 trips during the PM weekday peak hour generated by the 84 townhomes approved under CZ-15-19934:

¹ The ITE Trip Generation Manual (Ninth Edition) includes a category 224 for rental townhomes, however it also cautions that it is based on only one observation and "[u]sers are cautioned to use data with care due to the small sample size". See ITE Trip Generation Manual (Ninth Edition), pg. 392. Due to the caveats against the category 224, the Applicant has used ITE category 230, Residential Condominium/Townhouse to calculate the trip generation.

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Consistency Development
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RZ-21-0002

Ex. Townhome (ITE 230)

84 Townhomes

	Units	Rate	Total
Weekday	84	5.81	488.04
AM Peak	84	0.44	36.96
PM Peak	84	0.52	43.68

Net Change in Trips

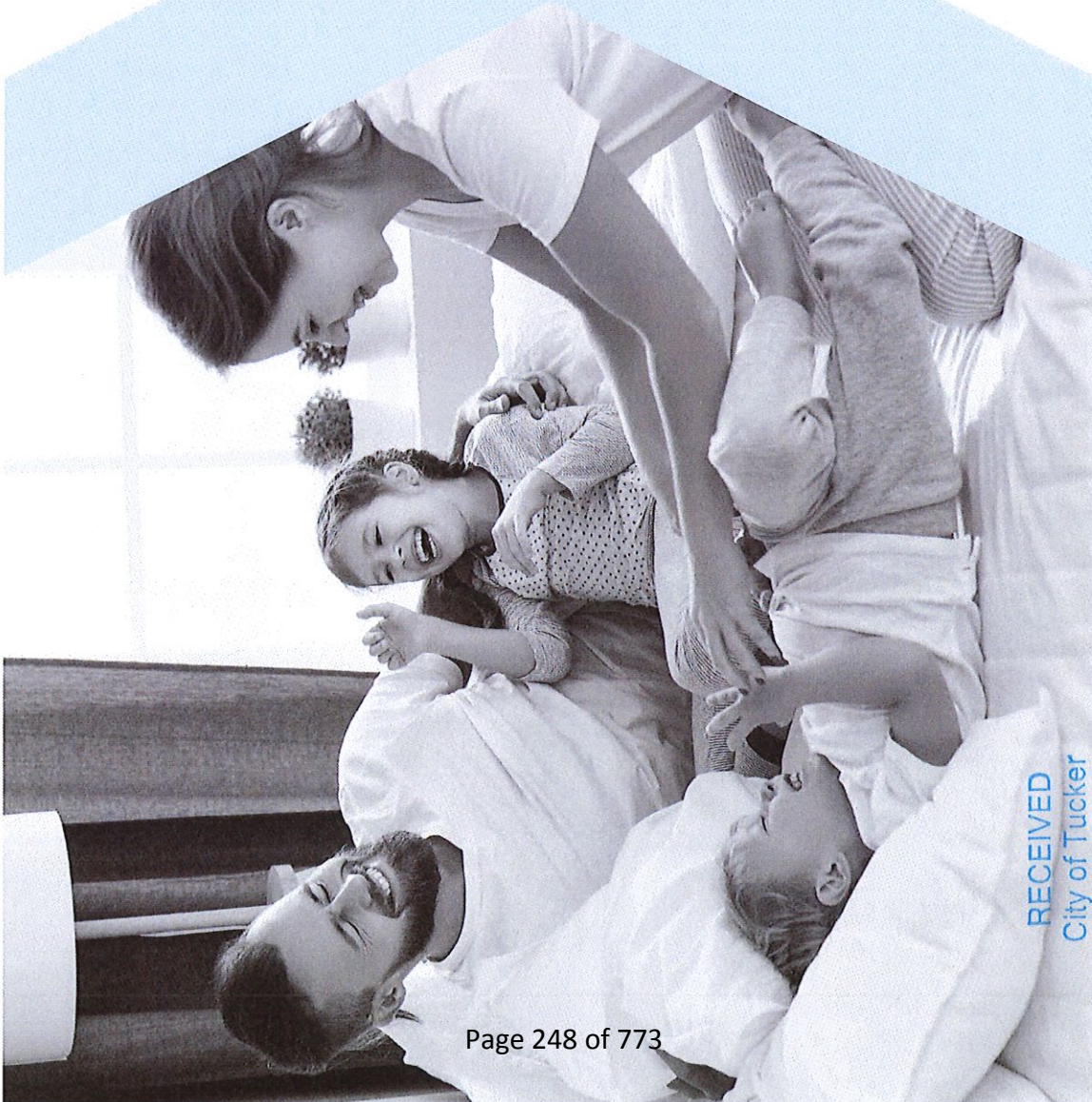
	Proposed (80 Townhomes)	Existing (84 Townhomes)	Net
AM Peak	464.80	488.04	-23.24
AM Peak	35.20	36.96	-1.76
PM Peak	41.60	43.68	-2.08

As demonstrated in the tables above, the proposed development will result in a net decrease in what is already allowed for Subject Property. As a result, the approval of the requested Modification will not increase demand on the existing streets or transportation facilities.

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Success

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PROPERTY
COMPANY

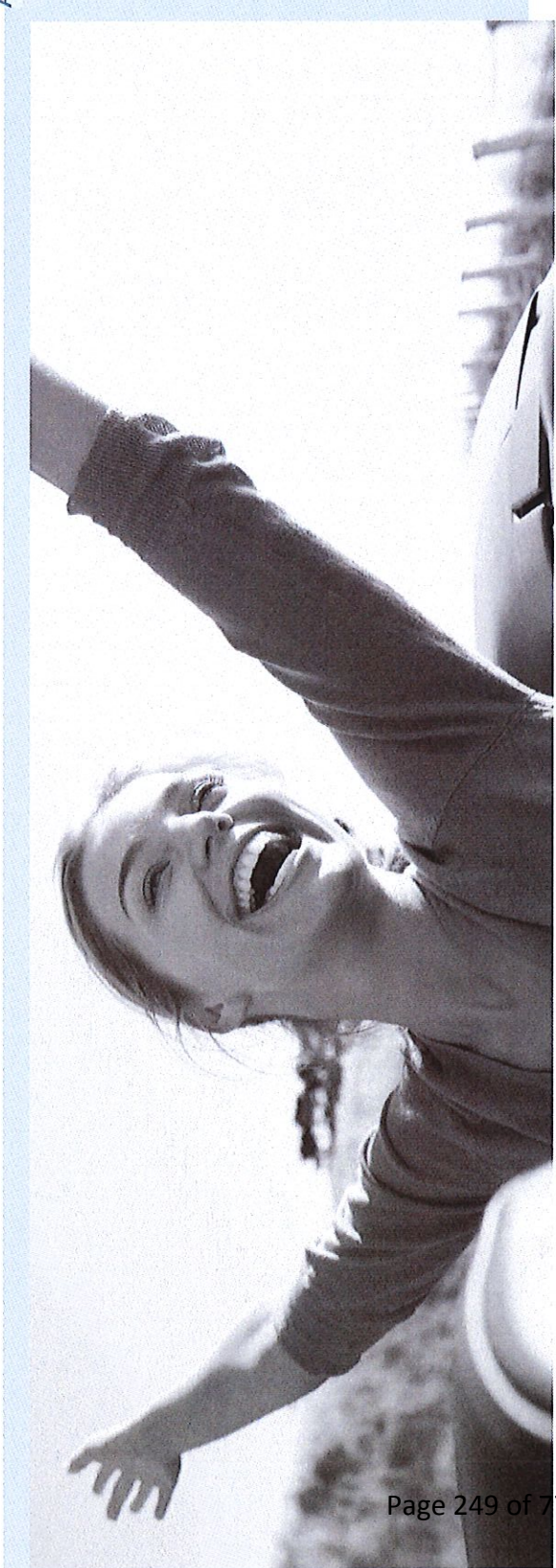


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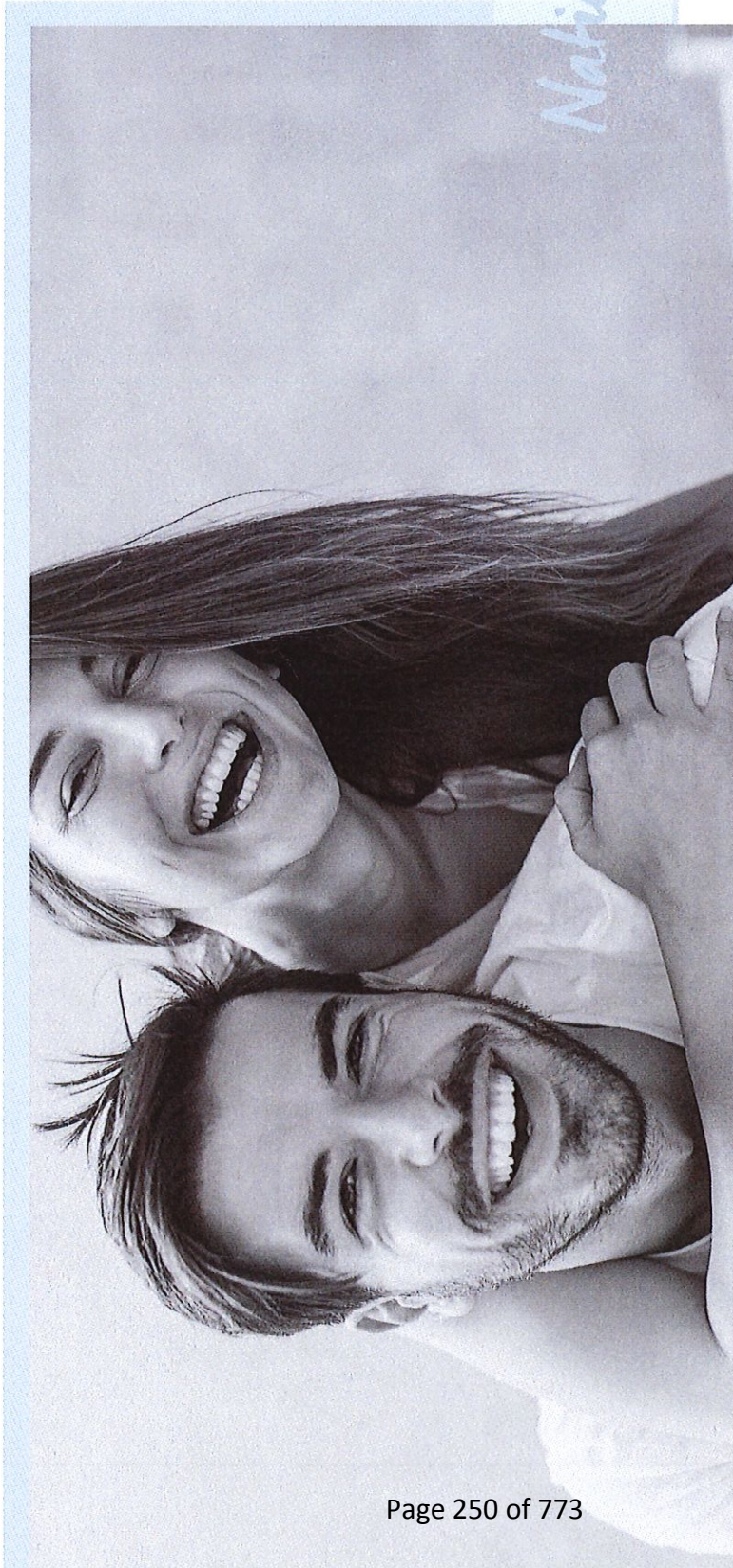
BZ-21-0002



OVERVIEW

SOUTHEAST REGION

AREA OVERVIEW

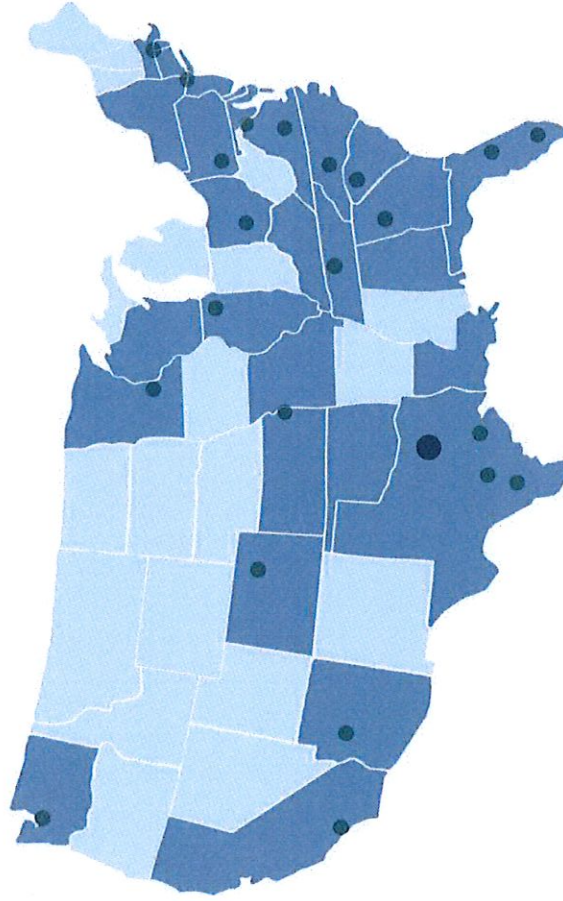


National Reach

OFFICE LOCATIONS

LPC RESIDENTIAL TODAY

- 215,000 units under management – 2nd most in US
- One of the largest non-REIT multifamily developers in the country
- 5,200 employees in 27 states and 200 cities across the country
- We manage a total of 747 properties nationally
- 215,000 units developed, valued at over \$12 billion
- \$6 billion in multifamily projects acquired
- 37,000 homes owned and managed for Army, Navy & Marine families



Properties managed or owned in blue shaded states. Dots signify office locations

OFFICES LOCATIONS:

Atlanta, GA
Austin, TX
Boston, MA
Charlotte, NC
Chicago, IL
Cincinnati, OH
Dallas, TX
Denver, CO
Greenville, SC
Houston, TX
Kansas City, MO
Miami, FL
Minneapolis, MN
Los Angeles, CA
Nashville, TN
New York, NY
Orlando, FL
Phoenix, AZ
Pittsburgh, PA
Raleigh, NC
Richmond, VA
San Antonio, TX
Seattle, WA
Washington, DC

Product Diversification

Lincoln Property Company was founded in 1965 as a builder and operator of high-quality residential communities. In the early 1970's, Lincoln expanded its product mix to include commercial, build-to-suit, office, hotel, industrial, and other mixed-use assets. In 1972, Lincoln took this expertise within the United States to Western Europe and the Middle East.

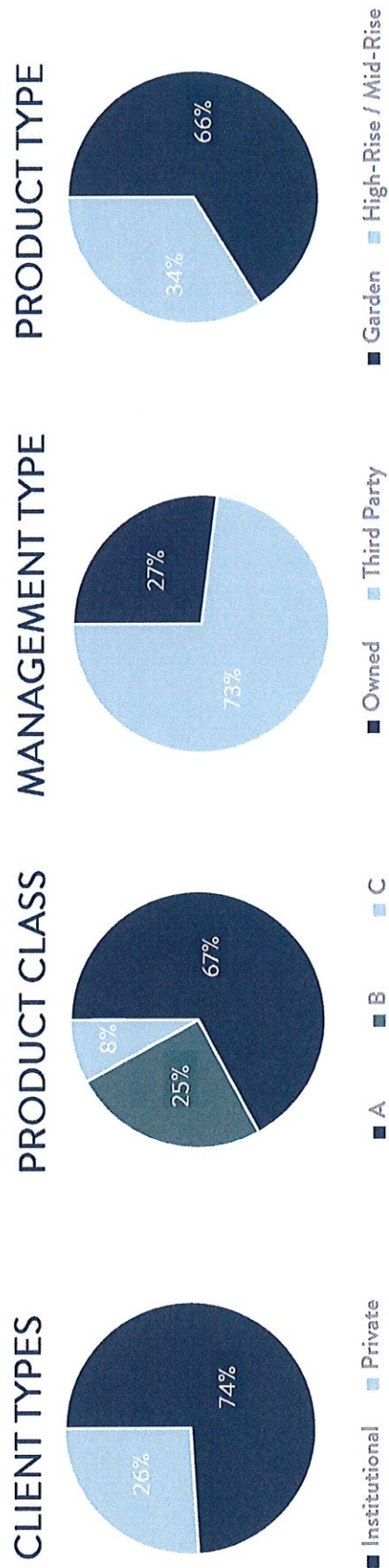
In 2001, Lincoln joined forces with the U.S. Department of Defense to renovate and redevelop family housing at selected bases for the Navy, the Marine Corps, and the Army. Through innovative management, property rehabilitation and award-winning new construction designs, Lincoln is now one of the largest operators of military housing in the country.

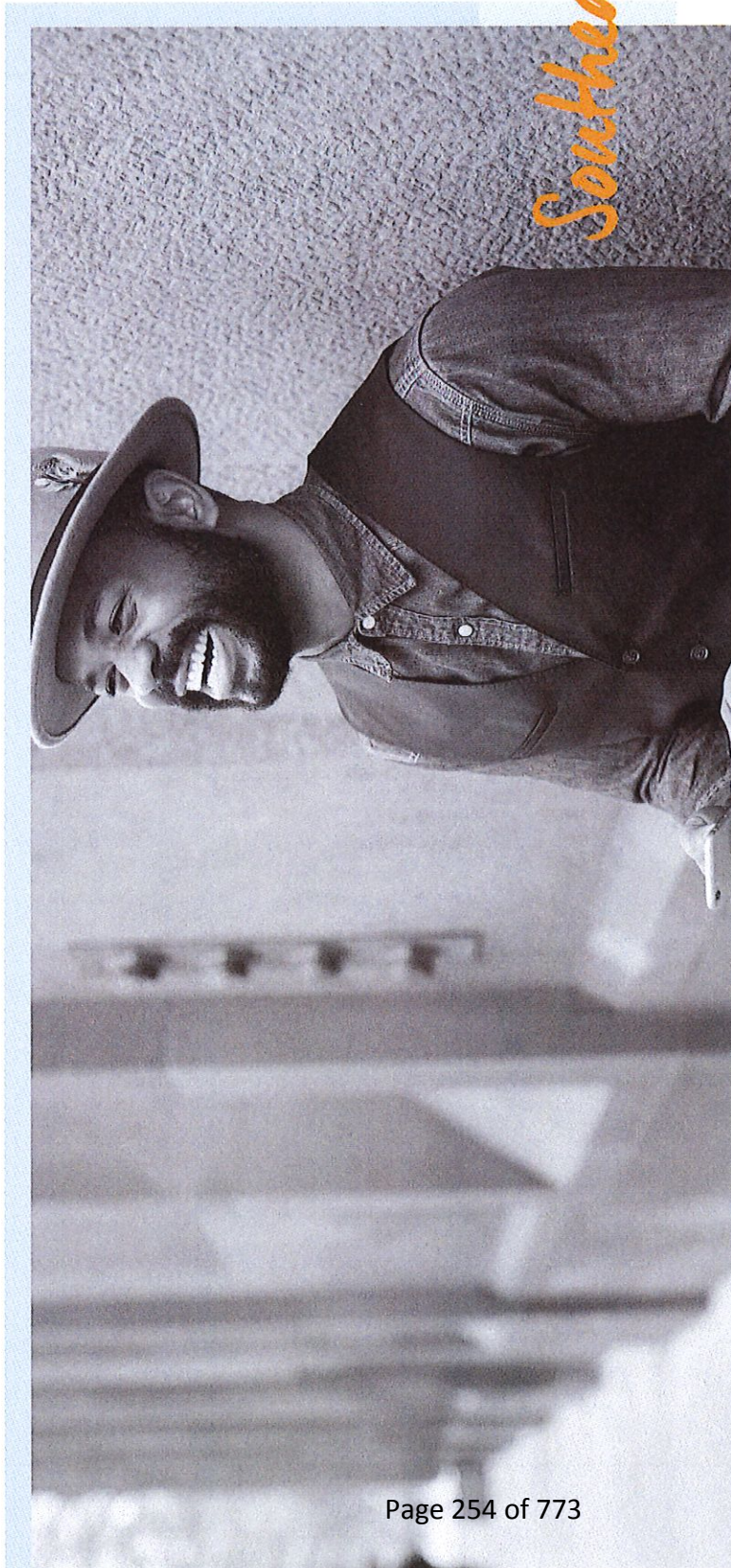
Headquartered in Dallas, TX, Lincoln focuses on real estate investment, construction and development, in addition to property management. Their national reputation has enabled Lincoln to attract a large client base of owners and investors who count on their ability to deliver quality results and continually serve as a market leader.

LINCOLN PROPERTY COMPANY IS RANKED AS THE
2ND LARGEST APARTMENT MANAGER
IN THE UNITED STATES, WITH OVER 215,000 UNITS UNDER MANAGEMENT



Product Diversification



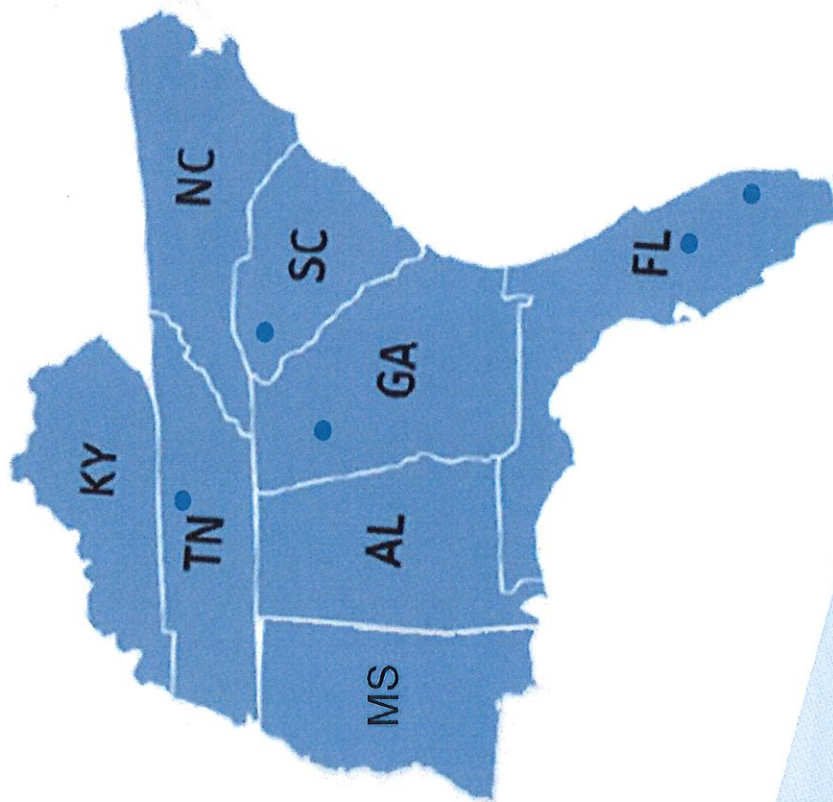


Southeast Region

SouthEast Reach

TODAY'S MARKET PORTFOLIO

- Over 60,000 units under management
- Our SE team encompasses over 1,400 employees.
- 95% - 3rd Party Management
- Currently have 15,00 units under development
- 20,000+ units of 3rd party lease-up experience
- Experienced value-add team
- High-rise, mid-rise, garden, condominium, specialty properties, mixed-use and Build To Rent (BTR)



WHERE TO FIND US

ALABAMA

Birmingham
Huntsville
Mobile

GEORGIA

Atlanta
Canton
Dawsonville
Decatur
Gainesville
Sandy Springs
Savannah
Oakwood

SOUTH CAROLINA

Charleston
Columbia
Greenville
Fort Mill
Mount Pleasant
Spartanburg

NORTH CAROLINA

Charlotte

TENNESSEE

Ashland
Chattanooga
Franklin
Hendersonville
Murfreesboro
Nashville

FLORIDA

Boca Raton
Bradenton
Broward
Ft. Myers
Jacksonville
Key West
Melbourne
Miami-Dade
Naples
Orlando
Palm Beach
Pensacola
Tampa

Office Locations

Lincoln Property Company's multiple southeast offices cover the entirety of our regions portfolio. These offices offer the below services and support roles:

Accounting, Payroll, Marketing, Training, Maintenance, Construction Management, Area Vice President
Regional Property Manager, Marketing Director, Training Support Services, Regional Maintenance, Construction Management



ATLANTA

6340 Sugarloaf Parkway
Suite 350
Duluth, GA 30097



GREENVILLE

3620 Pelham Road
Suite 312
Greenville, SC 29615



NASHVILLE

555 Marriott Drive
Suite 325
Nashville, TN 37214



TAMPA

4532 W. Kennedy Blvd.
Suite #285
Tampa, FL 33609



LAKE MARY

7025 Country Road 46A,
Suite 1071
Lake Mary, FL 32746



PLANTATION

600 N Pine Island Rd.
Suite 340
Plantation, FL 33324

AREA OVERVIEW

Georgia





Local Portfolio

Lincoln Property Company's Georgia region spans to include assets categorized as new construction, stabilized, garden, high-rise, wrap, townhomes, BTR and high-profile buildings. The following communities are managed by Lincoln Property Company in the local area.

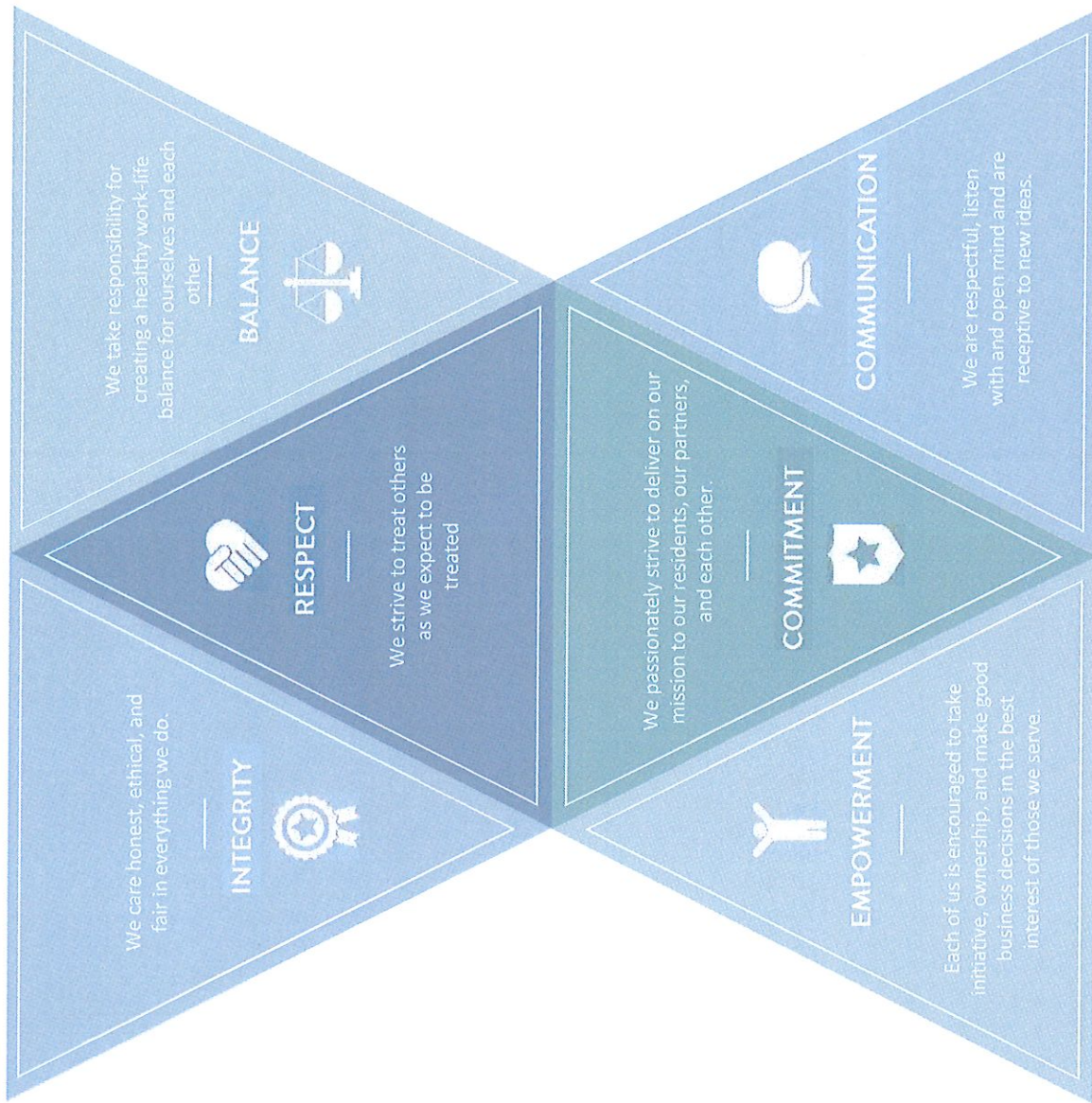
COMMUNITY	LOCATION
53 West	1000 Wood Acres Rd Oakwood, GA 30566
1016 Lofts	1016 Howell Mill Road Atlanta, GA 30318
2050 Morningside	2050 Cheshire Bridge Rd NE Atlanta, GA 30324
251 North	300 Cityline Avenue NW Atlanta, GA 30308
Alexan Avondale	2740 East College Ave Decatur, GA 30030
Alexan Buckhead Village	361 Pharr Road Atlanta, GA 30305
Alexander at the District	1750 Commerce Drive NW Atlanta, GA 30318
Anderson at Clairmont	2500 Northeast Expressway Atlanta, GA 30345
Ansley Forest	1659 Monroe Drive Atlanta, GA 30324
Arches at Glenridge	5610 Glenridge Dr Atlanta, GA 30342
Aspect on the River	59 Anderson Ave Canton, GA 30114
Aspire Lenox Park	1050 Lenox Park Blvd Atlanta, GA 30319

COMMUNITY	LOCATION	COMMUNITY	LOCATION
Aspire Perimeter	5385 P'tree Dunwoody Rd Atlanta, GA 30342	Five Oaks Apts.	1200 Montreal Rd E. Tucker, GA 30084
Aspire Westside	900 Joseph E Lowry Blvd Atlanta, GA 30318	Flats at Ponce City Market	675 Ponce de Leon Ave NE #187 Atlanta, GA 30308
Atlantic House	1163 West Peachtree St NE Atlanta, GA 30309	Gateway at Cedar Brook	3117 Cedar Brook Drive Decatur, GA 30033
Azure on the Park	1020 Piedmont Ave NE Atlanta, GA 30309	Generation	377 Centennial Olympic Park Atlanta, GA 30313
Buckhead 960	960 East Paces Ferry Rd NE Atlanta, GA 30326	Hawthorne Gates	7200 P'tree Dunwoody Rd Atlanta, GA 30328
Cottages at Greystone	420 Stone Ridge Circle Hiram, GA 30141	Helios	2470 Cheshire Bridge Road Atlanta, GA 30324
Cottages at Riley Place	52 Mallory Drive Dawsonville, GA 30534	Jamestown Rock Springs	550 Rock Springs Ct NE Atlanta, GA 30305
Decatur Crossing	100 Grayson Place Decatur, GA 30030	Linq at North Springs	6919 P'tree Dunwoody Rd Sandy Springs, GA 30328
Decatur Flats	3145 Misty Creek Drive Decatur, GA 30033	Mount Vernon Flats	1265 Mount Vernon Hwy Atlanta, GA 30338
Domain at Cedar Creek	3073 Cedar Creek Parkway Decatur, GA 30033	Nine15 Midtown	915 W Peachtree St NW Atlanta, GA 30309
Dunwoody Courtyards	6873 P'tree Dunwoody Sandy Springs, GA 30328	Park Creep Apts.	1100 Park Creek Court Gainsville, GA 30504
Element Galleria	800 Galleria Pkwy Atlanta, GA 30339	Pencil Factory Flats	349 Decatur Street SE Atlanta, GA 30312
Elle of Buckhead	235 Pharr Road NE Atlanta, GA 30305	Perimeter 31	31 Perimeter Center East Atlanta, GA 30346
ENSO	880 Glennwood Avenue Atlanta, A 30316	Providence of Northlake	2200 Ranchwood Drive NE Atlanta, GA 30345

COMMUNITY	LOCATION	COMMUNITY	LOCATION
Reserve at Lenox Park	1200 Reserve Drive Atlanta, GA 30319	Parc at Pooler	2200 Old Quacco Rd Pooler, GA 31322
Reserve at Sugarloaf	2605 Meadow Church Rd Duluth, GA 30097	Residences at the Bluffs	600 Waterstone Trail Canton, GA 30014
Riley Place	1585 Old Norcross Rd #101 Lawrenceville, GA 30046	Rock Springs Village	550 Rock Springs CT NE Atlanta, GA 30305
Riva Apts	4685 Chamblee Dunwoody Road Dunwoody, GA 30338	Skye Suwanee Town Center	500 Buford Highway Suwanee, GA 30024
Rocca	3280 Northside Parkway Atlanta, GA 30327	Sweetwater Springs	1510 Duluth Highway Lawrenceville, GA 30043
RT Dairies	777 Memorial Dr SE Ste 1000 Atlanta, GA 30316	Venue at Big Creek	50 Venue Way Alpharetta, GA 30005
Seven Springs	100 Ridgebrook Way NE Atlanta, GA 30345		
Skyhouse Buckhead	3390 Stratford Road Atlanta, GA 30326		
SLX Atlanta	5211 Peachtree Boulevard Chamblee, GA 30341		
Square One	6050 Roswell Road NE Sandy Springs, 30328		
Summit Place at Limestone	2350 Windward Lane Gainesville, GA 30501		
The Clarion	10 Rimington Lane Decatur, GA 30030		
The Waterford on Piedmont	530 Piedmont Ave NE Atlanta, GA 30308		
Wood Bridge	680 Park Bridge Pkwy Alpharetta, GA 30005		

Core Values

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Community Development
Department

RZ-21-0002

Rocklyn Homes, Inc.
(RZ-21-0002)

**FIRST SUPPLEMENT TO NOTICE OF CONSTITUTIONAL
CHALLENGE AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

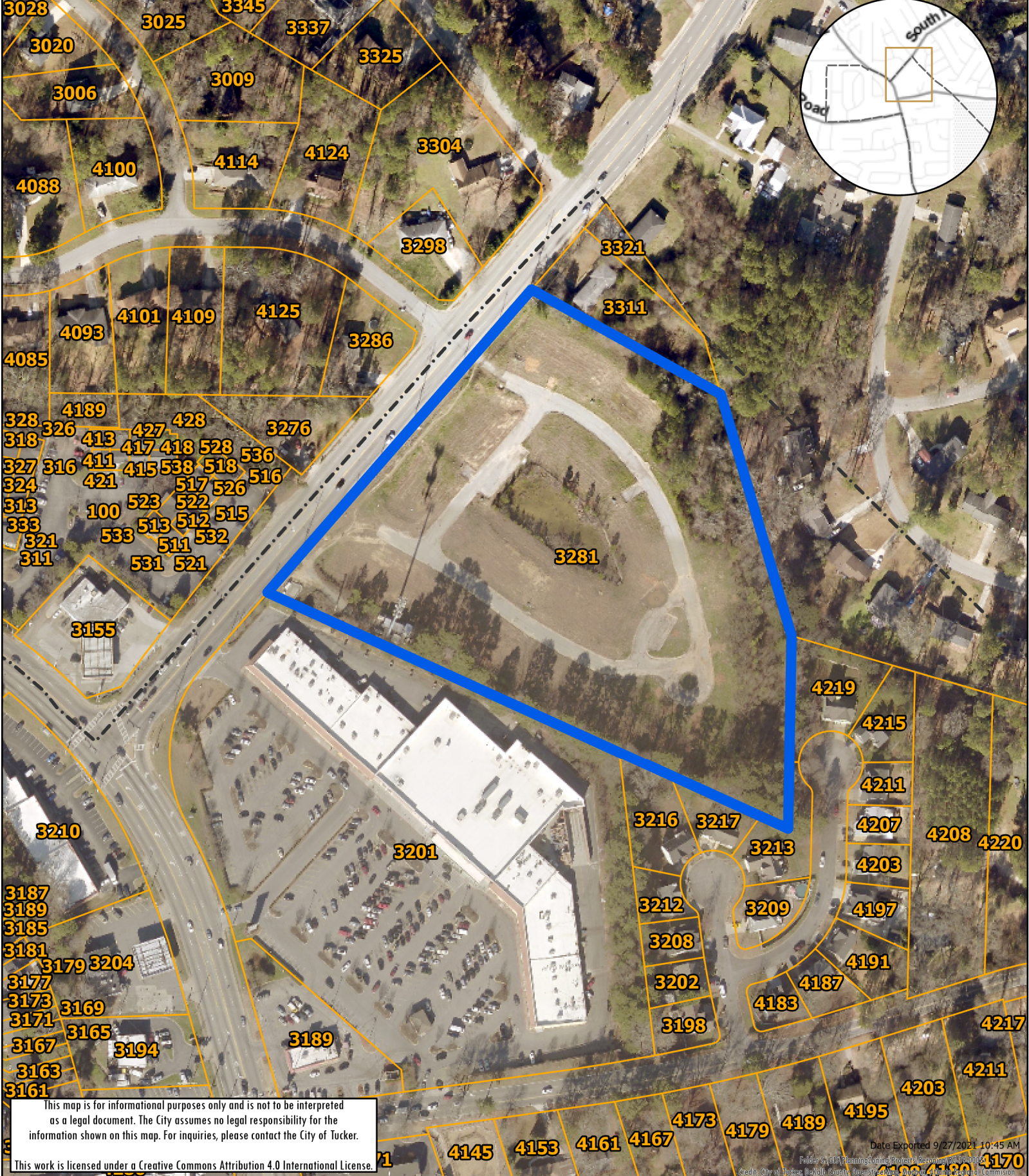
COMES NOW, Rocklyn Homes, Inc., and hereby supplements its Notice of Constitutional Challenge and Preservation of Constitutional Rights by adding the following additional objection:

The practical effect of a denial or conditioning of the Applicant's application will be to drive up the cost of housing and/or limit the types of housing which will have the effect of discriminating on the basis of race, age and familial status in violation of the Fair Housing Act of the United States and of Georgia and the rules and regulations of the Housing and Urban Development Department.

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
10/19/2021

PLANNING & ZONING
DEPARTMENT



**City of
Tucker**

Aerial
RZ-21-0002
3281 Tucker Norcross Road

 **Rezoning**



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: RZ-21-0003: Change of conditions for Branch/Gusto at 4650 Hugh Howell Road

Issue:

The applicant is requesting a change in conditions in order to relocate the approved drive-through for the dry-cleaners on building 200 to one of the previously proposed drive-through buildings (400) located on Hugh Howell. The proposed drive-through facility will service a one-story, 2,950-square foot fast-casual restaurant (Gusto) that is located on the southwestern portion of the 13.99-acre site. The proposed building will front Hugh Howell Road with the drive-through lane circling the back of the building, which is a supplemental requirement for restaurants with drive-through facilities. If approved, the applicant will need to submit a revision to their land disturbance permit and apply for a building permit where compliance with the other supplemental regulations will be reviewed by staff. The site plan shows an outdoor dining space located on the rear of the building. The proposed restaurant will have multiple access points from within the shopping center.

Recommendation:

Staff recommends approval with conditions of RZ-21-0003.
Planning Commission recommended approval with staff conditions at their Oct. 21, 2021 meeting.

Background:

The applicant is requesting a major modification to conditions of zoning placed on the property. The subject property was rezoned in 2019, pursuant to RZ-19-0006, from M (Light Industrial) to C-2 (General Commercial). Four concurrent variances were also requested at the time to reduce the front setback requirements (CV-19-0008), to vary the building plane and scale standards (CV-19-0009), and to vary the frame and enclose standards for multibuilding nonresidential developments over 100,000 square feet (CV-19-0010 and CV-19-0011). The rezoning and concurrent variances were approved by Mayor and City Council with conditions on March 9, 2020.

Summary:

The specific use will not have a direct adverse effect on adjacent or nearby properties as Gusto is a low intensity drive through user. Additionally, while the tenant use of the drive through is different (dry cleaners to restaurant) there is no net increase in the number of drive through facilities on the site. The applicant's request is to move one of the proposed drive-throughs from building 200 to building 400.



City of Tucker

Land Use Petitions: RZ-21-0003

Date of Staff Recommendation Preparation: September 22, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	4650 Hugh Howell Road
DISTRICT//LANDLOT(S):	18 th District, Land Lot 215
ACREAGE:	±13.99
EXISTING ZONING	C-2 (General Commercial)
PROPOSED ZONING:	C-2 (General Commercial)
FUTURE LAND USE MAP DESIGNATION:	LIND (Light Industrial)
OVERLAY DISTRICT:	Mountain Industrial Boulevard District
APPLICANT:	Branch Hugh Howell Associates, LP, c/o Laurel David
OWNER:	Branch Hugh Howell Associates, LP
PROPOSED DEVELOPMENT:	Major modification of existing conditions of RZ-19-0006
STAFF RECOMMENDATION:	APPROVAL with conditions of RZ-21-0003

BACKGROUND

The applicant is requesting a major modification to conditions of zoning placed on the property. The subject property was rezoned in 2019, pursuant to RZ-19-0006, from M (Light Industrial) to C-2 (General Commercial). Four concurrent variances were also requested at the time to reduce the front setback requirements (CV-19-0008), to vary the building plane and scale standards (CV-19-0009), and to vary the frame and enclose standards for multibuilding nonresidential developments over 100,000 square feet (CV-19-0010 and CV-19-0011). The rezoning and concurrent variances were approved by Mayor and City Council with conditions on March 9, 2020.

While the initial site plan for the rezoning showed four drive-through buildings, including one on the subject building (400), a condition was placed on the property to limit the number of drive-throughs to buildings 100 and 200. The applicant is now requesting a modification to these conditions to allow for the drive-through formerly proposed on building 200 to be relocated to the proposed 2,950 square foot building (400) located on the southwestern portion of the site.

The applicant is specifically requesting to amend conditions 1 and 2, which relate to the previously approved site plan and the use of the site.

1. The property shall be developed in general conformance with the site plan submitted on February 24, 2020 to the Community Development Department, except for revisions required to meet the conditions of zoning approval.
2. Use shall be limited to a 99,000 square foot shopping center. No more than two drive-through buildings shall be located on the site, as shown on buildings 100 and 200 on the site plan referenced in Condition 1 herein. No freestanding drive-throughs, such as free-standing ATM's shall be permitted. Only one remote teller/automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. No collection bins shall be permitted.

The subject site was previously part of two other land use petition applications in the City of Tucker. These applications were submitted in 2016 (CA-16-001, RZ-16-001, and SLUP-16-002) and 2017 (CA-17-001, RZ-17-002, SLUP-17-003) and were commonly referred to as The Rise or Nexus Tucker. CA-16-001, RZ-16-001, and SLUP-16-002 were withdrawn by the applicant at the second read of the ordinances at the January 23, 2017 City Council meeting. CA-17-001, RZ-17-002, SLUP-17-003 were denied by City Council at the second read of the ordinances at the August 30, 2017 City Council meeting. This denial led to a 24-month time restriction for the subject properties, as Section 46-1525(h) of the City of Tucker Zoning Ordinance states that "if an application for rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of 24 months from the date of the mayor and city councils' final decision."

PROJECT DATA

The subject property is located at the northeastern intersection of Hugh Howell and Mountain Industrial Boulevard. The 13.99-acre site is currently under development for a 99,000 square foot commercial shopping center. The northern side of the site includes an anchor grocery and two other retail/restaurant buildings. At the southern end of the site there are three proposed outbuildings.

Four drive-throughs were originally proposed during the 2019 rezoning, including the subject building

fronting Hugh Howell Road. The second was a free-standing ITM drive-through fronting Mountain Industrial Boulevard. The third drive-through also fronted Mountain Industrial Boulevard and was slated for a dry-cleaning establishment. The fourth drive-through was located between buildings 100 and 200 and was to be used by the grocery pharmacy. Drive-through establishments are permitted by right in the C-2 zoning district if they meet the supplemental regulations in Section 46-1166; however, when the rezoning was approved, the master plan was conditioned to only allow drive-throughs for the anchor grocery and dry-cleaning establishment to create a less intense use.

The applicant is now requesting a change in conditions in order to relocate the approved drive-through for the dry-cleaners on building 200 to one of the previously proposed drive-through buildings (400) located on Hugh Howell. The proposed drive-through facility will service a one-story, 2,950-square foot fast-casual restaurant (Gusto) that is located on the southwestern portion of the 13.99-acre site. The proposed building will front Hugh Howell Road with the drive-through lane circling the back of the building, which is a supplemental requirement for restaurants with drive-through facilities. If approved, the applicant will need to submit a revision to their land disturbance permit and apply for a building permit where compliance with the other supplemental regulations will be reviewed by staff. The site plan shows an outdoor dining space located on the rear of the building. The proposed restaurant will have multiple access points from within the shopping center.

CHARACTER AREA (Future Land Use)

The subject property is located within the Light Industrial Character Area on the future land use map. Character Areas are generally used as a visioning guide for an area that identifies items such as primary land uses, development strategies, and design considerations. Character Areas speak to the adopted vision of the community as it continues to grow and develop over time. The Light Industrial Character Area's primary land uses are light industrial, manufacturing, warehouse/distribution, wholesale/trade, automotive uses, and accessory commercial. Overall, the light industrial character areas are largely dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances.

OVERLAY DISTRICT

The subject property is located within the Mountain Industrial Boulevard Overlay District. The intent of the Mountain Industrial Overlay district is to preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the City of Tucker; to improve the visual appearance and increase property values within the corridor; allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a community meeting at the subject property on September 8, 2021, after notifying property owners within 500 feet of the subject parcel. There were 9 people in attendance including two members of Branch Properties, their zoning attorney and the proposed tenant's CEO. The applicant's report listed concerns and questions regarding traffic and the proposed multi-use path along Hugh Howell Road. It does not appear that any changes were made to the site plan as a result of the Public Participation Meeting.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Current Land Use
Adjacent: North	M (Light Industrial)	American Freight (Appliance, Furniture, Mattress)
Adjacent: East	M (Light Industrial)	Remaining Industrial Warehouse from former Sears Site
Adjacent: South	M (Light Industrial) (several parcels)	Industrial/Office
Adjacent: South	M-2 (Heavy Industrial)	LPS Labs
Adjacent: West	M (Light Industrial)	CubeSmart Self Storage
Adjacent: West	M (Light Industrial)	Industrial Warehouse (Scandinavian Tobacco Group)



Zoning and Aerial Exhibits showing surrounding land uses

Major Modification/Rezoning (RZ-21-0003)

The process and regulations for modifications and changes to approved conditions of zoning are outlined in Sec. 46-1565 of the City of Tucker Zoning Ordinance. This section falls under Division 3: Zoning and Comprehensive Plan Amendments and Procedures. Minor changes can be handled administratively, but major changes, such as changes to conditions of approval, require the full public hearing process and review. Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

REZONING - CRITERIA TO BE APPLIED:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is currently located within the Light Industrial (LIND) Character Area. The LIND Character Area supports light industrial uses, manufacturing, warehouse/distribution, wholesale/trade, automotive, and accessory commercial. The larger site, a 99,000 square foot shopping center, does not meet the intent of the Light Industrial Character Area. However, the development was approved pursuant to RZ-19-0006. The proposed use of a fast-casual restaurant with a drive through facility aligns with the Light Industrial primary land use of accessory commercial. The nature of the proposed fast-casual restaurant is less intense than a typical drive-through restaurant.

However, Staff would like to note that there are several Gusto locations that do not have drive-through facilities including Buckhead and Avalon.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject parcel is located in Tucker's industrial corridor. It is surrounded by industrial properties. The subject site was rezoned from M (Light Industrial) to C-2 (General Commercial) in 2019. While drive-throughs restaurants are not permitted in the M zoning district, C-2 allows for drive-through restaurants if they meet the supplemental regulations listed in Section 46-1166. The proposed drive-through restaurant could serve the residential developments on either side of the industrial corridor, as well as the employees of the industrial corridor.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property has a reasonable economic use as currently zoned. Branch Properties agreed to the conditions of zoning in 2019 (RZ-19-0006) and is actively developing the site per the approved conditions.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The specific use will not have a direct adverse effect on adjacent or nearby properties as Gusto is a low intensity drive through user. Additionally, while the tenant use of the drive through is different (dry cleaners to restaurant) there is no net increase in the number of drive through facilities on the site. The applicant's request is to move one of the proposed drive-throughs from building 200 to building 400.

5. 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 zoning proposal.

There are no known existing or changing conditions that affect the use and development of the subject parcel.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The zoning proposal will not result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, and schools as Gusto is a low intensity drive through facility. The proposed development was approved for two drive-through buildings. The applicant is proposing to move a permitted drive-through to a different building. The applicant is not proposing to add any additional drive-throughs.

Staff would be concerned about the impact to the site if the tenant was more of a high intensity user. While the City of Tucker code only requires 10 stacking spaces, corporations typically have their own requirements for their drive through facilities. For example, one well known heavy intensity user requires 20-25 stacking spaces. Information provided by Gusto states they average 10 cars or less. A lower intensity user has less impact on a large commercial center and the surrounding area.

Drive through facilities in the City of Tucker typically require a SLUP, which cannot be transferred to another tenant. In this situation, the drive through facility is allowed by the C-2 zoning so no transfer limitations exist per code. The addition of a drive through facility at this location could restrict others to open as a proliferation of drive through facilities would exist.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment and surrounding natural resources as the proposed development is respecting the state and local stream buffers.

Conclusion: Staff recommends approval of RZ-21-0003.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **RZ-21-0003**. **Changes to previous conditions are shown in italics.**

1. The property shall be developed in general conformance with the site plan submitted on February 24, 2020 to the Community Development Department (*the Master Site Plan*) and with the site plan revision submitted on September 15, 2021 to the Community Development Department (*the Revised Site Plan*), except for revisions required to meet the conditions of zoning approval.
2. Use shall be limited to a 99,000 square foot shopping center. No more than two drive-through buildings shall be located on the site, as shown on building 200 on the *Master Site Plan* and the free-standing restaurant on the *Revised Site Plan* (building 400) referenced in Condition 1 herein. Only one remote teller / automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. No collection bins shall be permitted.
3. The front setback along Mountain Industrial Boulevard shall be reduced to 10' and the side corner setback along Hugh Howell Road shall be reduced to 35', as measured from the existing right-of-way (CV-19-0008).
4. The facade of the anchor building (building 100) may have building facades up to 100' in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials. The building facades on Buildings 200 and 600 may have building facades up to 60 feet in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials (CV-19-0009).
5. All buildings shall have a cohesive architecture and high quality "industrial feel" materials.
6. Buildings shall be predominantly brick with metal panel roof and siding elements, concrete and EFIS, metal canopies, and aluminum storefronts.
7. Restaurant/Retail buildings 300, 400, and 500 shall have four-sided architecture.
8. Building 300 and 400 shall have active storefronts that face Hugh Howell Road.
9. Each restaurant suite in Building 500 shall have an active public entrance facing Hugh Howell Road. The west end suite shall have 50 square feet of storefront of storefront glazing. The east end suite shall have 155 square feet of storefront glazing. Architectural detailing, such as recessed building materials consistent with the primary building materials,

shall be used to create the appearance of a storefront on all interiorsuites.

10. When possible, utility equipment shall be located on facades that are not visible from the public right-of-way. Utility equipment shall be screened with landscaping and/or architectural features and when permissible, painted to match the exterior building material.
11. Restaurant/Retail building 500 shall have patios, outdoor dining and/or gathering areas adjacent to the pedestrian paths and Hugh Howell streetscape.
12. The storefront for building 300, at the intersection of Mountain Industrial Boulevard and Hugh Howell Road, shall integrate a prominent entry feature and building design that activates the corner, with an entrance/storefront oriented toward Hugh Howell Road.
13. A minimum 20 feet of landscaped greenspace shall be provided between the driveway in front of Building 400 and the 10' wide concrete path mentioned in Condition #23, as shown on the site plan referenced in Condition 1 and subject to the approval of the Georgia Department of Transportation.
14. Storefronts shall not be covered with opaque film, shelving, etc that prevent visibility into the space. If a suite has three or more storefront facades, a portion may be covered to accommodate interior layout needs so long as the overall architectural design of the suite is consistent.
15. Refuse areas shall be screened from view of all public right-of-way and shall be constructed from the same materials as the primary buildings and with a similar level of architectural quality and detailing.
16. There shall be one main east/west (terminating at the west side of the anchor building parking field) and one main north/south thoroughfare/boulevard that provides access throughout the development that is framed by open space as shown on the site plan referenced in Condition 1. No parking spaces shall be located along these thoroughfare/boulevards.
17. A berm shall be installed that fills the area between the back of sidewalk and back of curb in front of the 20 parking spaces abutting Mountain Industrial Road and the 21 parking spaces abutting Hugh Howell Road.
18. A 10' landscape strip and 5' sidewalk shall be along the east property line, on the adjacent property, in the area labeled as "20' sidewalk and landscape easement," as shown on the site plan referenced in Condition 1 herein and per the applicant's agreement of purchase and sale.
19. All utilities in the interior of the development shall be placed underground.

20. The existing pole sign on the property shall be removed during the land development process.
21. The development shall be limited to one (1) full access entrance and one (1) right in/right out only entrance on Hugh Howell Road, and one (1) full access entrance and one (1) right in/right out only entrance Mountain Industrial Boulevard, as shown on the site plan referenced in Condition 1 herein. The location of said entrances are subject to the sight distance and spacing requirements to the standards of the Georgia Department of Transportation.
22. Owner/Developer shall install a six foot (6') wide sidewalk and ten foot (10') landscape strip along the entire frontage of Mountain Industrial Boulevard.
23. Owner/Developer shall install a ten foot (10') wide concrete path with a five foot (5') wide landscape strip along the entire frontage of Hugh Howell Road, as shown on the site plan referenced in Condition 1, and subject to the approval of the Georgia Department of Transportation. Hardwood trees shall be planted for the required street trees.
24. Owner/Developer shall install pedestrian street lighting along Mountain Industrial Boulevard and Hugh Howell Road, as required by City of Tucker code, Section 46-1336.
25. Owner/Developer shall install deceleration lanes at all proposed driveways on Hugh Howell Road and on Mountain Industrial Boulevard, as shown on the site plan referenced in Condition 1 herein.
26. Owner/Developer shall construct a left turn lane into the full access driveway on Hugh Howell Road, as shown on the site plan referenced in Condition 1 herein, subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
27. Owner/Developer shall dedicate at no cost to the City of Tucker additional right-of-way along Mountain Industrial Boulevard and along Hugh Howell Road as shown on the site plan referenced in Condition 1, such that there is a minimum of eleven feet (11') from back of curb or two feet (2') from back of sidewalk, whichever is greater.
28. Owner/Developer shall dedicate at no cost to the City of Tucker ten feet (10') of right-of-way as measured from the existing right-of-way along Mountain Industrial Boulevard from Hugh Howell Road north to the southernmost curb cut as shown on the site plan referenced in Condition 1.
29. Owner/Developer shall construct a westbound right turn lane along Hugh Howell Road onto Mountain Industrial Boulevard as shown on the site plan referenced in Condition 1 at no expense to the City of Tucker, subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
30. Owner/Developer shall provide a bus shelter along Hugh Howell Road, in coordination with and per MARTA's approval.

31. Owner/Developer shall provide an interparcel access easement to the adjacent properties to the north and the east in order to allow for interparcel vehicular ingress and egress between the properties. Applicant may relocate or reconfigure the eastern interparcel access from what is shown on the site plan referenced in Condition 1 herein.
32. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
33. Owner/Developer shall comply with City and State requirements regarding stream buffers.
34. Owner/Developer shall comply with Section 22-34 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of thirty (30) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance. Street trees as described in Conditions 22 and 23 and "off-site" trees installed within the sidewalk and landscape easement described in Condition 18 shall count toward this requirement.
35. Water and sewer approval is required by the DeKalb County Department of Watershed Management.
36. The area of land subject to the rezoning and concurrent variances shall be restricted to the land mass outlined approximately in Exhibit A: Legal Description Tract 2 submitted on January 7, 2020 to the Community Development Department.
37. The following applies to all outdoor dining, including on-site and when authorized within a public right-of-way: All tables and chairs must be metal or wood; Each umbrella canopy must be a single solid color. Different umbrellas may have different colored canopies; No signage may be placed on tables, chairs, or umbrellas.
38. The community art feature and the design of the pocket park shall be subject to the review and reasonable approval of the Director of Planning and Zoning of the City of Tucker. The community art feature shall not represent or include signage for the development or any tenants.
39. Per the applicant's proposed restrictions, the following uses as defined by City of Tucker ordinance shall not be permitted: coliseum; funeral home; clubhouse; automobile or truck rental/leasing facilities; automobile brokerage; automobile or truck sales; automobile upholstery shop; boat sales; trailer or RV salesroom/lot; building, landscaping, heavy construction contractor offices; adult entertainment establishments; adult service facility; drive-in theater; fairground or amusement park; nightclub or late night establishment; outdoor recreation; fuel dealers; bus or rail stations; heliport; adult day care center; animal shelter; check cashing establishment; multi-warehouse; outdoor storage; furniture upholstery or repair; contractor heavy construction; heavy equipment repair service or trade; taxi,

ambulance or limousine service, dispatching or storage.

40. The City of Tucker shall have the right to install traffic improvements that directly relate to this development on the subject property or within the right-of-way abutting this property or any property that is connected with inter-parcel connectivity. The Owner/Developer shall cooperate with the City of Tucker Public Works Department on traffic improvements. A monetary contribution of \$225,000, for traffic management or safety improvements related to this development, shall be arranged prior to the Land Disturbance Permit issuance and shall be paid concurrently with Land Disturbance Permit issuance.

PLANNING COMMISSION RECOMMENDATION

Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of **RZ-21-0003** subject to the following staff condition: (additions = **bold**; deletions = ~~striketrough~~).

1. The property shall be developed in general conformance with the site plan submitted on February 24, 2020 to the Community Development Department (the Master Site Plan) and with the site plan revision submitted on September 15, 2021 to the Community Development Department (the Revised Site Plan), except for revisions required to meet the conditions of zoning approval.
2. Use shall be limited to a 99,000 square foot shopping center. No more than two drive-through buildings shall be located on the site, as shown on building 200 on the Master Site Plan and the free-standing restaurant on the Revised Site Plan (building 400) referenced in Condition 1 herein. Only one remote teller I automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. No collection bins shall be permitted.
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4. The facade of the anchor building (building 100) may have building facades up to 100' in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials. The building facades on Buildings 200 and 600 may have building facades up to 60 feet in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials (CV-19-0009).
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north and the east in order to allow for interparcel vehicular ingress and egress between the properties. Applicant may relocate or reconfigure the eastern interparcel access from what is shown on the site plan referenced in Condition 1 herein.

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39. Per the applicant's proposed restrictions, the following uses as defined by City of Tucker ordinance shall not be permitted: coliseum; funeral home; clubhouse; automobile or truck rental/leasing facilities; automobile brokerage; automobile or truck sales; automobile upholstery shop; boat sales; trailer or RV salesroom/lot; building, landscaping, heavy construction contractor offices; adult entertainment establishments; adult service facility; drive-in theater; fairground or amusement park; nightclub or late night establishment; outdoor recreation; fuel dealers; bus or rail stations; heliport; adult day care center; animal shelter; check cashing establishment; multi-warehouse; outdoor storage; furniture upholstery or repair; contractor heavy construction; heavy equipment repair service or trade; taxi, ambulance or limousine service, dispatching or storage.

40. The City of Tucker shall have the right to install traffic improvements that directly relate to this development on the subject property or within the right-of-way abutting this property or any property that is connected with inter-parcel connectivity. The Owner/Developer shall cooperate with the City of Tucker Public Works Department on traffic improvements. A monetary contribution of \$225,000, for traffic management or safety improvements related to this development, shall be arranged prior to the Land Disturbance Permit issuance and shall be paid concurrently with Land Disturbance Permit issuance.

Department CommentsARBORIST

The plan as presented will eliminate 7 parking spaces that are now between the restaurant and the bank. It looks like the dumpster will take away a portion of the sidewalk.

CITY ENGINEER

The required transportation improvements including the westbound right turn lane, relocation of the traffic signal pole, trail along Hugh Howell Road, sidewalk along Mountain Industrial Boulevard, and streetscaping need to be completed prior to the issuance of a Certificate of Occupancy.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

No comments.

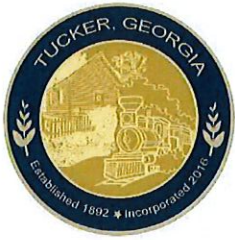
DEKALB COUNTY FIRE MARSHAL OFFICE

Based on the information provided, my comments are as follows:

- Hydrant distribution and spacing shall be in accordance with International Fire Code Appendix C.
- Fire apparatus access roads shall be in accordance with IFC Appendix D.
- Fire Department Connection(s) shall be remote and not attached to the building. FDC shall be located within 100 feet of a fire hydrant, marked by signage, and protected from vehicle impact.
- All fire lines and size shall be clearly shown on Site/Utility plans.
- Fire access road widths shall be shown on the plans.

DEKALB COUNTY SCHOOLS

Not applicable.



Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
Email: permits@tuckerga.gov
Website: www.tuckerga.gov

Land Use Petition Application

Type of Application: ☐ Rezoning ☐ Comprehensive Plan Amendment ☐ Special Land Use Permit
☐ Concurrent Variance ☒ Modification

RZ-21-0003

APPLICANT INFORMATION

Applicant is the: ☒ Property Owner ☐ Owner's Agent ☐ Contract Purchaser

Name: Branch Hugh Howell Associates, LP, c/o Laurel David,

Address: The Galloway Law Group, LLC, 4062 Peachtree Rd., A330

City: Atlanta State: GA Zip: 30319

Contact Name: Laurel David, The Galloway Law Group

Phone: 404-965-3669 Email: laurel@glawgp.com

OWNER INFORMATION

Name: Branch Hugh Howell Associates, LP

Address: 3340 Peachtree Rd NE, Ste 2775

City: Atlanta State: GA Zip: 30326

Contact Name: Laurel David, The Galloway Law Group

Phone: 404-965-3669 Email: laurel@glawgp.com

PROPERTY INFORMATION

Property Address: 4650 Hugh Howell Rd.

Present Zoning District(s): C-2-C Requested Zoning District(s): C-2-C

Present Land Use Category: LIND Requested Land Use Category: none

Land District: 18 Land Lot(s): 215 Acreage: +/- 24

Proposed Development: shopping center

Concurrent Variance(s): none

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units: Dwelling Unit Size (Sq. Ft.): Density:

NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots: +/- 10 Total Building Sq. Ft.: 99,000 Density: +/- 4,125 SF/acre

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RZ-21-0003

APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.



Signature of Applicant

9/13/21

Date

JACK T. HAYLETT

Type or Print Name and Title

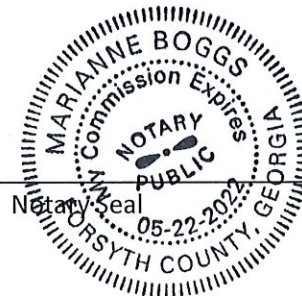
for Branch Hugh Howell Associates, LP

Marianne Boggs

Signature of Notary Public

9/13/21

Date



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PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), Modification (M) & Concurrent Variance (CV) in request of the items indicated below.

I, Jack T. Haylett, authorize, Branch Hugh Howell Associates, LP,
(Property Owner) (Applicant)

to file for Modification, at 4650 Hugh Howell Rd.
(RZ, CA, SLUP, M, CV) (Address)

on this date September 13, 2021
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

[Signature]
Signature of Property Owner

9/13/21
Date

JACK T. HAYLETT, MANAGER
Type or Print Name and Title

Marianne Boggs
Signature of Notary Public

9/13/21
Date



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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE:

YES (if YES, complete points 1 through 4);

NO (if NO, complete only point 4)

1. CIRCLE ONE: Party to Petition (If party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1. _____	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

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Signature: _____

Name (print) MARIANNE BOGGS

Marianne Boggs

Date: 9-13-21

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE:

YES (if YES, complete points 1 through 4);



NO (if NO, complete only point 4)

1. CIRCLE ONE: Party to Petition (If party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

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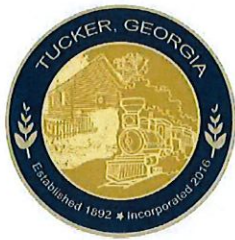
Name (print) Laurel David, The Galloway Law Group

Signature: Laurel David

Date: 9/13/21

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Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
Email: LandDevelopment@tuckerga.gov
Website: www.tuckerga.gov

Land Use Petition Application Checklist

FOR ALL REZONINGS, COMPREHENSIVE PLAN AMENDMENTS, SPECIAL LAND USE PERMITS, MODIFICATIONS, AND CONCURRENT VARIANCES

REQUIRED ITEMS	NUMBER OF COPIES	CHECK <input type="checkbox"/>
One (1) digital copy of all submitted materials GLG	• One (1) flash drive or CD in .JPEG, .PDF format	<input type="checkbox"/>
Pre-Application Meeting Form	• One (1) Copy	<input type="checkbox"/>
Public Participation Report GLG	• One (1) Copy	<input type="checkbox"/>
Application, Signature Pages, Disclosure Form	• One (1) Copy each	<input type="checkbox"/>
Written Legal Description Branch	• One (1) 8 1/2" x 11" Legal Description	<input type="checkbox"/>
Boundary Survey and Proposed Site Plan Branch (See Page 9 for Requirements)	• Five (5) Full-Size (24" x 36") Copies of each • One (1) 8 1/2" x 11" or 11x17 Site Plan of each	<input type="checkbox"/>
Building Elevations (renderings or architectural drawings to show compliance with Article 5)	• One (1) Copy	<input type="checkbox"/>
Letter of Intent GLG	• One (1) Copy	<input type="checkbox"/>
Analysis of Standards/Criteria (See page 5) GLG	• One (1) Copy	<input type="checkbox"/>
Environmental Site Analysis Form N/A	• One (1) Copy	<input type="checkbox"/>
Trip Generation Letter (ITE Trip Generation Manual) ??	• One (1) Copy	<input type="checkbox"/>
THE FOLLOWING ITEMS MAY BE REQUIRED		
Traffic Impact Study (See Sec. 46-1309)	• Three (3) Copies	<input type="checkbox"/>
Development of Regional Impact Review Form	• Three (3) Copies	<input type="checkbox"/>
Environmental Impact Report	• Three (3) Copies	<input type="checkbox"/>
Noise Study Report	• Three (3) Copies	<input type="checkbox"/>
Other items required per the Zoning Ordinance	• Three (3) Copies	<input type="checkbox"/>
LAND USE PETITION FEE SCHEDULE		
Residential Rezoning	\$500	<input type="checkbox"/>
Multifamily Rezoning	\$750	<input type="checkbox"/>
Non-Residential Rezoning	\$750	<input type="checkbox"/>
Special Land Use Permit	\$400	<input type="checkbox"/>
Comprehensive Plan Amendment	\$1000	<input type="checkbox"/>
Modification	\$250	<input type="checkbox"/>
Variance (includes Concurrent Variance)	\$300	<input type="checkbox"/>
Public Notice Sign Fee	\$80 (per required sign)	<input type="checkbox"/>

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LEGAL DESCRIPTION

TRACT 2

All that tract or parcel of Land, lying and being in Land lot 215 of the 18th District, DeKalb County, State of Georgia, being more particularly described as follows.

To find the True Point of Beginning, commence at a point formed by the intersection of the North 100 ft. Right-of-Way of Hugh Howell Road (also known as State Route 236) and the East 100 ft. Right-of-Way of Mountain Industrial Boulevard, thence North 21 degrees 33 minutes 47 seconds East for a distance of 27.24 ft. to a point at the Northerly Limit of a Mitered Right-of-Way, aforementioned point being the True Point of Beginning,

THENCE continuing along the East 100 ft. Right-of-Way of Mountain Industrial Boulevard, North 00 degrees 05 minutes 41 seconds East for a distance of 291.34 feet to a point;

THENCE continuing along the East 100 ft. Right-of-Way of Mountain Industrial Boulevard, North 44 degrees 21 minutes 01 seconds West for a distance of 14.28 feet to a point;

THENCE continuing along the East 100 ft. Right-of-Way of Mountain Industrial Boulevard, North 00 degrees 45 minutes 41 seconds East for a distance of 580.62 feet to a 1/2" re-bar set;

THENCE leaving the East 100 ft. Right-of-Way of Mountain Industrial Boulevard, South 89 degrees 42 minutes 58 seconds East for a distance of 196.84 feet to a point;

THENCE South 00 degrees 40 minutes 37 seconds East for a distance of 42.05 feet to a point;

THENCE South 89 degrees 49 minutes 29 seconds East for a distance of 16.39 feet to a point;

THENCE South 00 degrees 31 minutes 32 seconds West for a distance of 50.93 feet to a point;

THENCE South 89 degrees 25 minutes 34 seconds East for a distance of 146.32 feet to a point;

THENCE South 72 degrees 07 minutes 49 seconds East for a distance of 415.08 feet to a point;

THENCE South 00 degrees 05 minutes 41 seconds West for a distance of 692.54 feet to a point on the North 100 ft. Right-of-way of Hugh Howell Road (also known as Georgia State Route 236);

THENCE continuing along the North 100 ft. Right-of-way of Hugh Howell Road along a curve to the right having a radius of 4666.95 feet and an arc length of 17.35 feet, being subtended by a chord of North 87 degrees 48 minutes 56 seconds West for a distance of 17.35 feet to a 1/2" re-bar set;

THENCE continuing along the North 100 ft. Right-of-way of Hugh Howell Road, North 89 degrees 26 minutes 17 seconds West for a distance of 724.28 feet to a 1/2" re-bar set at the start of a mitered Right-of-Way;

THENCE along the Mitered Right-of-Way, North 07 degrees 32 minutes 36 seconds West for a distance of 25.65 feet to a point, the True Point of Beginning.

Said property contains 13.99 acres.

Note "MIB"

The previous ALTA/ACSM survey by Moreland Altobelli Associates, Last Revised 12-12-2013, shows the East Right-of-Way of Mountain Industrial Boulevard approximately 30 ft. into the actual Right-of-Way. The 100 ft. Right-of-way is well established as being 50 ft. east and West of the centerline of the pavement.

REVISION

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Attachment: RZ-19-0006 Application 01.07.2020 Revised (O2020-01-3 : RZ-19-0006; CV-19-0009)

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Packet Pg. 110

LETTER OF INTENT AND ANALYSIS OF STANDARDS
APPLICATION FOR ZONING MODIFICATION

The Applicant, Branch Acquisition Company, LLC (“Branch”), requests a modification in the zoning conditions for approximately 13.99 acres of land located at 4650 Hugh Howell Road, Tucker, Georgia (Parcel Identification Number 18 215 01 002). It is zoned C-2 (RZ-19-0006) with conditions to redevelop and revitalize the Property with retail, commercial and restaurant uses, introduce patio seating, pedestrian walkways and gathering areas and improve and add streetscape elements to serve the nearby neighborhoods and employees of nearby businesses. The specific request that is the subject of this application is a modification of a small portion of the overall Master Plan (see Master Site Plan dated February 24, 2020 attached). The Applicant requests to be allowed a restaurant with a drive-through as shown on the attached revised site plan (the Revised Site Plan) by moving one previously approved drive through from Building 200 to the Revised Site Plan area (the “Subject Property”).

The Applicant proposes a revision of Conditions #1 and #2 to read as follows:

1. The property shall be developed in general conformance with the site plan submitted on February 24, 2020 to the Community Development Department (the Master Site Plan) and with the site plan revision submitted on September 13, 2021 to the Community Development Department (the Revised Site Plan), except for revisions required to meet the conditions of zoning approval.
2. Use shall be limited to a 99,000 square foot shopping center. No more than two drive-through buildings shall be located on the site, as shown on building 200 on the Master Site Plan and the free-standing restaurant on the Revised Site Plan referenced in Condition 1 herein. Only one freestanding drive-through as shown on the Revised Site Plan shall be permitted. Only one remote teller / automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. No collection bins shall be permitted.

In conformance with the approved rezoning, Branch will continue to meet all other zoning requirements, including providing an activated streetscape on Hugh Howell Road and constructing a new multi-use trail, landscaping and patio seating areas.

The Applicant responds to the following criteria for the granting of rezoning requests:

a. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The requested zoning proposal is consistent with the spirit and text of the Tucker Tomorrow Comprehensive Plan (the “Comp Plan”). The Subject Property is designated as Light Industrial and C-2 is a compatible zoning district with that land use category. In addition, the Comp Plan emphasizes the importance of maintaining and supporting the light industrial corridor as a powerful economic and employment base for the City.

Many restaurants have changed their business models due to the pandemic. Drive throughs and other measures to allow customers to get their meals without entering the restaurant have become more popular and sometimes necessary. The Applicant’s request is a result of this change in market conditions and will ensure a high quality fast casual restaurant use. It will also provide a patio for the public to enjoy and incorporate the Hugh Howell multi-use trail along its road frontage.

The Comp Plan acknowledges the need for a development strategy that includes: “Investing in modernizing and redeveloping the less competitive assets in the Mountain Industrial area to compete better in this market.” Comp Plan, p. 45. The proposed development will have a functional relationship with the nearby industrial uses by conveniently locating amenities so that nearby employees or members of the public can enjoy lunch on a patio or in a restaurant, walk or bike on the multi-use trail, or shop on the way to or from work. As such, it fulfills the Comp Plan’s stated objective of “Supporting the redevelopment or establishment of new compatible commercial land uses within these character areas so that they grow as both local and regional generators of jobs.” Comp Plan, p. 53.

The proposed zoning modification will allow Branch to fulfill other goals of the Comp Plan, such as: “continuing the implementation of corridor improvements to enhance the visual appeal of the industrial areas”; “installing landscaping and other design measures to soften or shield views of buildings and parking lots, and loading docks”; and “incorporate multi-use paths that connect to nearby networks of greenspace or trails”. Comp Plan, p. 53. The proposed development will contain a thriving business that will provide jobs and tax revenue to the City. The proposed use is appropriate in relation to both the size of the Subject Property and to the size, scale and massing of adjacent and nearby properties in the area, which contain approved commercial, retail, and industrial uses.

b. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties;

As discussed above, the zoning modification as requested by Branch will permit a use that is suitable in view of the uses and development of adjacent and nearby properties. The request is in keeping with the purpose and intent of the Mountain Industrial Boulevard Overlay, which is "To preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the city; to improve the visual appearance and increase property values within the corridor; to allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and to promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor."

The proposed development will provide thriving businesses that will provide convenient and safe dining for employees of nearby and adjacent businesses and residential neighborhoods, will complement existing nearby commercial uses, be beneficial to the economy of the surrounding area, and increase the tax base and provide employment opportunities.

c. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

While the Subject Property may have reasonable economic use as currently zoned, the proposed modification is necessary because many restaurants have changed their business models due to the pandemic. More restaurants are revamping to allow transactions to be digital and to allow drive through ordering and contactless pick up to so customers can collect meals with limited personal contact.

d. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties;

The proposed use is appropriate in relation to the uses and usability of adjacent and nearby lots in the area. The proposed development will contain a thriving business that will complement existing nearby industrial, commercial, retail and residential uses, be beneficial to the economy of the surrounding area, provide a safe dining amenity to nearby and adjacent businesses, and provide employment opportunities.

- e. 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 zoning proposal;**

Since its inception, the City has developed zoning districts and overlays that encourage the construction and location of buildings closer to the street, activating and improving streetscapes and screening parking from view of the traveling public. The City's intent through these provisions is to ameliorate the lasting effects that outdated notions of large front yard setbacks have had on the City's streetscapes. The City's regulations also emphasize attention to the public realm, such as outdoor dining, streetscape improvements, and pedestrian plaza areas, such as those found in Branch's proposed development.

The proposed development will support the light industrial corridor as a powerful economic and employment base for the City when hiring and retaining workers in the industrial sector is becoming increasingly challenging. The proposed development will also help fulfill the need for amenities for employees of nearby businesses by bringing an alternative selection of restaurant with contactless pick up.

- f. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and**

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources on the site.

- g. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

The proposed development will not add any students to the school system. Branch is confident that sewer accommodations will be finalized by the time the building requires a Certificate of Occupancy. Branch provided a traffic study and agreed to traffic improvements during the rezoning to address any potential impact the overall development might have. The proposed revision will not result in additional impacts.

- h. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**

The proposed location of the new restaurant is located on the existing construction site for the Master Planned retail center. Branch is not aware of any impacts to the environment or surrounding natural resources.

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Because this zoning modification request is consistent with the foregoing standards, Branch respectfully asks that the Mayor and City Council of the City of Tucker grant this application as requested.

THE GALLOWAY LAW GROUP



Laurel A. David
Attorney for Applicant

4062 Peachtree Rd., Suite A330
Atlanta, Georgia 30319
(404) 965-3669

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RZ-21-0003

Public Participation Plan Report

Project Name: Branch Hugh Howell

Contact Name: Laurel David, The Galloway Law Group, LLC

Meeting Date: September 8, 2021

Meeting Location: 4650 Hugh Howell Road, Tucker, Georgia

Meeting Start Time: 6:30

Meeting End Time: 7:45

Number of people in attendance: 9 including development team

Date of Filing of Land Use Petition Application: September 13, 2021

General Introduction: notice letters were sent to all property owners on a list provided by the City of Tucker. The meeting notification was also sent via email to additional neighborhood representatives provided by Councilmember Soltys, including Mayor Frank Auman, candidates for City Council, and members of the Smoke Rise Country Club Board of Directors and Smoke Rise Community Association.

The meeting was held on-site. The application request was presented with pictures depicting examples of architecture and a proposed site plan. The meeting was attended by two members of Branch Properties, its zoning attorney and the proposed tenant's CEO. The meeting concluded, after a short presentation and questions and answers.

Summary of concerns and issues raised at the meeting: (please list and respond to each one individually; include as many items that were discussed).

1. What is the purpose of the request?

Applicant Response: When the rezoning was approved for the retail center, it was conditioned on the overall master plan. The applicant proposes a fast-casual restaurant with a drive through in the southwest corner area of the site that serves fresh wraps and healthy bowls, including children's meals and family dinner meal kits. However, to allow a drive through at this location, a zoning modification must be filed to change the master plan and to move a drive through formerly proposed for a different building (building 200) to this location. The applicant is not providing more drive-throughs than originally allowed by the rezoning (two), but is instead moving one of the drive through locations

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RZ-21-0003

2. What are the potential traffic impacts the proposed use?

Applicant Response: A traffic study was provided during the rezoning process for the overall master plan. There will be no additional traffic impacts as a result of the proposed use. There is sufficient vehicular circulation on site to accommodate vehicular traffic to the restaurant. The applicant is providing the required car stacking for the drive through use currently allowed by code and is not requesting to provide additional vehicular stacking.

3. Will the multi-use path along Hugh Howell Rd. be incorporated into the new design?

Yes, the multi-use path will still be completed along the entire property frontage for the retail development. Landscaping will also be provided between the road and the new building. The new building proposed by the applicant will incorporate pedestrian elements including convenient and easy access and outdoor patio seating.

The following must be submitted at time of application submittal:

- Copy of the letter that was mailed to neighbors
- Copy of address list for mailing
- Meeting sign-in sheet
- Meeting minutes
- Copy of the plan that was presented at the neighborhood meeting

I, the undersigned, as the applicant or an authorized representative of the applicant do solemnly swear and attest that the information provided is true and accurate. I have included a complete record of the neighborhood meeting, as well as an honest response regarding the intentions for development.

Signature of Applicant or Authorized Representative Date

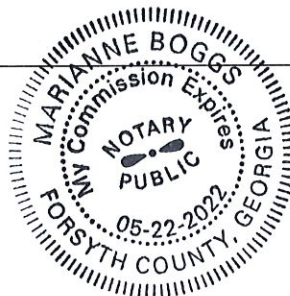
JACK T. HAYLETT

9/13/21

Type or Print Name of Applicant or Authorized Representative Date

Marianne Boggs

Signature of Notary Date Notary Seal



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Laurel
David

THE
GALLOWAY
LAW GROUP

4062 Peachtree Road NE, Suite A 330 | Atlanta, GA 30319
O (404) 965-3680 | D (404) 965-3669 | C (770) 337-1883
Partner | laurel@glawgp.com

INFORMATION MEETING CONCERNING PROPERTY LOCATED AT
4650 HUGH HOWELL ROAD

We are notifying all neighboring owners of an informational meeting open to the public to discuss a modification of the zoning conditions associated with the above property. The meeting will take place on Wednesday, September 8, 2021, from 6:30 P.M. to 7:30 P.M. It will be held on the property near the construction trailer, which can be accessed from the construction entrance on Hugh Howell Rd. Currently the construction entrance is the only serviceable driveway to the property. It is across the street from 4625 Hugh Howell Rd. Please feel free to attend this meeting should you have any questions. If you are unable to attend but would like to obtain information, please contact The Galloway Law Group at laurel@glawgp.com.

Sincerely,

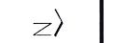
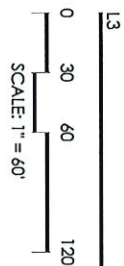
THE GALLOWAY LAW GROUP, LLC

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BZ-21-0003



HUGH HOWELL MARKETPLACE
HUGH HOWELL ROAD
TUCKER, GEORGIA

SP-10.6 (OP-1)
SCHEMATIC SITE PLAN
2021.08.06

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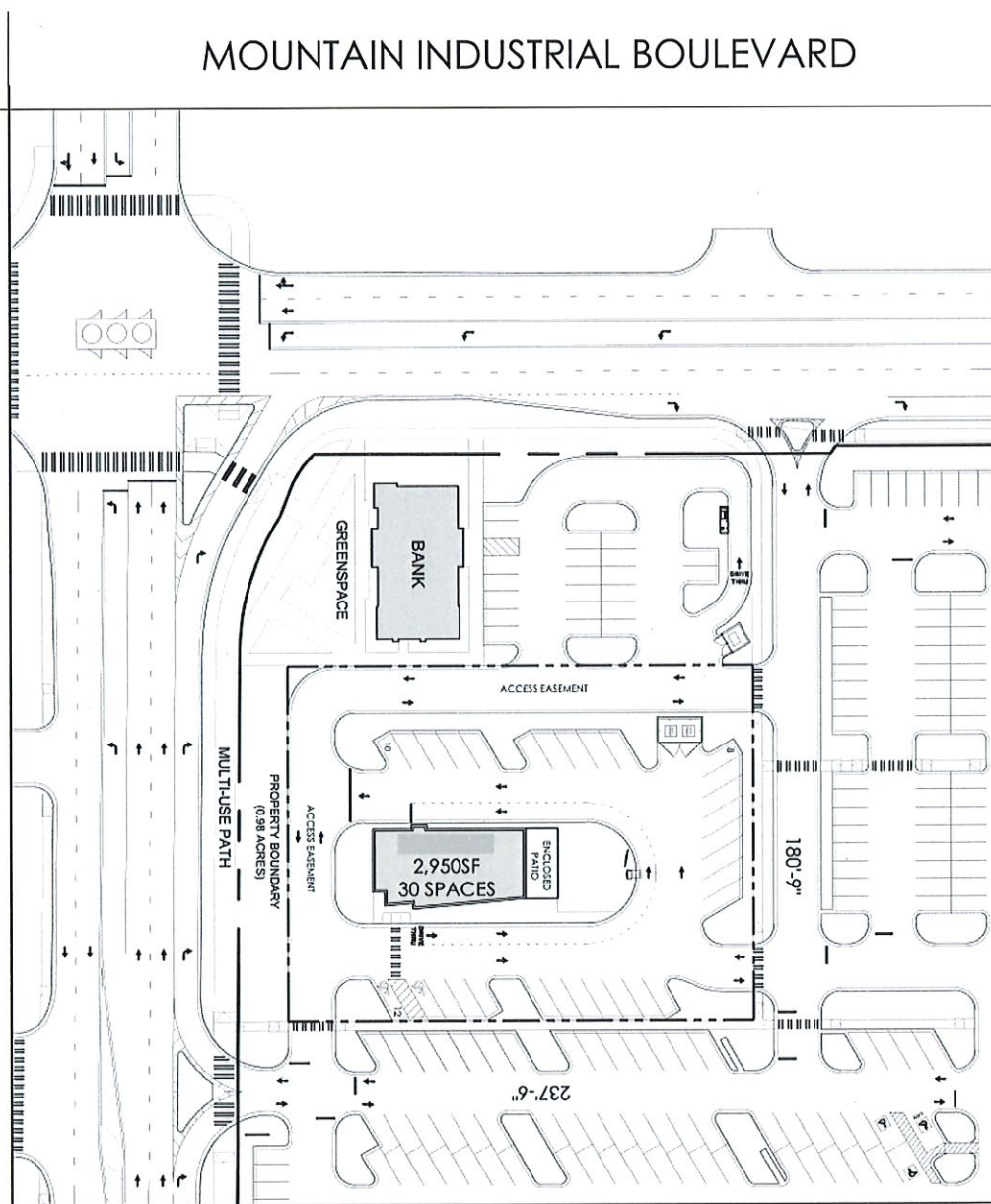
3340 PEACHTREE RD NE • SUITE 2775 • ATLANTA, GA 30326
404 • 832 • 8900

BRANCH



MOUNTAIN INDUSTRIAL BOULEVARD

HUGH HOWELL RD



DRAFT FOR
DISCUSSION
PURPOSES

R2-21-0003

Community Development
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2275 Tucker Industrial Road Tucker, GA 30084	UNION OIL COMPANY OF CA	P O BOX 285	HOUSTON	TX	77001
4545 Hugh Howell Road Tucker, GA 30084	HUTTON TUCKER GA ST LLC	736 CHERRY ST STE 200	CHATTANOOGA	TN	37402
4680 Hugh Howell Road Tucker, GA 30084	HABERSHAM PARTNERS LLC	P O BOX 48466	ATLANTA	GA	30362
2200 Mountain Industrial Boulevard Tucker, GA 30084	2200 MOUNTAIN INDUSTRIAL TUCKER GA LLC	P.O. BOX 2609	CARLSBAD	CA	92018
2301 Mountain Industrial Boulevard Tucker, GA 30084	JEDI OWNED PROPERTY LLC	999 LAKE DR	ISSAQUAH	WA	98027
4647 Hugh Howell Road Tucker, GA 30084	ILLINOIS TOOL WORKS INC	805 E OLD 56 HWY	OLATHE	KS	66061
2185 Mountain Industrial Boulevard Tucker, GA 30084	VASSILIOS LLC	4633 HUGH HOWELL RD	STONE MOUNTAIN	GA	30083
4679 Hugh Howell Road Tucker, GA 30084	BREIT STONE MOUNTAIN OWNER LLC	90 PARK AVE FLOOR 32ND	NEW YORK	NY	10016
4740 Hugh Howell Road Tucker, GA 30084	MOONSTONE TUCKER LLC	5032 N ROYAL ATLANTA DR	TUCKER	GA	30084
4633 Hugh Howell Road Tucker, GA 30084	VASSILIOS LLC	4633 HUGH HOWELL RD	TUCKER	GA	30084
2158 Mountain Industrial Boulevard Tucker, GA 30084	SUPER STAR INVESTMENTS LLC	2043 MOUNTAIN INDUSTRIAL BLVD	TUCKER	GA	30084
2280 Mountain Industrial Boulevard Tucker, GA 30084	LANE LIMITED	2280 MOUNTAIN INDUSTRIAL BLVD	TUCKER	GA	30084
4625 Hugh Howell Road Tucker, GA 30084	VASSILIOS LLC	4633 HUGH HOWELL RD	TUCKER	GA	30084
4650 Hugh Howell Road Tucker, GA 30084	BRANCH HUGH HOWELL ASSOCIATES LP	3340 PEACHTREE RD STE 2775	ATLANTA	GA	30326
4538 Hugh Howell Road Tucker, GA 30084	BREIT STONE MOUNTAIN OWNER LLC	90 PARK AVE FLOOR 32ND	NEW YORK	NY	10016
2239 Mountain Industrial Boulevard Tucker, GA 30084	JEDI OWNED PROPERTY LLC	999 LAKE DR	ISSAQUAH	WA	98027
2177 Mountain Industrial Boulevard Tucker, GA 30084	MEQUITY TUCKER LLC	PO BOX 320099 PTACS#5382	ALEXANDRIA	VA	22320
4615 Hugh Howell Road Tucker, GA 30084	TEAM K LLC	2177 MOUNTAIN INDUSTRIAL BLVD	TUCKER	GA	30084
2241 Tucker Industrial Road Tucker, GA 30084	ELMA INVESTMENTS LLC	2341 OLD IVEY WALK	STONE MOUNTAIN	GA	30087
4681 Hugh Howell Road REAR Tucker, GA 30084	BREIT STONE MOUNTAIN OWNER LLC	90 PARK AVE FLOOR 32ND	NEW YORK	NY	10016
4561 Hugh Howell Road Tucker, GA 30084	ENERGY & PROCESS CORPORATION	PO BOX 2778	NEWPORT NEWS	VA	23609
	2200 MOUNTAIN INDUSTRIAL TUCKER GA LLC	P.O. BOX 2609	CARLSBAD	CA	92018

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Community Development
Department

RZ-21-0003

COMMUNITY MEETING SIGN-IN SHEET

Project: 4650 Hugh Howell Rd.

Meeting Date: September 8, 2021, 6:30pm

[illegible]

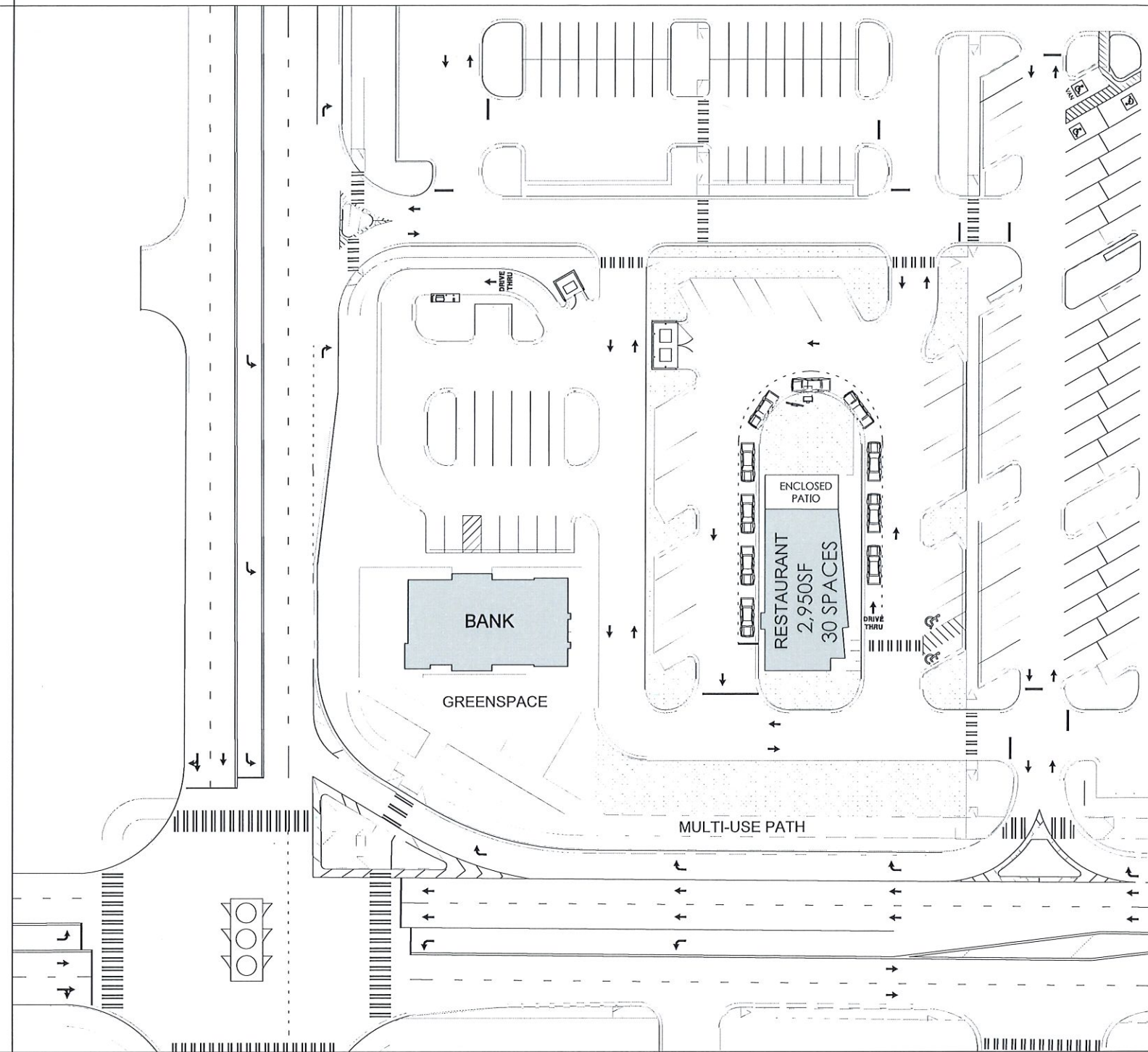
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RZ-21-0003

MOUNTAIN INDUSTRIAL BOULEVARD



HUGH HOWELL RD

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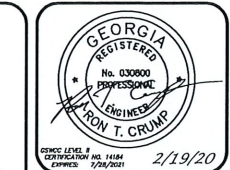
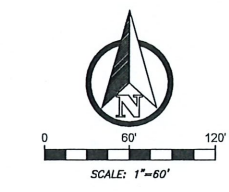
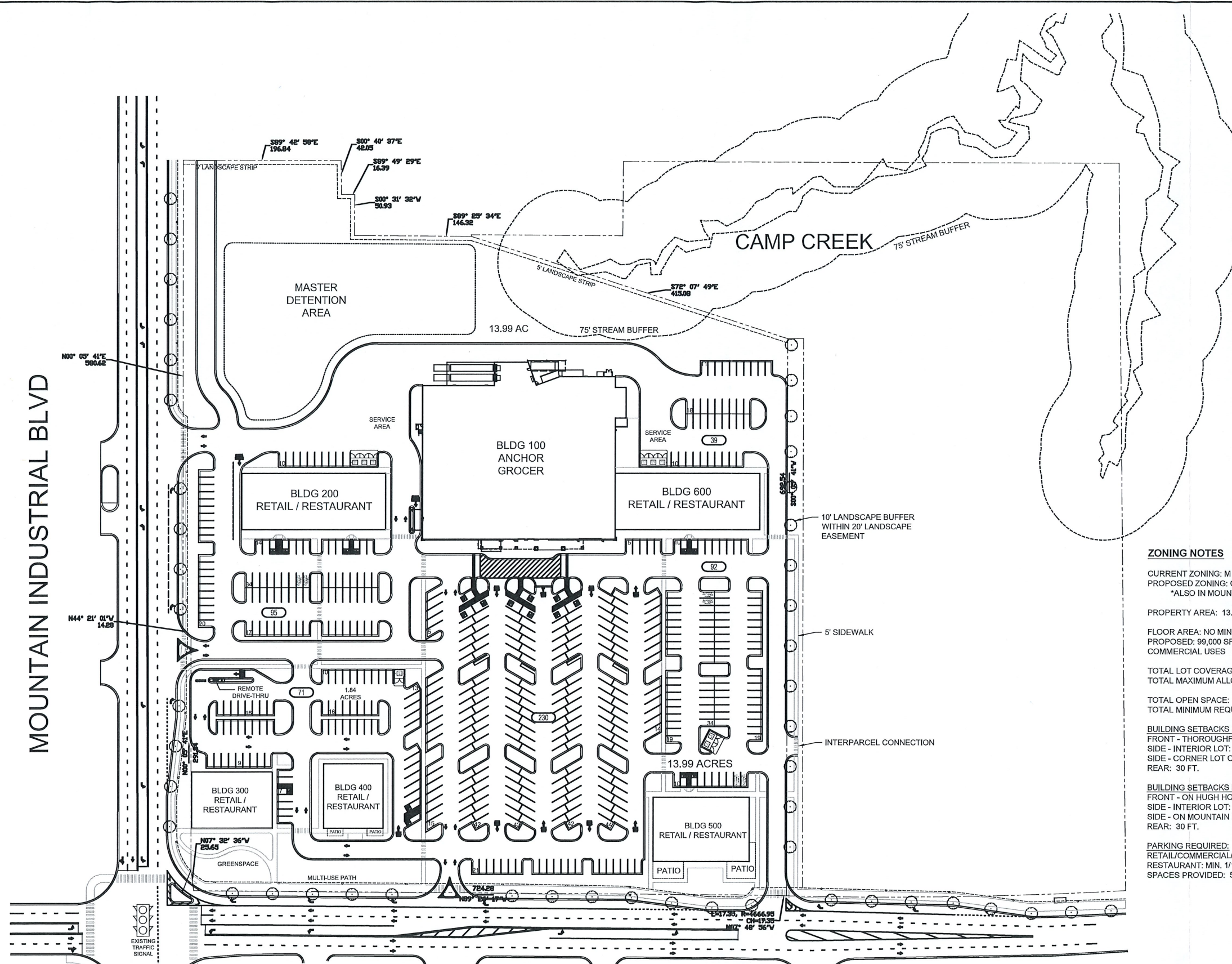
Community Development
Department

HUGH HOWELL MARKETPLACE
HUGH HOWELL ROAD
TUCKER, GEORGIA



BRANCH

3340 PEACHTREE RD NE • SUITE 2775 • ATLANTA, GA 30326
404 • 832 • 8900



CONTINEO GROUP
755 COMMERCE DRIVE
SUITE 800
ATLANTA, GA 30330
678.601.6046
www.tcg-engineer.com



BRANCH ACQUISITION COMPANY, LLC
3340 PEACHTREE STREET NE, SUITE 2775
ATLANTA, GA 30326
(404) 832 - 8800

BRANCH
HUGH HOWELL ROAD
ISSUED FOR: ZONING PACKAGE
JURISDICTION: CITY OF TUCKER
LOCATION: 4650 HUGH HOWELL RD TUCKER, GA 30084

#	DATE	REVISIONS

DRAWN: KH	CHECK: RTC
JOB NO: 19-142	DATE: 02/24/20

OVERALL SITE PLAN
SHEET **C200**

ZONING NOTES

CURRENT ZONING: M (INDUSTRIAL)
PROPOSED ZONING: C-2 (GENERAL COMMERCIAL)
*ALSO IN MOUNTAIN INDUSTRIAL BOULEVARD OVERLAY

PROPERTY AREA: 13.99 ACRES (609,404 SF.)

FLOOR AREA: NO MINIMUMS OR MAXIMUMS
PROPOSED: 99,000 SF. OF RETAIL, RESTAURANT AND COMMERCIAL USES

TOTAL LOT COVERAGE: 73%
TOTAL MAXIMUM ALLOWED: 80%

TOTAL OPEN SPACE: 20%
TOTAL MINIMUM REQUIRED: 20%

BUILDING SETBACKS REQUIRED:
FRONT - THOROUGHFARES/ARTERIALS: 60 FT.
SIDE - INTERIOR LOT: 20 FT.
SIDE - CORNER LOT ON PUBLIC STREET: 50 FT.
REAR: 30 FT.

BUILDING SETBACKS PROVIDED:
FRONT - ON HUGH HOWELL RD.: 35 FT.
SIDE - INTERIOR LOT: 20 FT.
SIDE - ON MOUNTAIN INDUSTRIAL BLVD.: 10 FT.
REAR: 30 FT.

PARKING REQUIRED:
RETAIL/COMMERCIAL/GROCERY: MIN 1/500SF, MAX. 1/200 SF.
RESTAURANT: MIN. 1/150SF, MAX. 1/75 SF.
SPACES PROVIDED: 535 SPACES

OVERALL PROPERTY SUMMARY	
RETAIL/RESTAURANT	99,000 SF
TOTAL RETAIL AREA	99,000 SF
OVERALL PARKING SUMMARY	
TOTAL PARKING PROVIDED	527 SPACES
TOTAL PARKING RATIO	5.32 SPACES

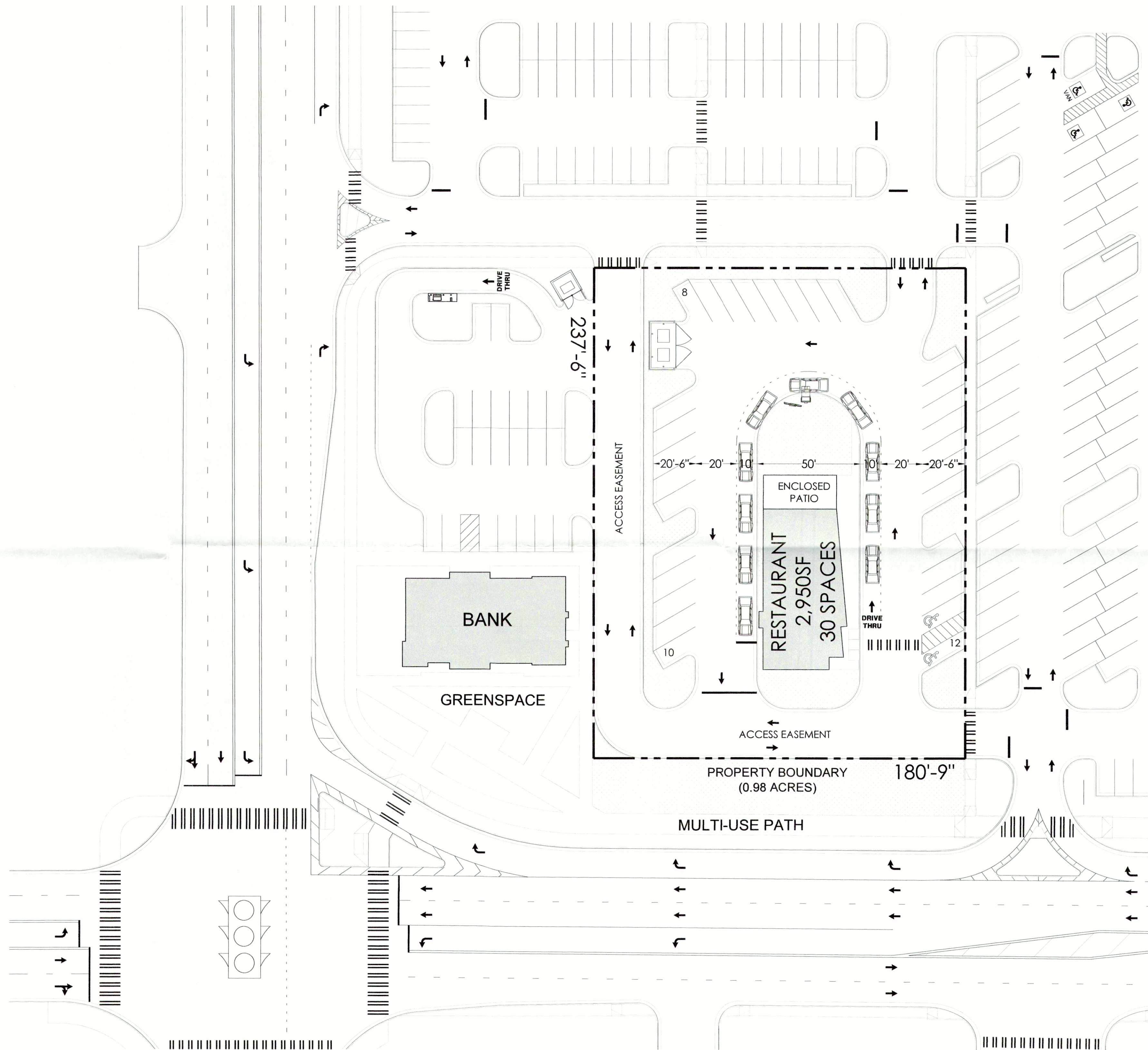
OUTPARCEL SUMMARY	
RETAIL/RESTAURANT	13,030 SF
TOTAL OUTPARCEL RETAIL AREA	13,030 SF
OUTPARCEL PARKING SUMMARY	
OUTPARCEL PARKING PROVIDED	71 SPACES
OUTPARCEL PARKING RATIO	5.45 SPACES

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RZ-21-0003

MOUNTAIN INDUSTRIAL BOULEVARD



HUGH HOWELL RD



BRANCH

3340 PEACHTREE RD NE • SUITE 2775
ATLANTA, GA 30326
404•832•8900

HUGH HOWELL
MARKETPLACE
...
HUGH HOWELL ROAD
TUCKER, GEORGIA

SITE PLAN REVISION
DATE DWG
2021.09.13 SP-10.6

TENANT EXHIBIT
DATE DWG

0 15 30 60
SCALE: 1" = 30'


SP-10.6
EXHIBIT A
SCHEMATIC
SITE PLAN
NOT FOR CONSTRUCTION

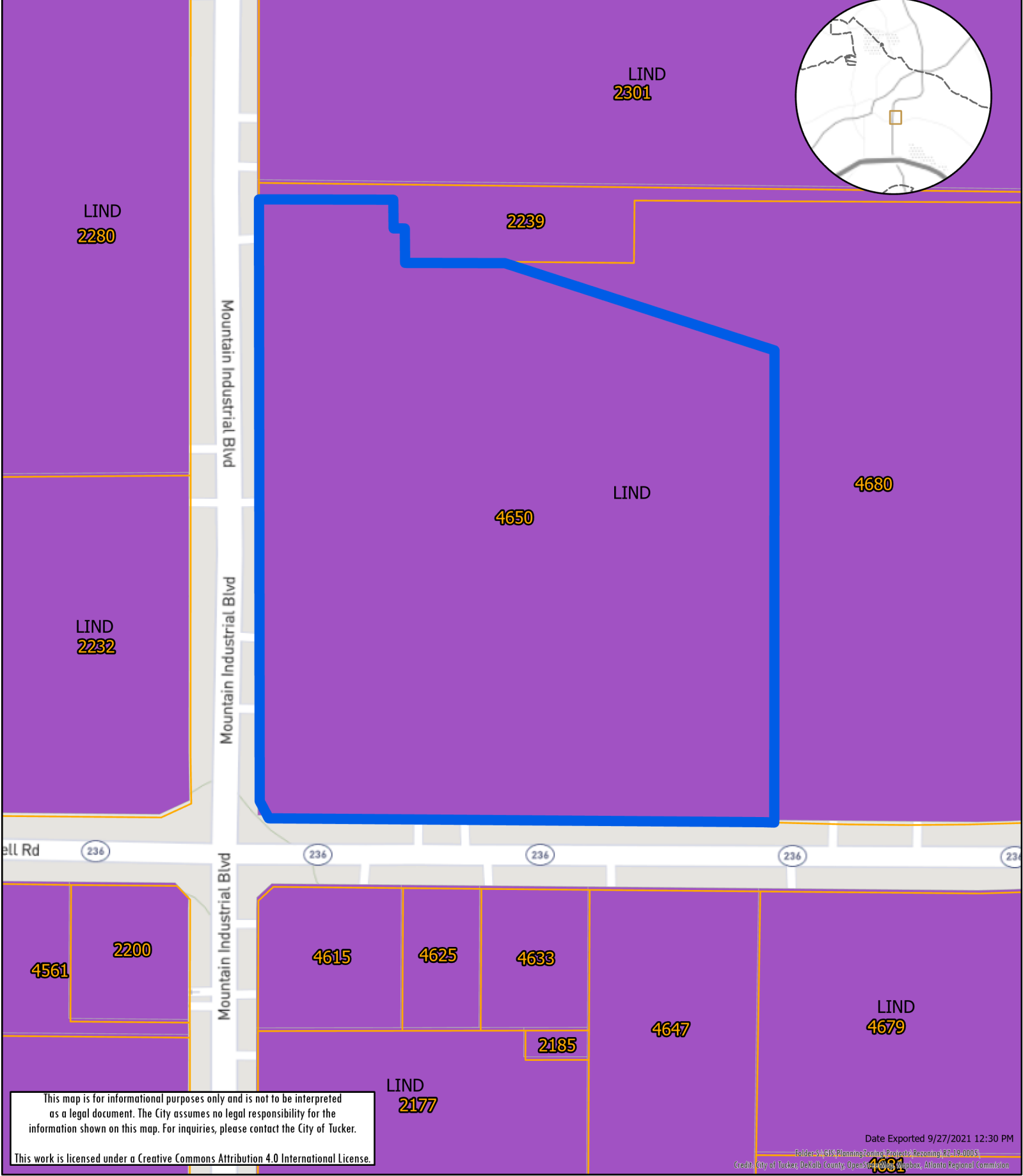
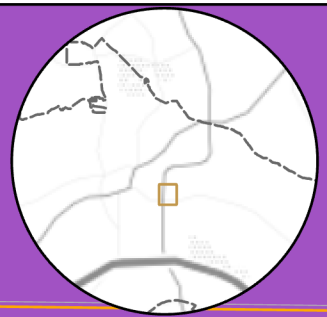
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City of
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Aerial
RZ-21-0003
4650 Hugh Howell Road
Page 306 of 573
300 Feet

 **Rezoning**



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

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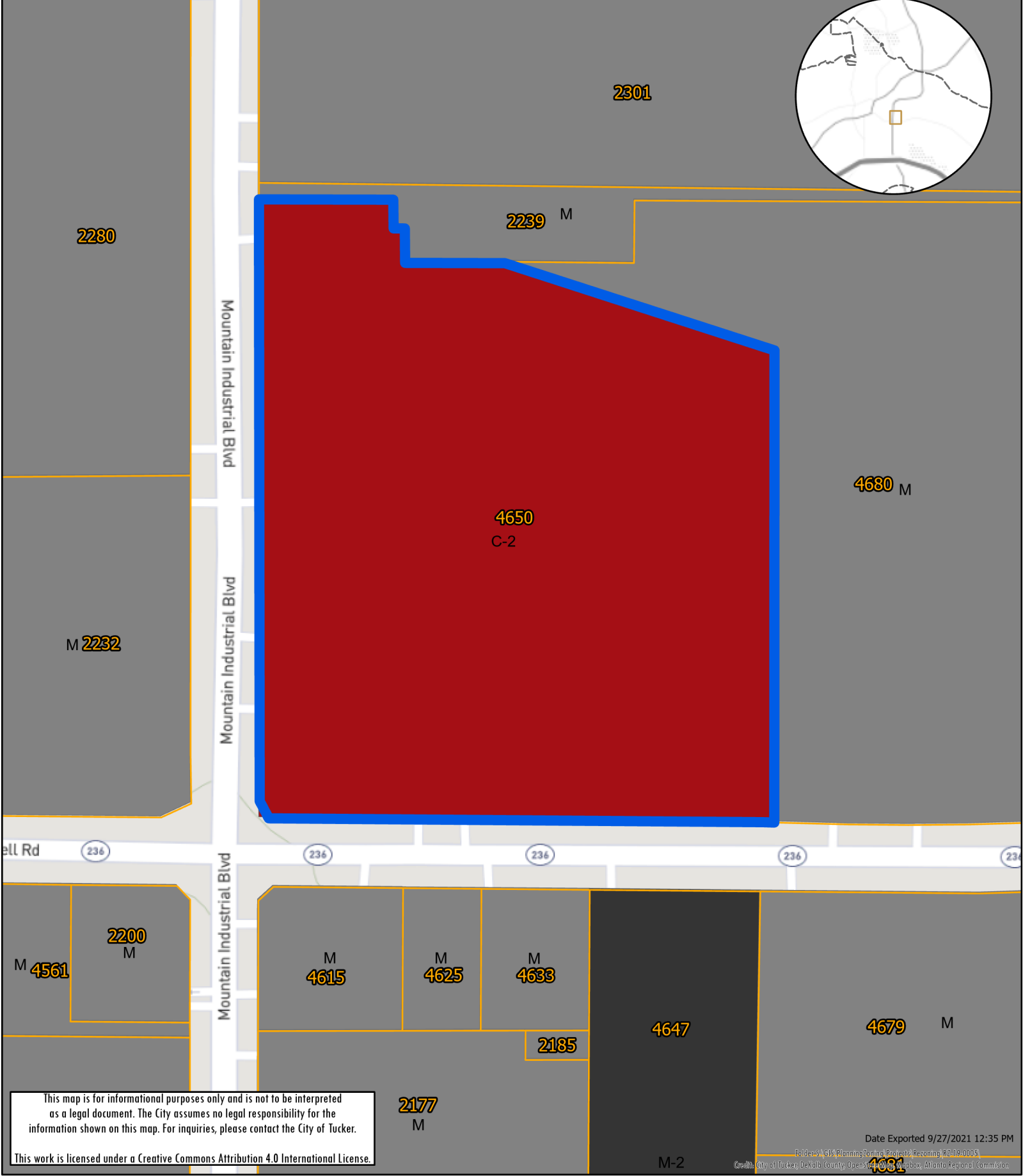
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Credit: City of Tucker, DeKalb County, OpenStreetMap, Mapbox, Atlanta Regional Commission



City of
Tucker

FLU
RZ-21-0003
4650 Hugh Howell Road
0Page 307 of 5073 300
Feet

 Light Industrial
 Rezoning



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

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Folder: SA 605 Planning/Zoning Projects/Rezoning_RZ-19-0003
City of Tucker, DeKalb County, OpenStreetMap, Mapbox, Atlanta Regional Commission



City of
Tucker

Zoning
RZ-21-0003
4650 Hugh Howell Road
0Page 308 of 573 300
Feet

-  Rezoning
- Zoning District**
-  C-2 (General Commercial)
-  M (Light Industrial)
-  M-2 (Heavy Industrial)



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: SLUP-21-0005 for Phoenix Wellness at 2088 Idlewood Road, Suite 6

Issue:

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 2088 Idlewood Road to allow for a massage establishment/health spa. The subject property is 1.23 acres and is zoned C-1 (Local Commercial). Pursuant to Section 46-1125, Table 4.1, Use Table, both *massage establishment and health spa* are only allowed in the C-1 zoning district with approval of a Special Land Use Permit.

Recommendation:

Staff recommends denial of SLUP-21-0005.

Planning Commission recommended approval with amended conditions at their October 21, 2021 meeting.

Background:

This would be the second location for Phoenix Wellness Center. The applicant stated in their letter of intent that the Tucker location would be a compressed version of the Little Five Points location. The applicant expects to have five licensed massage therapists, including herself, on staff as well as three front desk receptionists that rotate shifts. Phoenix Wellness Center stated in their application that the following services will be offered: massage therapy, facials, and waxing.

Summary:

The proposed use does not comply with all the Criteria (standards and factors) for special land use decisions. The proposed use is not consistent with the Suburban Character Area, and it would add to a proliferation of similar uses nearby.



Land Use Petition: SLUP-21-0005

Date of Staff Recommendation Preparation: September 14, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	2088 Idlewood Road Suite 6
APPLICATION NUMBER	SLUP-21-0005
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 186
ACREAGE:	1.23 acres
EXISTING ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Office Building
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Natalie Phoenix
OWNER:	Morning Dew Realty, LLC.
PROPOSED DEVELOPMENT:	Special Land Use Permit to allow a massage establishment/health spa
STAFF RECOMMENDATION:	Denial of SLUP-21-0005

BACKGROUND

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 2088 Idlewood Road to allow for a massage establishment/health spa. The subject property is 1.23 acres and is zoned C-1 (Local Commercial). Pursuant to Section 46-1125, Table 4.1, Use Table, both *massage establishment* and *health spa* are only allowed in the C-1 zoning district with approval of a Special Land Use Permit.

PROJECT DATA

The subject site fronts Idlewood Road and is located south of Tucker Middle School. The property is currently developed with a one-story office building that consists of eight suites. Occupants of the complex consist of a variety of tenants including a hair salon, a canine rehabilitation center, a church, and a few offices. The applicant's request is only for Suite 6. The suite was previously leased to Serenity Chiropractic and Rehab, a chiropractic office. Figure 1 shows the building's floor plan and highlights the suite in which Phoenix Wellness Center will occupy if approved.

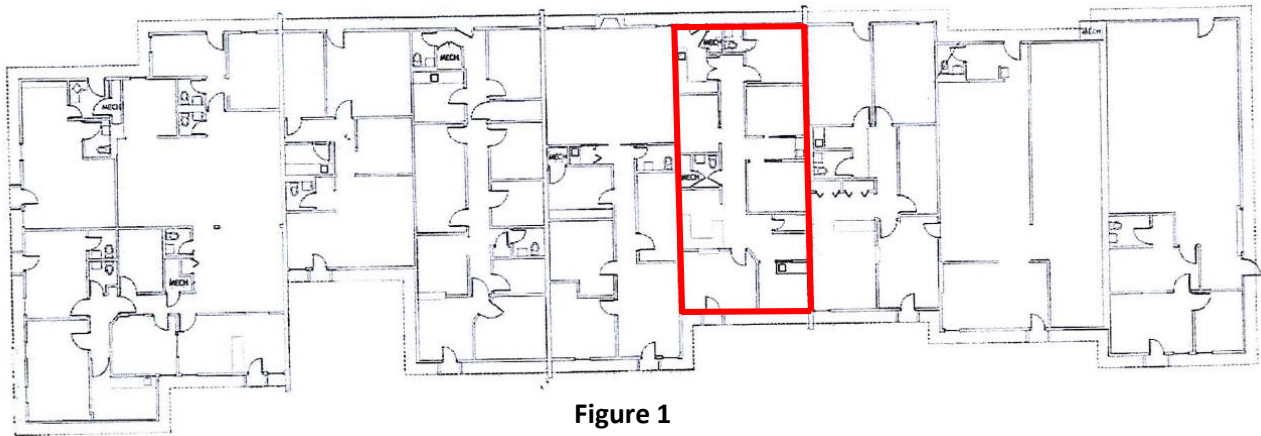


Figure 1

The applicant submitted a floorplan (Figure 2) illustrating the existing 1,090 square-foot suite consisting of four treatment rooms, a reception area, a cloud room/relaxation space, a break room, two half baths, a break room, and a laundry room. The subject suite provides direct ingress/egress to the parking lot that the building faces. The applicant does not intend to change the exterior of the building or the interior footprint of their suite.

This would be the second location for Phoenix Wellness Center. The applicant stated in their letter of intent that the Tucker location would be a compressed version of the Little Five Points location. The applicant expects to have five licensed massage therapists, including herself, on staff as well as three front desk receptionists that rotate shifts. Phoenix Wellness Center stated in their application that the following services will be offered: massage therapy, facials, and waxing.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located in the C-1 (Local Commercial) zoning district. The purpose and intent section of the C-1 zoning district (Section

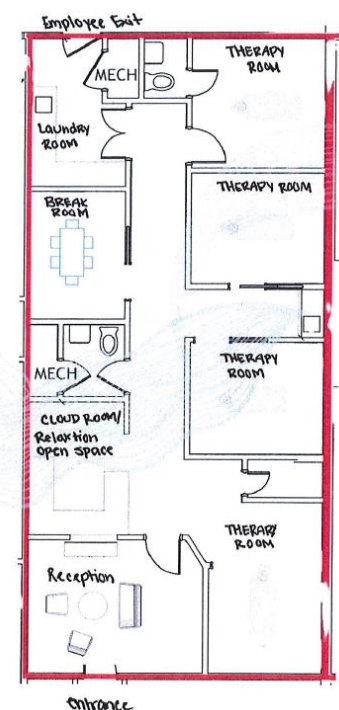


Figure 2

46-758) is “to provide convenient local retail shopping and service areas within the city for all residents.” The C-1 zoning district allows massage establishments/health spas with the approval of a special land use permit. All supplemental regulations for massage establishments must also be met (Section 46-1202). Additional conditions may be placed on the approval of a special land use permit in order to ensure the proposed business will not be a detriment to the character of the area. The intent of the City of Tucker Zoning Ordinance in requiring a SLUP is that the proposed uses be determined on a case-by-case basis to ensure compatibility with the surrounding area including environmental impacts, aesthetic, and infrastructure impacts.



CHARACTER AREA (Future Land Use)

The subject parcel is located in the Suburban Character Area. Primary Land Uses in the Suburban Character Area include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. Development strategies include preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and non-residential uses within existing neighborhoods and giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a forty-five-minute-long community meeting on August 30, 2021, after mailing a letter and site plan explaining the proposed project to all property owners within 500 feet of the subject parcel. Seven people were in attendance including the applicant and several community members. The applicant's report stated the meeting was held in a question-and-answer format. The applicant stated that there were several questions asked regarding what impacts there will be to the land and property value, what services will be offered, if there are designated parking spots, the number of treatment rooms, and client demographics.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	OI (Office-Institution)	Tucker Middle School
Adjacent: East	MR-2 (Medium Density Residential – 2)	Stanford Oaks Apartment Homes
Adjacent: South	OI (Office-Institution)	The Phoenix at Tucker Senior Living Community
Adjacent: West	R-75 (Residential Medium Lot – 75)	Single-family homes

SLUP-21-0005: Massage Establishment/Health Spa**CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT**

Criteria (standards and factors) for special land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

- A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The suite is approximately 1,090 square feet located within a 1.23-acre office complex (total property acreage). The applicant stated that the business will not have designated parking spots but will have

the right to eight parking spots in the complex's lot. The applicant is not proposing any structural revisions. The request relates to the proposed use only.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed massage establishment/health spa is not compatible with the land uses and development of adjacent properties as nearby properties are mainly residential or institutional in nature. The subject parcel is surrounded on two sides by residentially zoned properties. The property located to the immediate south is zoned OI, but it is developed as a senior living facility. To the immediate north is Tucker Middle School, which is also zoned OI.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. Not applicable.

Stormwater management. No comments.

Water and sewer. Change of use for the space will necessitate a sewer capacity request.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Traffic impacts will be minimal. One curb cut location exists at the front of the subject property along Idlewood Road. Idlewood Road is a local road with two lanes of traffic and a center turn lane. The applicant stated in their letter of intent that they would see a maximum of four clients an hour and approximately 20 clients a day at full capacity.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

In terms of development impacts, existing land uses would not be adversely affected in terms of the character of the vehicles or the volume of traffic by the proposed massage establishment/health spa. The applicant has stated that the services offered are by appointment only.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

The subject suite is located in an existing building. The subject property has one access point on Idlewood Road that provides ingress and egress for the complex. The applicant proposes no modifications to the exterior. Access in and out of the site could be challenged by the parking spaces

located immediately adjacent to the curb cut. The city code requires a throat length of 50', but this area was previously developed before Tucker incorporated.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed use will not generate excessive noise, nor will it emit smoke, odor, dust, or vibration.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The applicant has stated that the expected hours of operation for the massage establishment/health spa would from 10 a.m. to 8 p.m. Monday through Saturday and 12 p.m. to 6 p.m. on Sundays. No adverse impacts upon adjoining properties by reason of the hours of operation are expected.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with the staff recommended conditions, nearby land uses should not be adversely affected by the manner or operation of the proposed massage establishment/health spa. However, staff finds issue with the products that will be sold at the proposed business. The applicant provided staff with a list of products that will be for sale. These products include books, candles, body essential oils, crystals, sage, palo santo, heating and cooling pads, bath bombs, stickers, greeting cards, and Eminence- organic skincare products. According to the business's website, some of these products contain CBD. The zoning ordinance defines CBD shops as "any retail establishment that devotes at least ten percent of the floor area to sale or advertisement of cannabidiol infused products or makes at least ten percent of its revenue from cannabidiol infused products." If the proposed business meets the definition of a CBD shop, they will need to obtain another Special Land Use Permit as CBD shops are only permitted in the C-1 zoning district with a SLUP. The use and sale of certain products would not be appropriate within such close proximity of a middle school.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed massage establishment is consistent with the statement of purpose and intent of the C-1 (Local Commercial) zoning classification. Sec. 46-758 states the C-1 district is established "to provide convenient local retail shopping and service areas within the city for all residents."

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property is designated Suburban on the Future Land Use Map. Primary land uses include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. The proposed use is inconsistent with the intent of the comprehensive

plan. A SLUP for a massage establishment/health spa, which would increase the intensity of the uses on site, would not be appropriate given its current designation of Suburban.

- L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.**

A 50' transitional buffer zone is required when C-1 zoning abuts residential zoning. The existing building does not comply with this buffer zone. However, since the applicant is not proposing any renovations to the property, this is considered a legal nonconforming use. Any alterations to the property's parking lot would require compliance with the current transitional buffer regulations.

- M. Whether or not there is adequate provision of refuse and service areas.**

The submitted site plan does not show a space for trash; however, the applicant stated in their letter of intent that there is a private dumpster on the property for tenant use.

- N. Whether the length of time for which the special land use permit is granted should be limited in duration.**

No limits on the length of time on the special land use permit are recommended, if granted.

- O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.**

The applicant proposes no changes to the existing building size, mass, and scale.

- P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.**

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated.

- Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.**

The following supplemental use regulations are applicable: Sec. 46-1202 – Massage establishment (includes health spas that offer massage services). The applicant's letter of intent states that they will comply with the standards for massage establishments in Section 46-1202. See analysis below.

- (1) The presence of any device used as an early warning system to alert the employees of a massage establishment to the presence of law enforcement officers or city authorities on the premises is prohibited in any massage establishment.**

Applicant states they shall be in compliance.

- (2) If a receptionist is present, the public entrance door of the massage establishment and the doors of all massage rooms or cubicles must remain unlocked during any time the establishment is occupied. In the absence of a receptionist, the public entrance may be locked as long as fire safety requirements are met (panic bar, no deadbolt, etc.). Individual massage therapy rooms shall not be locked.**

Applicant states they shall be in compliance.

- (3) All massage establishments must display the following documents at all times in a clearly visible place:**
- a. State licenses.**
 - b. Local business license.**

Applicant states they shall be in compliance.

- (3) Massage businesses may open no earlier than 6:00 a.m. and close no later than 11:00 p.m. Any massage must be completed by 10:00 p.m.**

The applicant's proposed hours of operation are in compliance.

- (4) The exterior windows of the lobby/reception/entrance area may not be covered by curtains, closed blinds, tints or any other material that obstructs the view into the premises. No signs may cover more than 30 percent of any windowpane.**

Applicant states they shall be in compliance.

- R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not produce an adverse shadow effect. No changes are being proposed to the existing structure regarding increasing the footprint of the building.

- S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

There are several massage/health spa establishments within a mile of this site. Warrior Body is approximately .73 mile away. Massage Associates of Atlanta is approximately .79 mile away. Balanced Life Massage is approximately .58 mile away. Other businesses which offer similar services are also located nearby. For example, Beauty of Bowers Day Spa is located .54 mile away. Nearby chiropractic offices include Schwartz Chiropractic and Wellness, Complete Spine Solutions, and Family Chiropractic Center are also located nearby.

- T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

Suburban Character Area. Primary land uses include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. The proposal is inconsistent with the character area, as this type of use would not be in alignment with the development strategy of the Suburban Character Area which focuses on “preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and non-residential uses within existing neighborhoods.”

CONCLUSION

The proposed use does not comply with all the Criteria (standards and factors) for special land use decisions. The proposed use is not consistent with the Suburban Character Area, and it would add to a proliferation of similar uses nearby

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition **SLUP-21-0005**.

Should the governing bodies choose to approve the SLUP request, Staff recommends the request be approved subject to the following conditions:

1. The business may open no earlier than 10:00 a.m. and close no later than 8:00 p.m.
2. Any infractions with the police department must be immediately reported to city staff.
3. If a complaint is filed with the City of Tucker, the business will supply all necessary information immediately as well as permit a site visit from city staff including the Chief Building Official.
4. All state and local licenses shall be clearly displayed in each treatment room.
5. The Special Land Use Permit shall not be transferred to another business.
6. The use of this space is contingent upon the approval of the DeKalb County Department of Watershed Management.

PLANNING COMMISSION RECOMMENDATION

Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of **SLUP-21-0005** subject to the following amended staff conditions: (additions = **bold**; deletions = ~~striketrough~~).

1. The business may open no earlier than 10:00 a.m. and close no later than 8:00 p.m.
2. Any infractions with the police department must be immediately reported to city staff.
3. If a complaint is filed wit the City of Tucker, the business will supply all necessary information immediately as well as permit a site visit from city staff including the Chief Building Official.
4. All state and local licenses shall be clearly displayed in each treatment room.
5. The Special Land Use Permit shall not be transferred to another business.
6. The use of this space is contingent upon the approval of the DeKalb County Department of Watershed Management.
7. **There shall be no sales or use of CBD products.**

DEPARTMENT COMMENTS

ARBORIST

No new development occurring on the site.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

Change of use for the space will necessitate a sewer capacity request.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

No comments.



Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
Email: permits@tuckerga.gov
Website: www.tuckerga.gov

Land Use Petition Application

SLUP-21-0005

Type of Application: ☐ Rezoning ☐ Comprehensive Plan Amendment ☒ Special Land Use Permit
☐ Concurrent Variance ☐ Modification

APPLICANT INFORMATION

Applicant is the: ☐ Property Owner ☒ Owner's Agent ☐ Contract Purchaser

Name: Natalie Phoenix

Address: 4107 BROWNLEE DRIVE

City: TUCKER

State: GA

Zip: 30084

Contact Name:

Phone: 401-497-2413

Email: PHOENIXCREATRIX@gmail.com

OWNER INFORMATION

Name: Morning Dew Realty, LLC.

Address: 2799 Redding Road

City: Brookhaven

State: GA

Zip: 30319

Contact Name: Tom Moore

Phone: 770-595-8046

Email: morningdewrealty@gmail.com

PROPERTY INFORMATION

Property Address: 2088 Idlewood Rd Suite 6 Tucker GA 30084

Present Zoning District(s): ☒ - ☒

Requested Zoning District(s): None

Present Land Use Category: ☒ Commercial

Requested Land Use Category: None.

Land District: 18

Land Lot(s): 186, 213

Acreage: 1.19

Proposed Development: Existing commercial building-suite to be used for massage establishment

Concurrent Variance(s):

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units:

Dwelling Unit Size (Sq. Ft.):

Density:

NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots:

Total Building Sq. Ft.:

Density:

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City of Tucker

SEP 01 2021

Community Development
Department

LAND USE PETITION APPLICATION - REVISED JULY 15, 2020

SLUP-21-0005

PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), Modification (M) & Concurrent Variance (CV) in request of the items indicated below.

I, Morning Dew Realty LLC, authorize, Natalie Phoenix,
(Property Owner) (Applicant)

to file for SLUP, at 2068 Ilwaco Rd. Suite 6
(RZ, CA, SLUP, M, CV) (Address)

on this date 8 24, 20 21
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

[Signature] 8/24/21
Signature of Property Owner Date

Tom Moore Manager
Type or Print Name and Title

Kellie Carter 8/24/21
Signature of Notary Public Date



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LAND USE PETITION APPLICATION - REVISED JULY 16, 2020

SLUP-21-0005

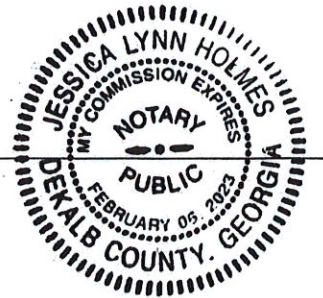
APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.

Natalie Phoenix 09/01/2021
Signature of Applicant Date

Natalie Phoenix, owner
Type or Print Name and Title

Jessica L Holmes 9-1-2021
Signature of Notary Public Date Notary Seal



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LAND USE PETITION APPLICATION - REVISED JULY 15, 2020

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4);

NO (if NO, complete only point 4)

1. CIRCLE ONE: Party to Petition (if party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (if in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1.	5.
2.	6.
3.	7.
4.	8.

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of Interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Morning Dew Realty LLC - Thomas Meene

Signature: [Signature] Date: 8/20/21

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LAND USE PETITION APPLICATION - REVISED DECEMBER 9, 2020

Community Development
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SLUP-21-0005

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4);

NO (if NO, complete only point 4)

1. CIRCLE ONE: Party to Petition (If party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1. _____	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Natalie Phoenix

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Signature: Natalie Phoenix

Date: 08/26/2021

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Department

SLUP-21-0005

To the City of Tucker,

It is with great excitement that I am requesting a special land use permit. Phoenix Wellness Center offers many health and wellness services including massage therapy which requires a SLUP. The community is just as excited and supportive! PWC currently has a location in Little Five Points in Atlanta. We've been there for three years and feel the need to expand. Being a Tucker resident made me want to initially have my first location in Tucker. At the time, finding the perfect location was challenging. I do not foresee any negative effects on the community due to the manner of my business and I do not foresee traffic to become an issue as my space would only see four clients per hour.

The Subject Property, 2088 Idlewood Road Suite 6, is the ideal property for our second location. It was previously a chiropractic office that also offered massage therapy. Meaning the suite's layout is perfect for my wellness center as no changes need to be made.

I reached out to the virtual community via a Tucker Facebook group and got dozens of positive comments and over 270 likes. This alone won't suffice in getting me a SLUP but it sure does feel incredible to have the support of my neighbors.

I have been a licensed massage therapist since 2014. I practice many modalities including but not limited to Swedish, Thai, deep tissue, reflexology, and prenatal. I believe that massage therapy is a necessity and not a luxury and that all bodies deserve healing. With that being said, I believe Phoenix Wellness Center will be a wonderful and necessary addition to Tucker.

The new Tucker location would be a compressed version, about half the size, of the Little Five Points location. For the time being, we will begin with massage therapy, facials, and waxing. We will only offer flotation therapy at the Little Five Points location. We have four treatment rooms that can be used for either massage therapy or skincare services. With four rooms, we'd see a max of 4 clients an hour and expect to have five clients a day per room. We'd have about 20 clients a day at full capacity. We'll keep the same hours of operation as the Little Five Points Location. Monday-Saturday 10-8 and Sunday 12-6 PM. Ideally, we'd have five licensed massage therapists on the team as well as three front desk receptionists that rotate shifts. I run a smooth, peaceful business and I'm excited to bring this experience to Tucker.

Be well,

Natalie Phoenix LMT
Phoenix Wellness Center

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SLUP-21-0005

Section 46-1594. Special land use permit; criteria to be considered.

The following criteria shall be considered by the community development department, the planning commission, and the mayor and city council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the mayor and city council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application, and the application is in compliance with all applicable regulations in Article 4:

1. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The site is adequate for the proposed use. There is ample parking and the parking lot is exclusive to the use of the Subject Property. The suite I am leasing is located within an already established building.

2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

The Subject Property I am leasing out of includes a church, two transportation businesses and a salon. The wellness center falls in the same zoning category. The proposed use would continue to complement the surrounding uses.

3. Adequacy of public services, public facilities, and utilities to serve the proposed use.

There are adequate public services, facilities, and utilities to support the proposed use.

4. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Idlewood Road and Lawrenceville Highway are all sufficient for traffic carrying capacity for the proposed use. The proposed use will not unduly increase traffic or create congestion in the area. The

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services we offer are appointment only and we will not have more than four clients per hour. There is a large parking lot, therefore client's will not have to use street parking elsewhere.

5. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

Nearby routes will not be adversely affected by the existence of the wellness center due to the low number of clients we see per hour.

6. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

The Subject Property allows for customers to safely enter and exit. I believe the traffic flow will be safe for customers, existing travelers, and pedestrians. There will be adequate access for fire and emergency first responders.

7. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

Due to the nature of our work, we will not generate noise, smoke, odor, dust, or vibrations.

8. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The wellness center would be open Monday-Saturday 10 AM- 8PM and Sundays 12 PM-6 PM. The hours will not negatively impact adjacent land.

9. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

The manner of operation of the proposed use will not have an adverse impact on the adjoining land uses.

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10. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

Yes, the Subject Property is zoned as C1.

11. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The comprehensive plan has the Subject Property located in a suburban area. The primary land uses are residential, schools, and places of worship. The building is an already established structure and no further work will be done. The wellness center would positively complement the suburban area that it is located within.

12. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

No buffers are required for the proposed use.

13. Whether or not there is adequate provision of refuse and service areas.

There is a private dumpster on the Subject Property for tenant use.

14. Whether the length of time for which the special land use permit is granted should be limited in duration.

The proposed use does not necessitate a limit in length of time for special land use permit.

15. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

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No changes are being made to the size, scale and massing of the Subject Property. No further work is to be done on the Subject Property.

16. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

No adverse impact on historic buildings, sites, districts, or archaeological resources are anticipated.

17. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The space satisfies the requirements for a massage establishment in Section 46-1202.

18. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

The proposed use will produce no adverse shadow impact. No changes are being made to the existing building.

19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area;

The proposed use is not expected to cause a disproportionate proliferation of similar uses in the subject character area. The closest establishment that offers massage therapy is Warrior Body and they're located 1.2 miles away.

20. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

The proposed use will bring wellness and health services to the community. It is a perfect complement to the local community.

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3LUP-21-0005

EXHIBIT A

Legal Description

All that tract or parcel of land lying and being in Land Lots 186 and 213 of the 18th District, DeKalb County, Georgia, being more particularly described as follows:

Commencing at the intersection of the northerly right-of-way of Fellowship Road and the westerly right-of-way of Idlewood Road, thence running northerly 440.32' along the westerly right-of-way line of Idlewood Road (an 80 foot right-of-way) to the southerly line of property now or formerly owned by RKD Enterprises III, LLC per deed book 24150, page. 370, DeKalb County, Georgia records, thence running along said property line and right-of-way a distance of 200.38' to a right-of-way monument found; thence continuing northerly along said right-of-way a distance of 161.45' to the POINT OF BEGINNING; and from the POINT OF BEGINNING thus established running thence North 84 degrees 46 minutes 13 seconds West a distance of 355.16 feet to an iron pin found; running thence North 20 degrees 21 minutes 00 seconds West a distance of 149.61 feet to an iron pin found; running thence South 84 degrees 50 minutes 29 seconds East a distance of 409.44 feet to an iron pin placed on the westerly right-of-way line of Idlewood Road, said right-of-way being 40' from the centerline of the existing roadway; running thence South 00 degrees 52 minutes 28 seconds West along said right-of-way line a distance of 119.35 feet to an iron pin placed; running thence South 00 degrees 52 minutes 28 seconds West along said right-of-way line a distance of 16.50 feet to an iron pin found and the POINT OF BEGINNING, being improved property and containing 1.19 acres, more or less, as shown on that survey, dated June 18, 2014, prepared for Commonwealth Land Title Insurance Company, Morning Dew Realty, LLC and Fidelity Bank, prepared by Solar Land Surveying Company and certified to by John W. Stanzilis, Jr., Georgia Registered Surveyor No. 2109.

TOGETHER WITH EASEMENT FOR SUPPORT AS DESCRIBED IN DECLARATION OF EASEMENT from Health Resources Corporation to Land Concepts, a General Partnership, dated July 11, 1974, filed for record July 12, 1974, recorded in Deed Book 3208, Page 28, DeKalb County, Georgia Records.

ALSO TOGETHER WITH EASEMENT AS DESCRIBED IN DECLARATION OF EASEMENT from Health Resources Corporation to Land Concepts, a General Partnership, dated July 10, 1974, filed for record July 15, 1974, recorded in Deed Book 3209, Page 176, DeKalb County, Georgia Records.

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Environmental Impact of Proposed Project

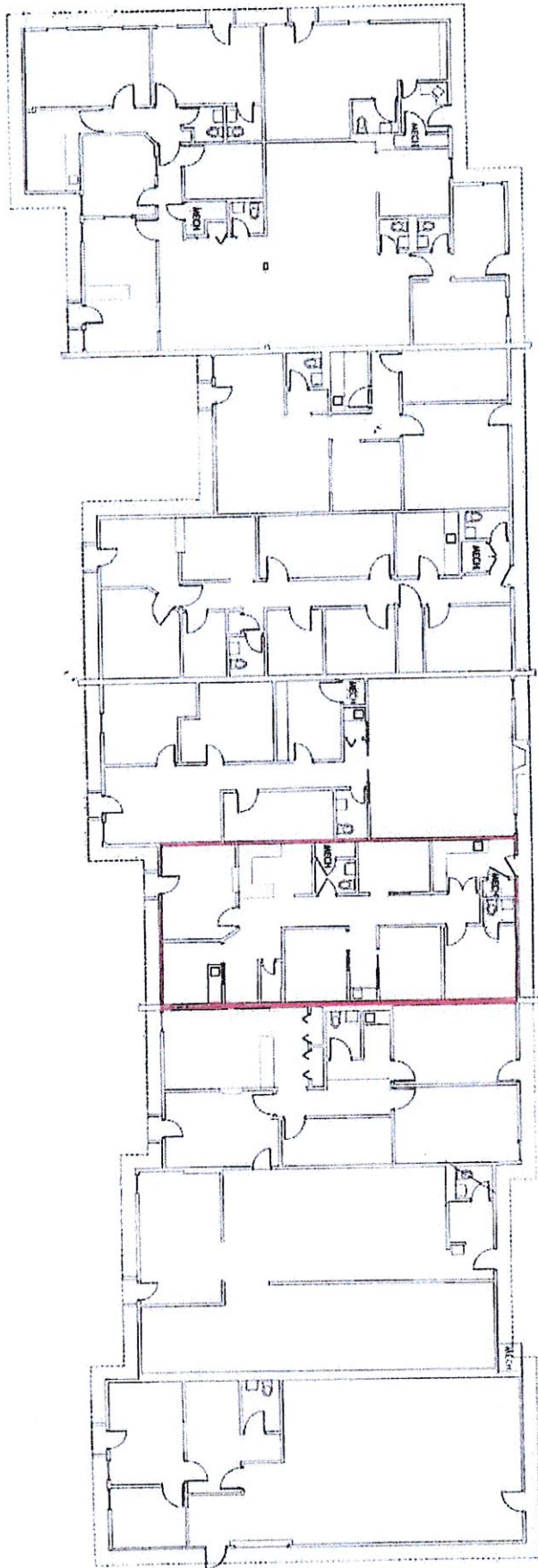
- a) Wetlands- There are no wetlands at this location according to the U.S Fish and Wildlife Service, National Wetlands Inventory.
 - b) Floodplain- The Subject Property is not located within a flood hazard area according to the FEMA flood map service center.
 - c) Streams/Stream Buffers- There are no streams/stream buffers located on the property according to the FEMA flood map service center.
 - d) Slopes exceeding 25 percent over a 10-foot rise in elevation- There are no slopes exceeding 25 percent over a 10-foot rise in elevation according to the National Map.
 - e) Vegetation- The proposed space is located within an already existing building and no changes will be made that would affect vegetation.
 - f) Wildlife species (including fish)- The proposed space is located within an already existing facility and no changes would be made that would impact the surrounding wildlife, including fish.
 - g) Archaeological/Historical Sites- No archaeological or historical site are located on the Subject Property.
- 3) Project implementation measures:
- A. Protection of environmentally sensitive areas: not applicable
 - B. Protection of water quality: not applicable
 - C. Minimization of negative impacts on existing infrastructure: not applicable
 - D. Minimization of archeological/ historically significant areas: not applicable
 - E. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal and industrial uses: not applicable
 - F. Creation and preservation of green space and open space: not applicable
 - G. Protection of citizens from the negative impacts of noise and lighting: not applicable
 - H. Protection of parks and recreational green space: not applicable
 - I. Minimization of impacts to wildlife habitats: not applicable

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TOTAL GROSS RENTABLE AREA: 12,090 SF

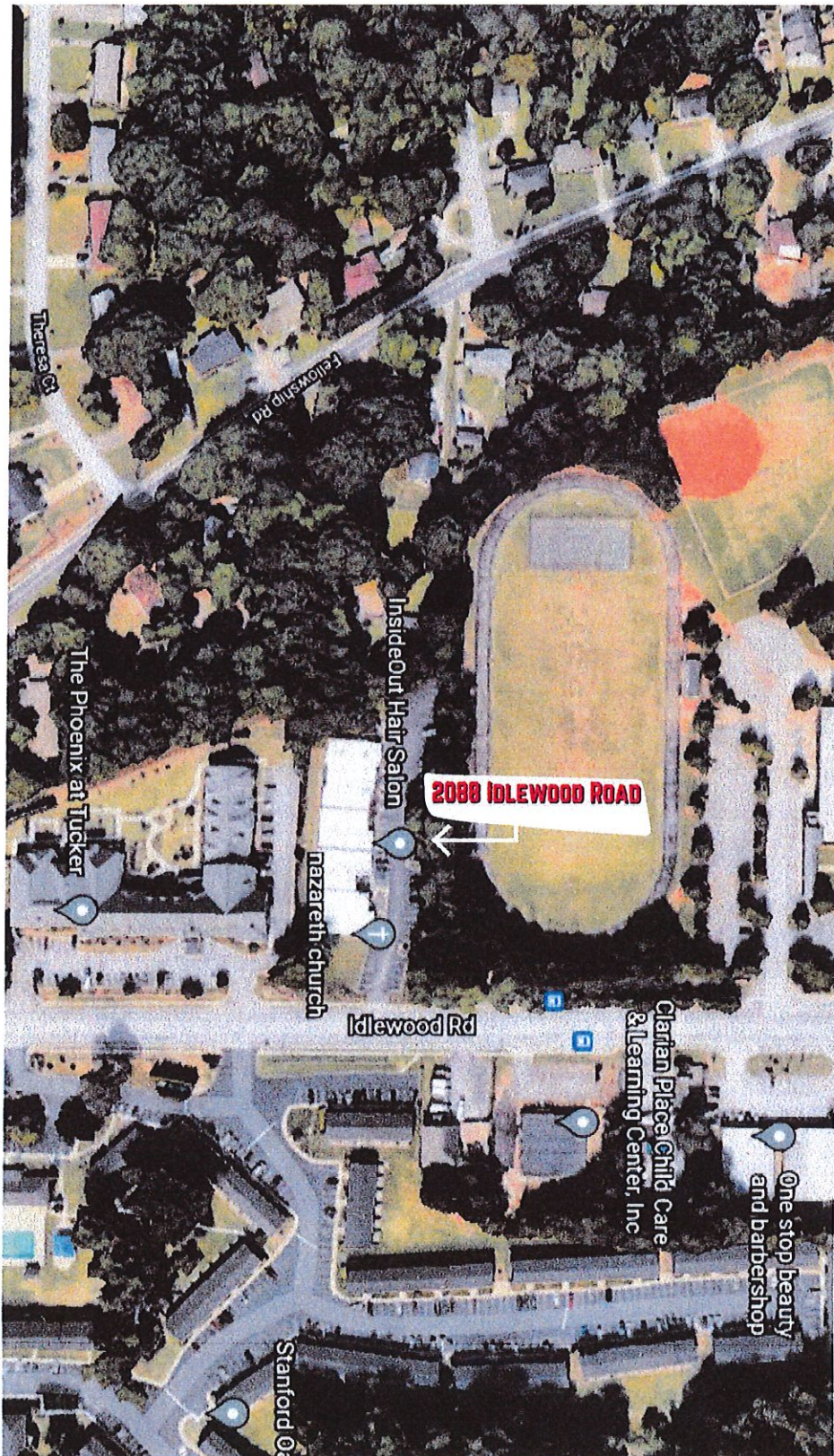
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2088 SITE PLAN

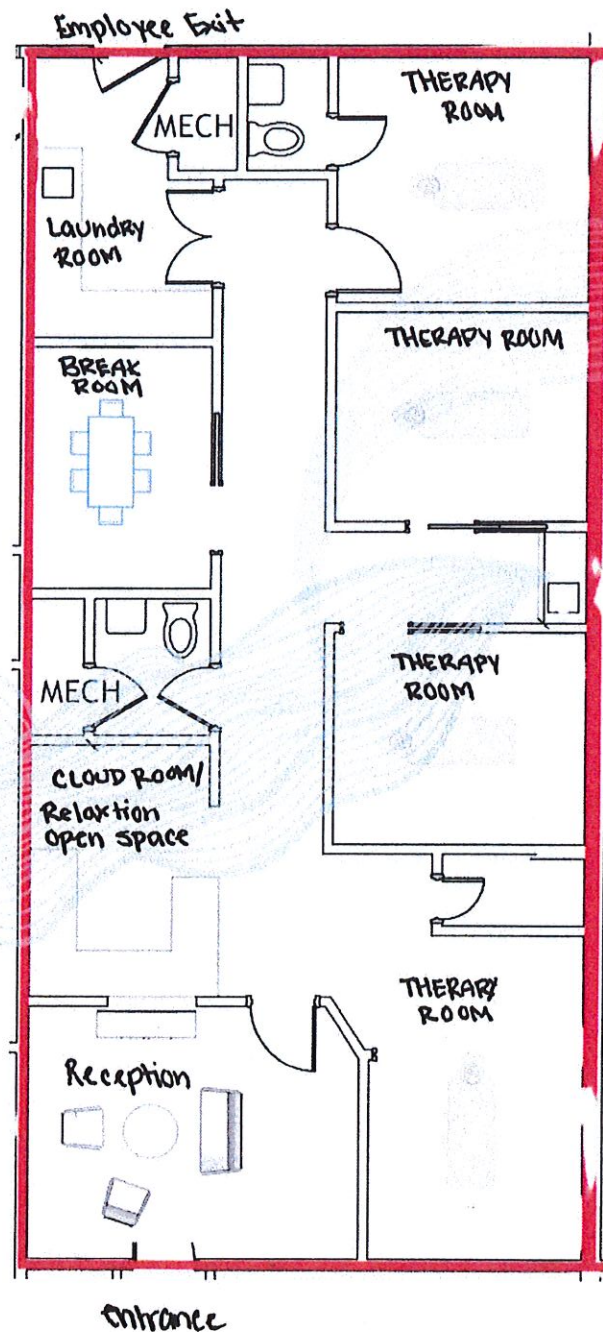


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SUITE SIX FLOOR PLAN



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STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
Georgia Board of Massage Therapy
LICENSE NO. MT010042

Natalie Phoenix

4107 Brownlee Dr
Tucker GA 30084

Massage Therapist

EXP DATE - 10/31/2022 Status: Active
Issue Date: 08/13/2014

A pocket-sized license card is below. Above is an enlarged copy of your pocket card.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.

Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – www.sos.state.ga.us/plb.

Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing
237 Coliseum Drive
Macon GA 31217
Phone: (844) 753-7825
www.sos.state.ga.us/plb

Natalie Phoenix
4107 Brownlee Dr
Tucker GA 30084

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STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
Georgia Board of Massage Therapy
License No. MT010042

Natalie Phoenix

4107 Brownlee Dr
Tucker GA 30084

Massage Therapist

EXP DATE - 10/31/2022 Status: Active
Issue Date: 08/13/2014

STATE OF GEORGIA

Secretary of State

Corporations Division

313 West Tower

2 Martin Luther King, Jr. Dr.

Atlanta, Georgia 30334-1530

CERTIFICATE OF ORGANIZATION

I, Brian P. Kemp, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

Unleashed Reiki & Massage Therapy LLC

a Domestic Limited Liability Company

has been duly organized under the laws of the State of Georgia on **02/13/2017** by the filing of articles of organization in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta
and the State of Georgia on 02/20/2017



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SLUP 21 0005

Brian P. Kemp
Secretary of State

ARTICLES OF ORGANIZATION

Electronically Filed
Secretary of State
Filing Date: 2/13/2017 11:57:29 AM

BUSINESS INFORMATION

CONTROL NUMBER 17018513
BUSINESS NAME Unleashed Reiki & Massage Therapy LLC
BUSINESS TYPE Domestic Limited Liability Company
EFFECTIVE DATE 02/13/2017

PRINCIPAL OFFICE ADDRESS

ADDRESS 3981 Barr Circle, Tucker, GA, 30084, USA

REGISTERED AGENT'S NAME AND ADDRESS

NAME	ADDRESS
Natalie Phoenix	3981 Barr Circle, Dekalb, Tucker, GA, 30084, USA

ORGANIZER(S)

NAME	TITLE	ADDRESS
Natalie Phoenix	ORGANIZER	3981 Barr Circle, Tucker, GA, 30084, USA

OPTIONAL PROVISIONS

N/A

AUTHORIZER INFORMATION

AUTHORIZER SIGNATURE Natalie Phoenix
AUTHORIZER TITLE Organizer

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Hello Neighbor!

My name is Natalie Phoenix. I created Phoenix Wellness Center in Atlanta 3 years ago and I'm looking to expand to Tucker. I've been a resident of Tucker for 7 years and have loved every minute of it. I love collaborating with the community on events and brainstorming ways to bring wellness to all. At our Little Five Points location we currently offer skincare, chiropractic, massage therapy, and flotation therapy. I want to bring that magikal experience to Tucker.

You are receiving this notice because you own property within 500 feet of 2088 Idlewood Road, Tucker, Georgia 30084 or you're a nearby neighbor. I am seeking a special land use permit in order to open up a second wellness center that will include professional massage therapy.

You're invited to attend this neighborhood meeting where you can meet me, learn more about my vision, and ask any questions that you may have.

Be well,
Natalie Phoenix

**Goody bags and \$25 gift certificate
to the first five guests!**

NEIGHBORHOOD MEETING

LOCATION: 2088 IDLEWOOD ROAD #6

DATE: AUGUST 30TH 2021

TIME: 6 PM-7 PM

PHOENIX

Wellness Center

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Wellness for All

Who we are:

We're a collective of healers + magik makers that promote well-being and aid individuals in reaching their wellness goals. In supporting PWC you support a 100% female owned and operated small business. We pride ourselves in our work, everything we do is with intention, and our goal is to become part of your wellness team. At our Little Five Points location we offer many modalities of massage therapy, chiropractic, cupping, skincare, waxing, and flotation therapy also known as sensory deprivation.

Phoenix Wellness Center



The Vision
for Tucker:

Location

2088 Idlewood Road Suite 6
Tucker, GA 30084

Hours

Monday - Saturday 10 AM- 8 PM
Sunday 12 PM - 6 PM

Services

To begin, we'll offer massage therapy, cupping, facials, & waxing.

We'll most definitely have a cloud room!

(A cozy room to unwind and return to your body, drink tea, and take a minute after your services.)

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Meet the Creatrix



Many call me Natalie Phoenix, a couple of kiddos call me mom, my team members call me a fierce leader, and my clients call me a magikal massage therapist.

In all that I do, I try to do it with love and kindness.

I'm excited to bring additional wellness and healing to Tucker, my community.

Get in touch!

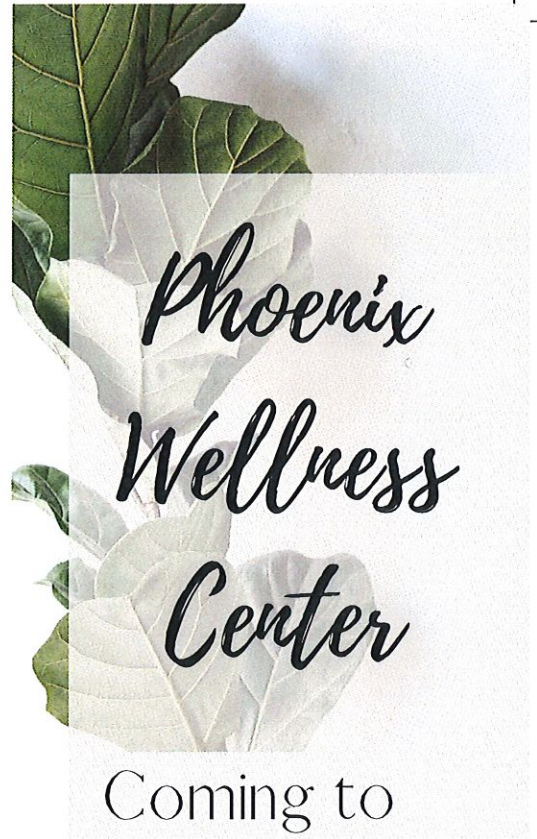


@phoenixwellnessatl

483 Moreland Ave NE
Atlanta, GA 30307
www.phoenixwellnessatl.com
phoenixcreatix@gmail.com

Thank you for coming out to our
Neighborhood Meeting!

www.phoenixwellnessatl.com



Coming to
Tucker

www.phoenixwellnessatl.com

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SLUP-21-0005

Public Participation Plan Report

Phoenix Wellness Center seeks SLUP

Natalie Phoenix

Meeting Date: 08/30/2021

Meeting Location: 2088 Idlewood Road Suite Six Tucker GA 30084

Meeting Start Time: 5:45 PM

Meeting End Time: 6:30 PM

Number of people in attendance: Five

Date of filing of Land Use Petition Application: 09/13/2021

General information: A notice was sent out by mail to neighbors regarding the neighborhood meeting that was to take place. I also posted in Tucker Town Talk on Facebook and had over 270 likes and dozens of positive interactions with the community. The meeting was scheduled to give the community an opportunity to meet with me and ask any questions that they may have had regarding my SLUP request as a massage therapist. Meeting was done in a q&a fashion. A general discussion was had on the history of Phoenix Wellness Center, the services we offer, and our plans for the Tucker location.

Summary of concerns and issues raised at the meeting:

1. What is the impact on the land? **There's no impact as no construction is being done on the Subject Property.**
2. What is the impact to the property and property value? **There's no impact as the Subject Property is an already existing building.**
3. What services do you offer? **We offer massage therapy, organic skincare and waxing.**
4. Will you have designated parking spots for the business? **We don't have designated spots specifically for our business, but we have the right to eight parking spots in the entire lot.**
5. How many treatment rooms do you have? **Four.**
6. Who are your clients? **We see infants to seniors but our main target audience are people aged 25-70.**

5:45 Upon arrival to set up, I greeted Gail and Joe Jarrard. They showed up early and were looking forward to some goodie bags. My husband Keith and I set up a booth that had an assortment of products that we sell including books and candles. I also had printed brochures available. (attached)

5:56 I invited Gail and Joe back to the tent and introduced myself. At this time, Gail asked if there would be an impact to the land as she lives nearby.

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5:58 Gail wanted to know what kind of natural services we offer. I explained that we offer different massage modalities like Swedish, deep tissue, reflexology, prenatal, and sports massage. We also offer organic skincare and waxing.

6:07 Gail and Joe's son arrived. (Name illegible) He asked me to describe the services we offer.

6:08 Logan arrived. They're a writer for the Tucker Observer, a branch of Decaturish. At this time Nelssy arrived, also a Tucker resident. I had all the Jarrads, Nelssy, and Logan in front of me and I took the time to described the business and our services. "We are a collective of talented practitioners that want to offer wellness for all. In our Little Five Points location, we offer massage therapy, chiropractic, skincare, waxing, and flotation therapy."

6:11 I was asked a series of questions by Logan.

- Do you live in Tucker? **"Yes! For seven years. I moved from Rhode Island to Georgia eight years ago."**
- How long does a float session last? **"A typical float session lasts about an hour. A 45 minute float makes your body feel as though it received 4-5 hours of rest."**
- How long have you been in business? **"Three years this November."**
- What made you want to open in Little Five Points? **"I actually worked in the same space that now is Phoenix Wellness Center. It was called Sweetgrass Spa. The owner was ready to retire and I was looking for a location for my first business so we worked it out."**
- Who are your clientele? **"We see all people in all walks of life from infants to seniors but our main clientele fall in the range of 25-65 years old."**
- Is it someplace you can stay for a couple of hours? **"Yes! If multiple sessions are booked, clients can typically stay for about 3 hours. Some clients like to float, get massaged, and finish off with a facial."**
- Did you go to school for massage or business? **"I went to massage therapy school when I moved to Georgia and have been practicing since 2014. I was mostly self taught and used Google for everything. I did my research and took a few classes on business management and how to write a business plan to get things started."**
- What are the hours going to be? **"Everything can be found in the brochure for reference. We'll be open Monday- Saturday 10-8 and Sundays from 12-6"**

6:30 At this time the Jarrads and Nelssy left and Logan and I spoke further. We discussed my Covid precautions. I explained that we have been very strict from the beginning of the pandemic. I lost 2 uncles to Covid and I didn't want my business to be the cause of another death. I closed my doors for four months. During that time I purchased PPE, made all of the soap dispensers and sinks automatic, switched from hand towels to paper towels and hired a composting business to compost our new waste. We changed our service times and we currently only offer one hour sessions and have 30 minutes in between sessions to clean our treatment rooms. At the beginning of the pandemic we required the staff to wear face masks

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and shields, everyone's temperature was taken and we used a pulse oximeter to check our client's oxygen levels. We now only require a temperature check and clients and patients must be vaccinated to be serviced. This is a temporary measure that I have instated as I monitor the new Delta variant.

6:35 Logan left.

7:00 No one else arrived and we packed our things up and left.

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SHUP-21-0005

- Meeting sign-in sheet
- Meeting minutes
- Copy of the plan that was presented at the neighborhood meeting

I, the undersigned, as the applicant or an authorized representative of the applicant do solemnly swear and attest that the information provided is true and accurate. I have included a complete record of the neighborhood meeting, as well as an honest response regarding the intentions for development.

Natalie Phoenix 09/1/2021
Signature of Applicant or Authorized Representative Date

Natalie Phoenix 09/01/2021
Type or Print Name of Applicant or Authorized Representative Date

Jessica L Holmes 9-1-2021
Signature of Notary Date



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SLUP-21-0005

2031 Fellowship Road Tucker, GA 30084	DEKALB LOTS LLC	541 10TH ST STE 249	ATLANTA	GA	30318
2103 Idlewood Road Tucker, GA 30084	PINEDA JOSE MARIO AGUNADA	5981 KAY DR	NORCROSS	GA	30093
2060 Idlewood Road Tucker, GA 30084	2060 IDLEWOOD ROAD LLC	PO BOX 92129	SOUTHLAKE	TX	76092
2095 Fellowship Road Tucker, GA 30084	CAINES DEREK J	2095 FELLOWSHIP RD	TUCKER	GA	30084
4216 Theresa Court Tucker, GA 30084	MORGAN ALMA RUTH	4216 THERESA CT	TUCKER	GA	30084
2100 Fellowship Road Tucker, GA 30084	NICHOLS LENORE E	2100 FELLOWSHIP RD	TUCKER	GA	30084
2071 Fellowship Road Tucker, GA 30084	COX DEREK L	5659 NOBLETT RD	STONE MOUNT, GA	30087	
2111 Fellowship Road Tucker, GA 30084	BIELAWSKI AMY D	2119 FELLOWSHIP RD	TUCKER	GA	30084
2157 Idlewood Road Tucker, GA 30084	FOUREL INVESTMENT GROUP LLC	4167 DERDEN CT	LILBURN	GA	30047
2061 Fellowship Road Tucker, GA 30084	LAVELLE BRIAN	2061 FELLOWSHIP RD	TUCKER	GA	30084
4223 Theresa Court Tucker, GA 30084	KONTOES SPYROS MICHAEL	4223 THERESA CT	TUCKER	GA	30084
2084 Fellowship Road Tucker, GA 30084	BUGG JULIE BLETTEL	2084 FELLOWSHIP RD	TUCKER	GA	30084
2101 Fellowship Road Tucker, GA 30084	ARGUETA SONIA B	2101 FELLOWSHIP RD	TUCKER	GA	30084
2143 Idlewood Road Tucker, GA 30084	DOSETAREH RYAN	1268 ARBORVISTA DR	ATLANTA	GA	30329
2052 Idlewood Road Tucker, GA 30084	TICE GARY A	2332 CRESTCLIFF DR	TUCKER	GA	30084
2083 Fellowship Road Tucker, GA 30084	MULLIN JOHN R	2083 FELLOWSHIP RD	TUCKER	GA	30084
2115 Idlewood Road Tucker, GA 30084	CLARAIN PLACE CHILD CARE AND	4426 HUGH HOWELL RD B-366	TUCKER	GA	30084
4228 Theresa Court Tucker, GA 30084	HALLMAN WALLIS J	4228 THERESA CT	TUCKER	GA	30084
2066 Fellowship Road Tucker, GA 30084	DEB DIPAK KANTI	2449 HALCYON WAY	LAWRENCEVILL	GA	30044
2046 Idlewood Road Tucker, GA 30084	GAMLOWSKI BRENDA	2046 IDLEWOOD RD J8	TUCKER	GA	30084
2160 Idlewood Road Tucker, GA 30084	DEKALB BOARD OF EDUCATION	1701 MOUNTAIN INDUSTRIAL BLVD	STONE MOUNT, GA	30083	
2081 Fellowship Road Tucker, GA 30084	TEAL ELIZABETH M	2081 FELLOWSHIP RD	TUCKER	GA	30084
2020 Fellowship Road Tucker, GA 30084	VELIS CLAUDIO E	2020 FELLOWSHIP RD	TUCKER	GA	30084
2088 Idlewood Road Tucker, GA 30084	MORNING DEW REALTY LLC	2799 REDDING RD	ATLANTA	GA	30319
2013 Fellowship Road Tucker, GA 30084	JARRARD JOSEPH P	2410 LAUDERDALE DR NE	ATLANTA	GA	30345
2151 Idlewood Road Tucker, GA 30084	ARFAATH AND ARZINA STAR LLC	2151 IDLEWOOD RD	TUCKER	GA	30084
2119 Fellowship Road Tucker, GA 30084	BIELAWSKI AMY D	2119 FELLOWSHIP RD	TUCKER	GA	30084
2079 Fellowship Road Tucker, GA 30084	COFER LOYD LAMAR	PO BOX 417	LILBURN	GA	30048
2035 Idlewood Road Tucker, GA 30084	STANFORD OAKS SPE 2018 LLC	3300 BUCKEYE RD STE 777	ATLANTA	GA	30341
2051 Fellowship Road Tucker, GA 30084	QASSIMI HAMID	2051 FELLOWSHIP RD	TUCKER	GA	30084
4231 Theresa Court Tucker, GA 30084	SMITH JOANN H	4231 THERESA CT	TUCKER	GA	30084
2017 Fellowship Road Tucker, GA 30084	JARRARD NADINE GAIL DAVIS	2410 LAUDERDALE DR NE	ATLANTA	GA	30345
2070 Fellowship Road Tucker, GA 30084	CRUZ ROSA CANDIDA	2070 FELLOWSHIP RD # 2072	TUCKER	GA	30084
2105 Fellowship Road Tucker, GA 30084	ABNEY RANDY H	2105 FELLOWSHIP RD	TUCKER	GA	30084

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SLUP-21-0005

Phoenix Wellness
Neighborhood Meeting Sign-in

call

Gail Garrard 770-939-3691

Joe Garrard -

Kelley Martinez

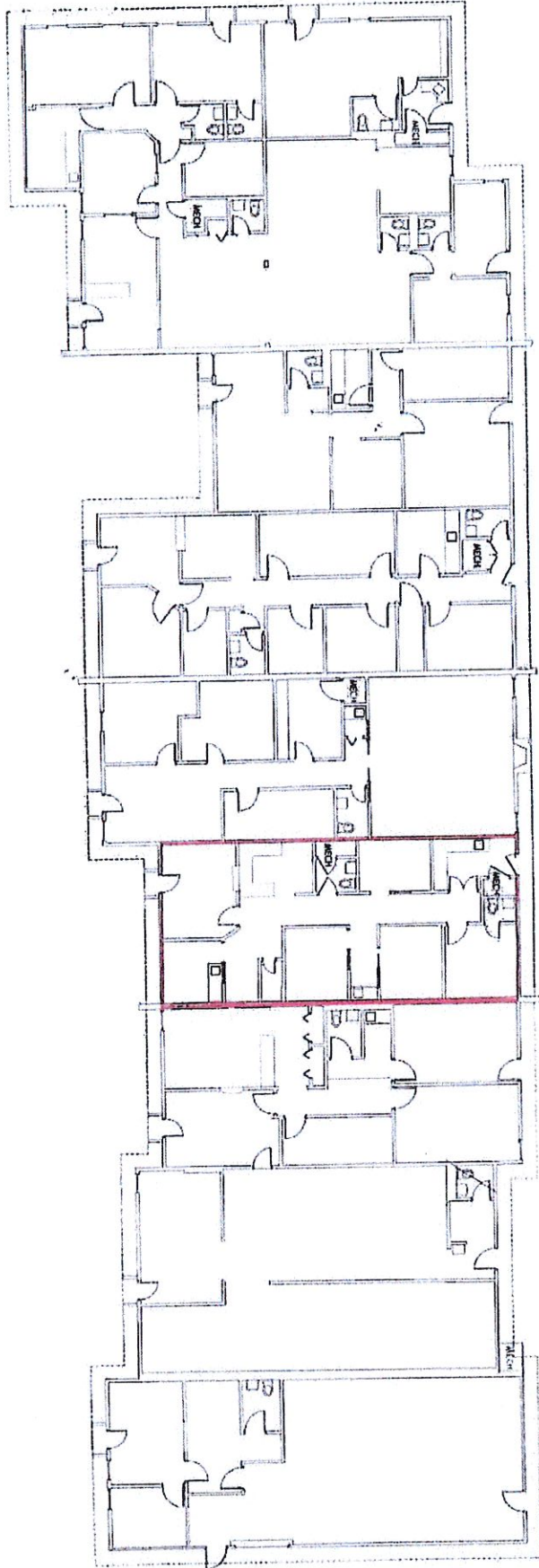
Doni Garrard

Logan Ritchie

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TOTAL GROSS RENTABLE AREA: 12,090 SF

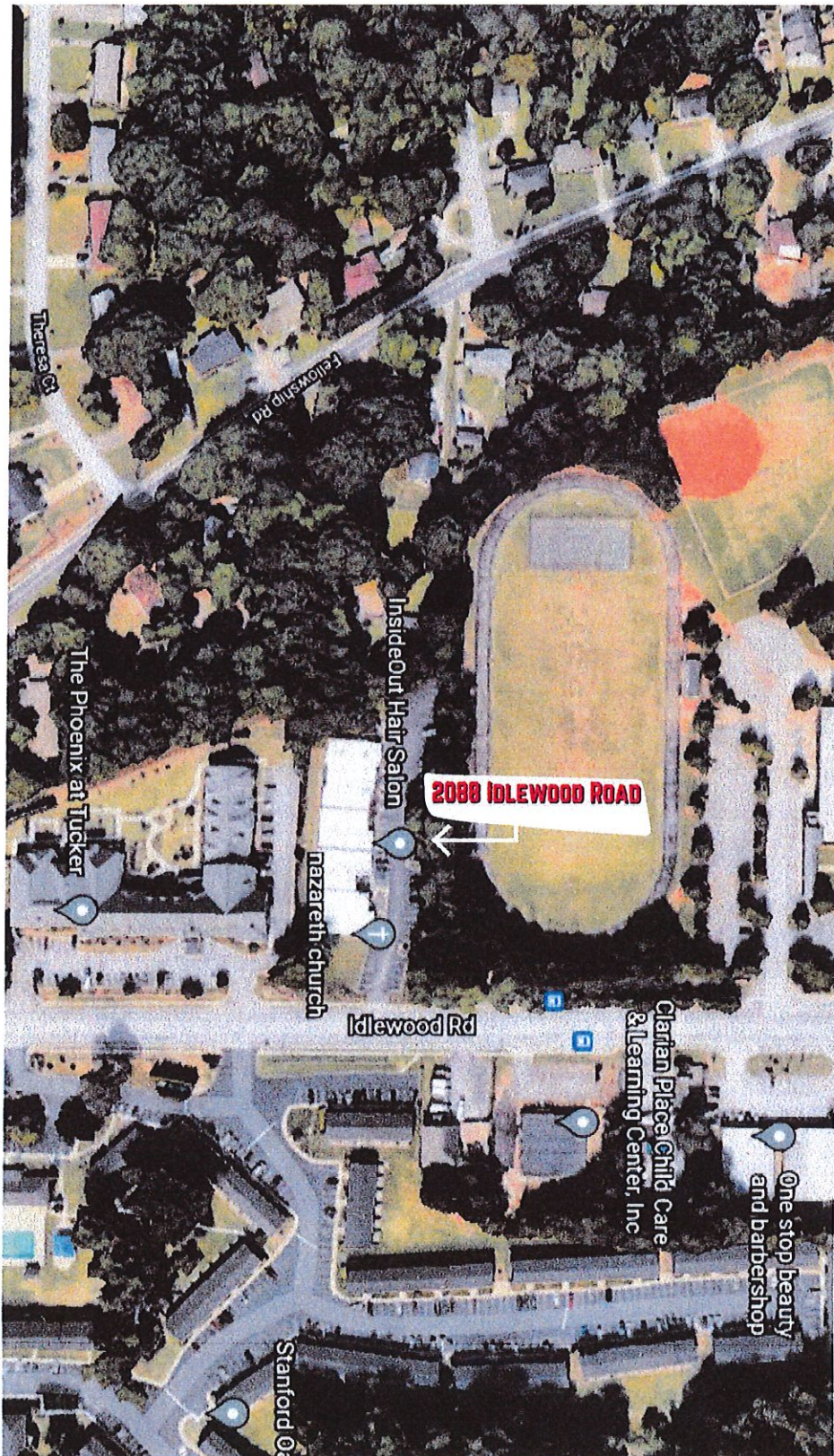
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SLUP-21-0005

2088 SITE PLAN



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This map is for informational purposes only and is not to be interpreted as a legal document. The City assumes no legal responsibility for the information shown on this map. For inquiries, please contact the City of Tucker.
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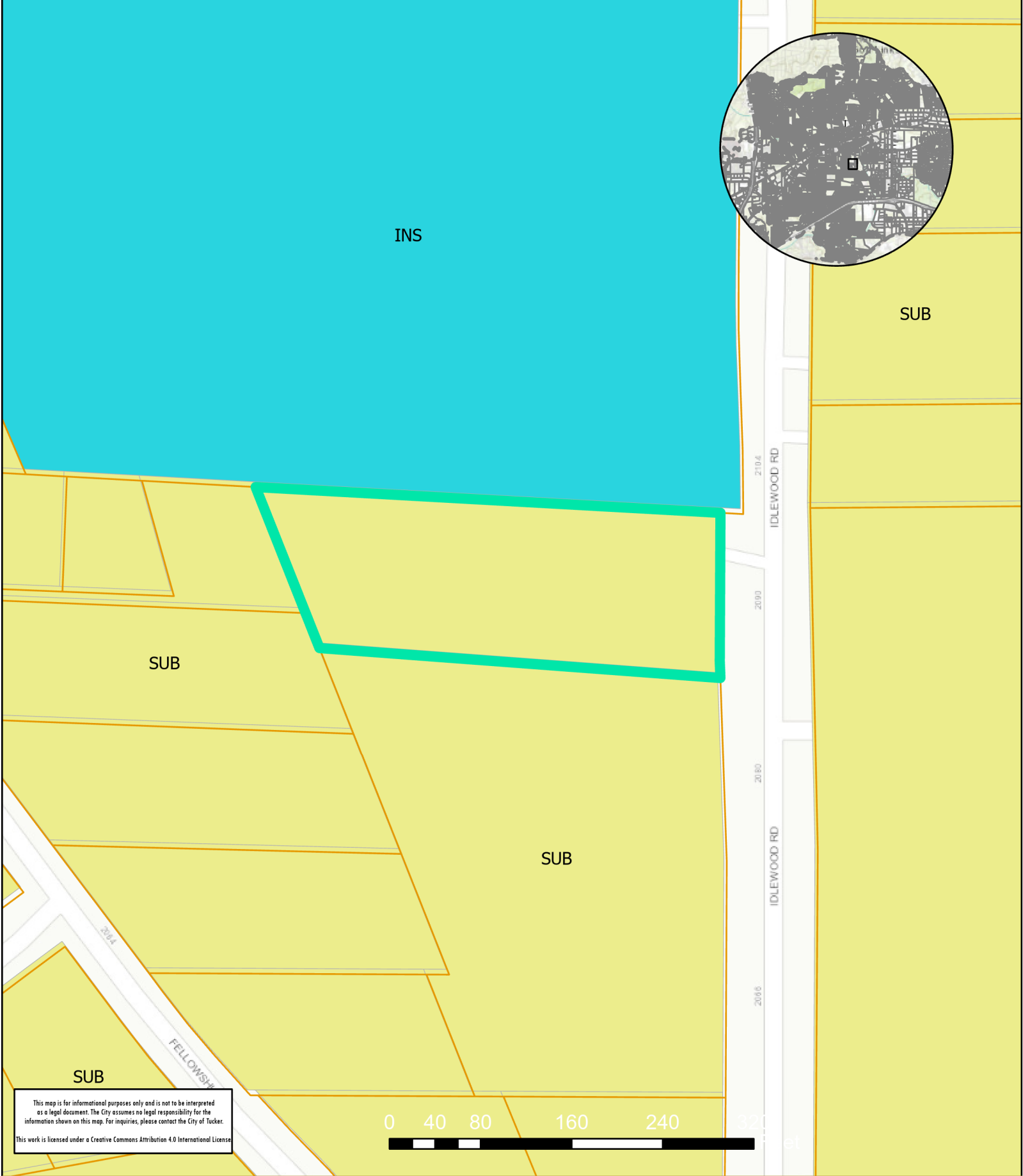
0 40 80 160 240 320 Feet

 SLUP



**City of
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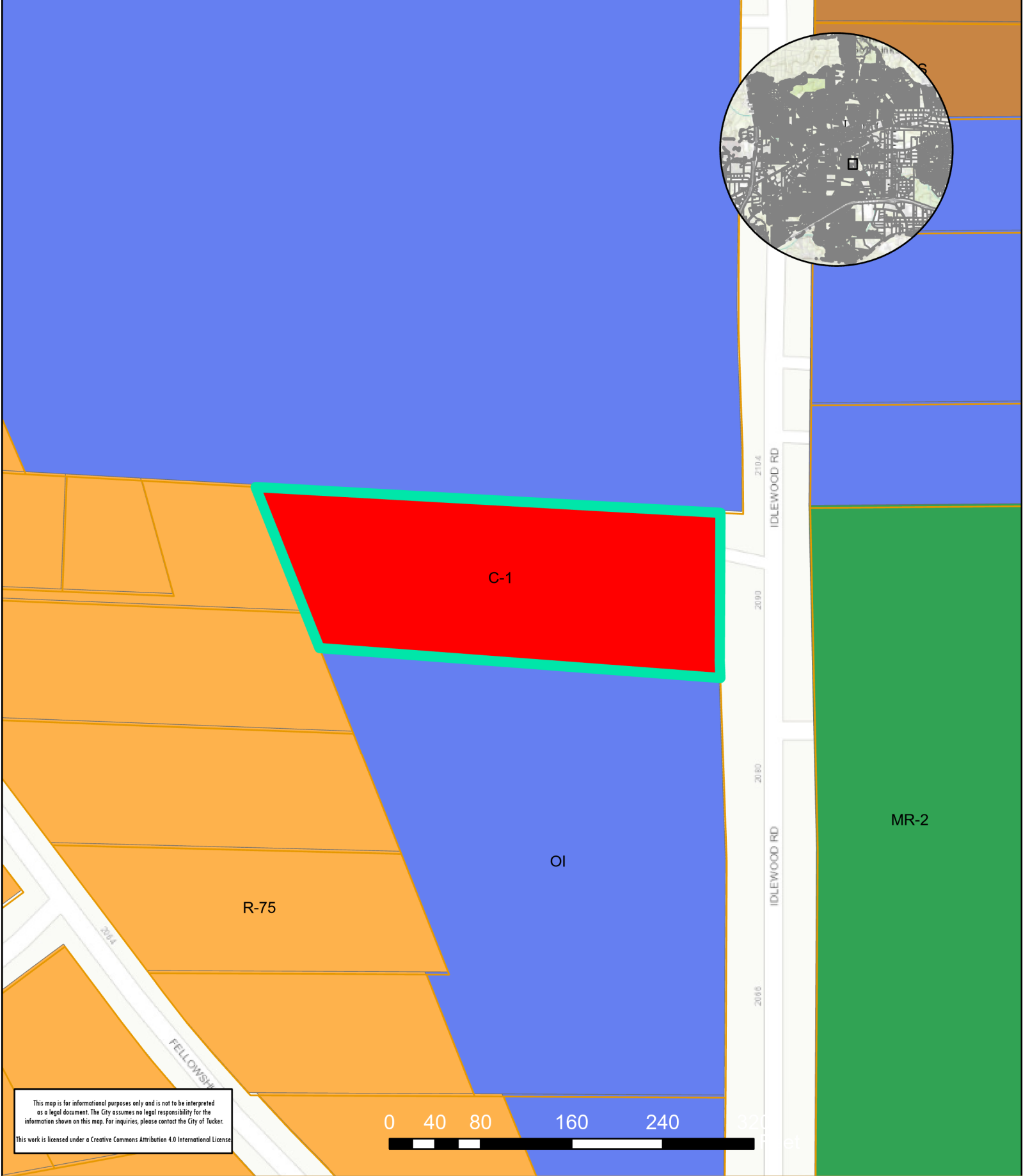
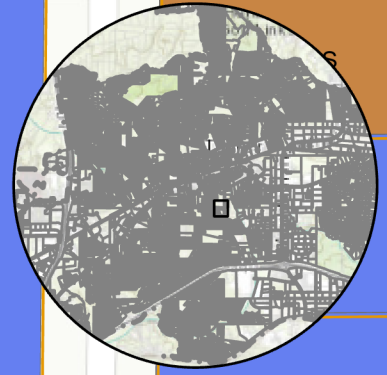
**2088 Idlewood Road Suite #6 Aerial
SLUP-21-0005**



**City of
Tucker**

**2088 Idlewood Road Suite #6 FLU
SLUP-21-0005**

- SLUP
- Institutional
- Suburban



**City of
Tucker**

**2088 Idlewood Road Suite #6 Zoning
SLUP-21-0005**

- SLUP
- R-75 (Residential Medium Lot -75)
- MR-2 (Medium Density Residential-2)
- NS (Neighborhood Shopping)
- C-1 (Local Commercial)
- O-I (Office-Institution)



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City Rezoning RZ-21-0004 1581 Juliette

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1581 Juliette Road has been identified for potential rezoning as it is zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 1.3-acre site is located on the eastern side of Juliette Road, directly south of Highway 78. The parcel is triangular in shape and is developed with a small pole barn for landscape storage.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the

neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

[Click or tap here to enter text.](#)

Recommendation:

Staff recommends approval of RZ-21-0004.

Planning Commission recommended approval of RZ-21-0004 at their Oct. 21, 2021 meeting.

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



City of Tucker

Land Use Petition: RZ-21-0004

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1581 Juliette Road
APPLICATION NUMBER	RZ-21-0004
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 137
ACREAGE:	1.3 acres
EXISTING ZONING	M (Light Industrial)
EXISTING LAND USE	Landscaping Company
PROPOSED ZONING	RSM (Small Lot Residential Mix)
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Reds Holdings, LLC
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

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Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that the city could study the area and draft the proposed zoning amendments. The moratorium is in effect

until December 14, 2021. A certified letter was sent to the property owner, Red's Holding, LLC, regarding the justification for, and timeline of the rezoning process. City staff has a meeting with the property owner on October 21, 2021 to discuss the rezoning process and options for the property.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the 'Preserve and Improve Neighborhoods' goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	NA	Highway 78
Adjacent: East	NA	Highway 78
Adjacent: South	M	Office building and surface parking lot
Adjacent: West	MR-1	East Ponce Village Apartment Homes

Rezoning (RZ-21-0004)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located to the east of a MR-1 (Medium Density Residential – 1) multifamily development. Additionally, it abuts a M (light industrial) zoned property to the south, which is also being proposed for rezoning as part of this city-initiated process. If 1581 Juliette is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby if ever redeveloped. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

The existing landscaping business would be allowed to continue operating under the city's non-conforming use ordinance.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties. RSM zoning would also be compatible with the adjacent office building.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

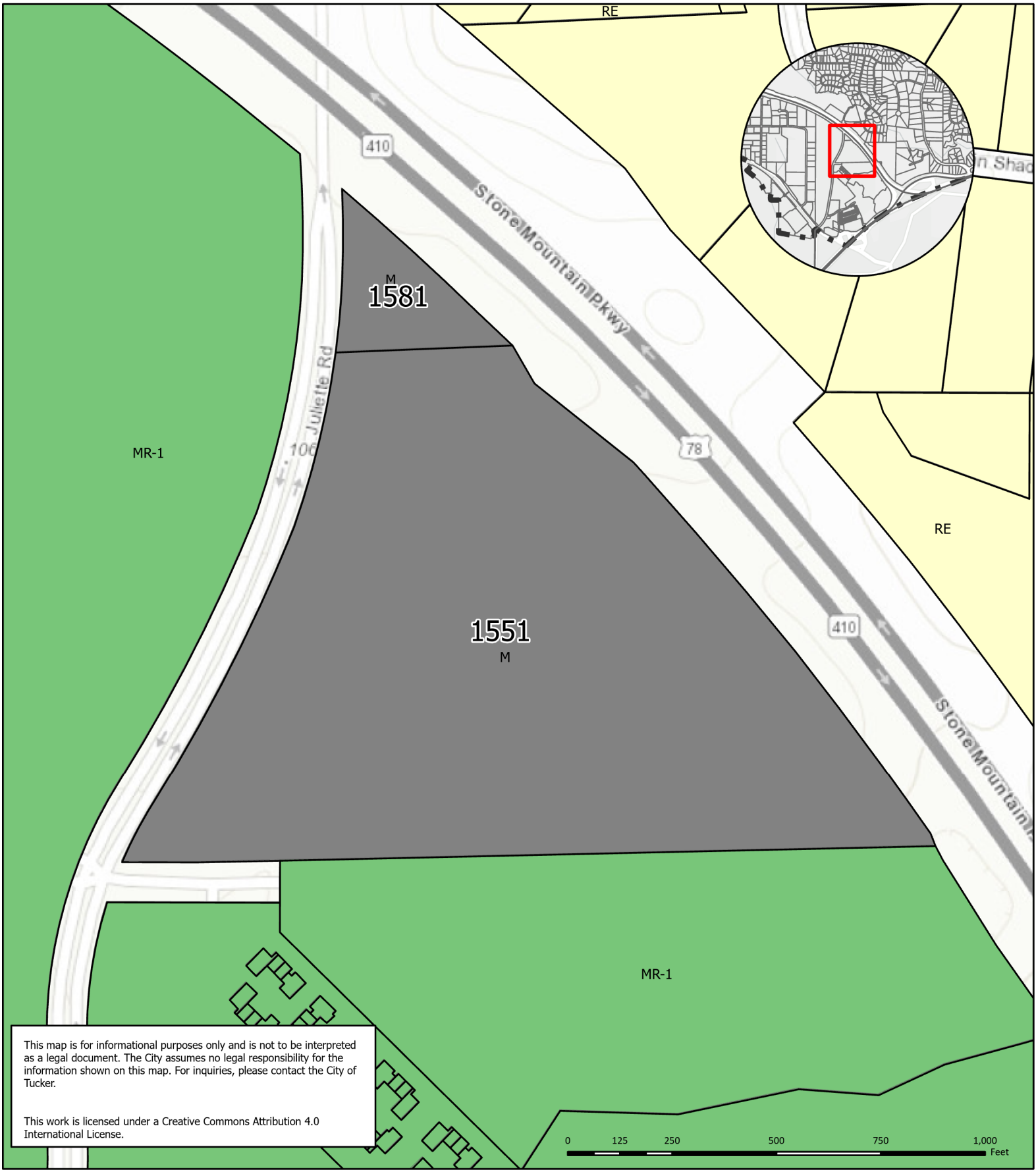
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0004**.

Planning Commission Recommendation

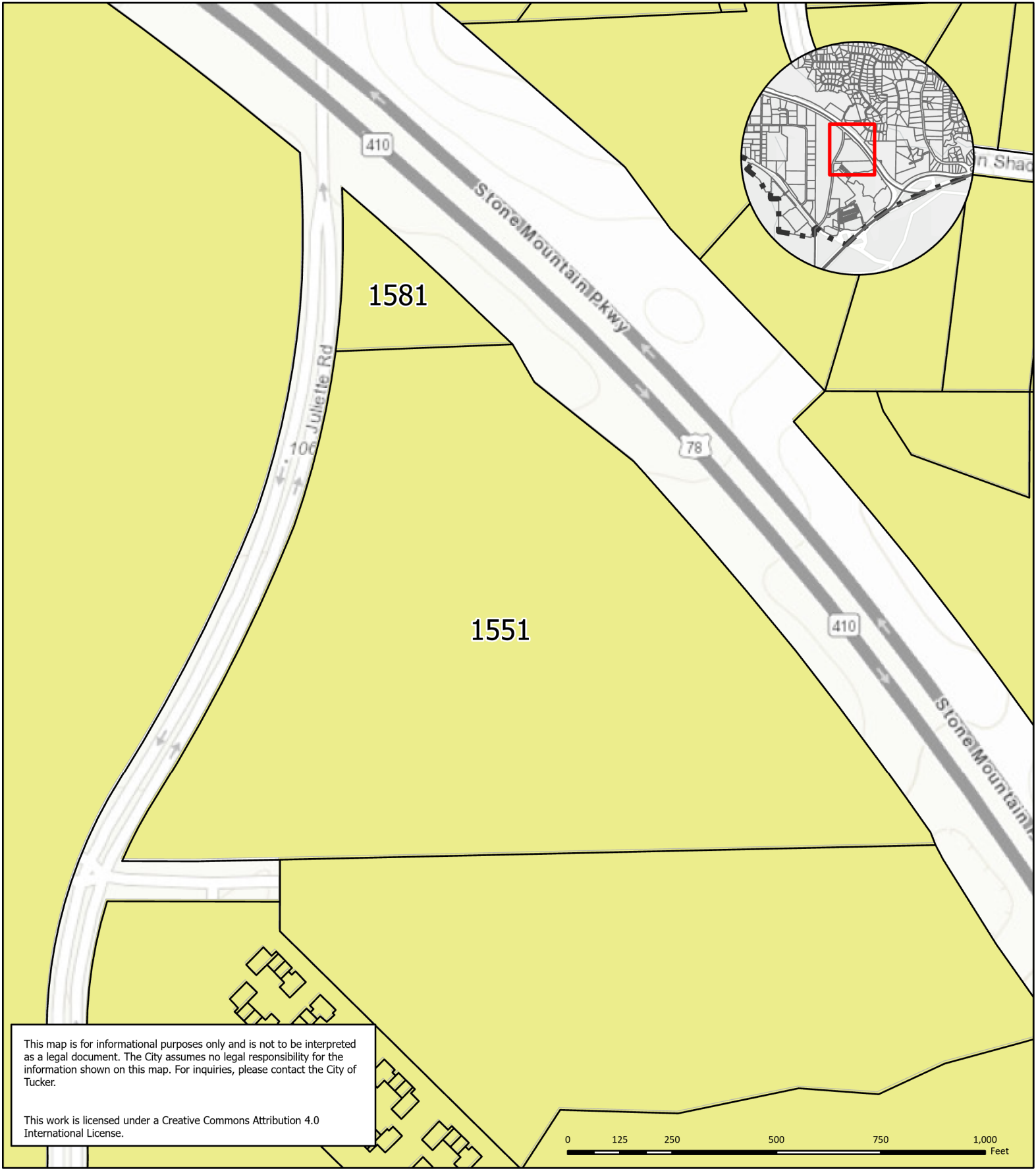
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0004**.



Zoning
1551 & 1581 Juliette Rd

- RE (Residential Estate)
- MR-1 (Medium Density Residential-1)
- M (Light Industrial)





FLU 1551 & 1581 Juliette Rd

Suburban







DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

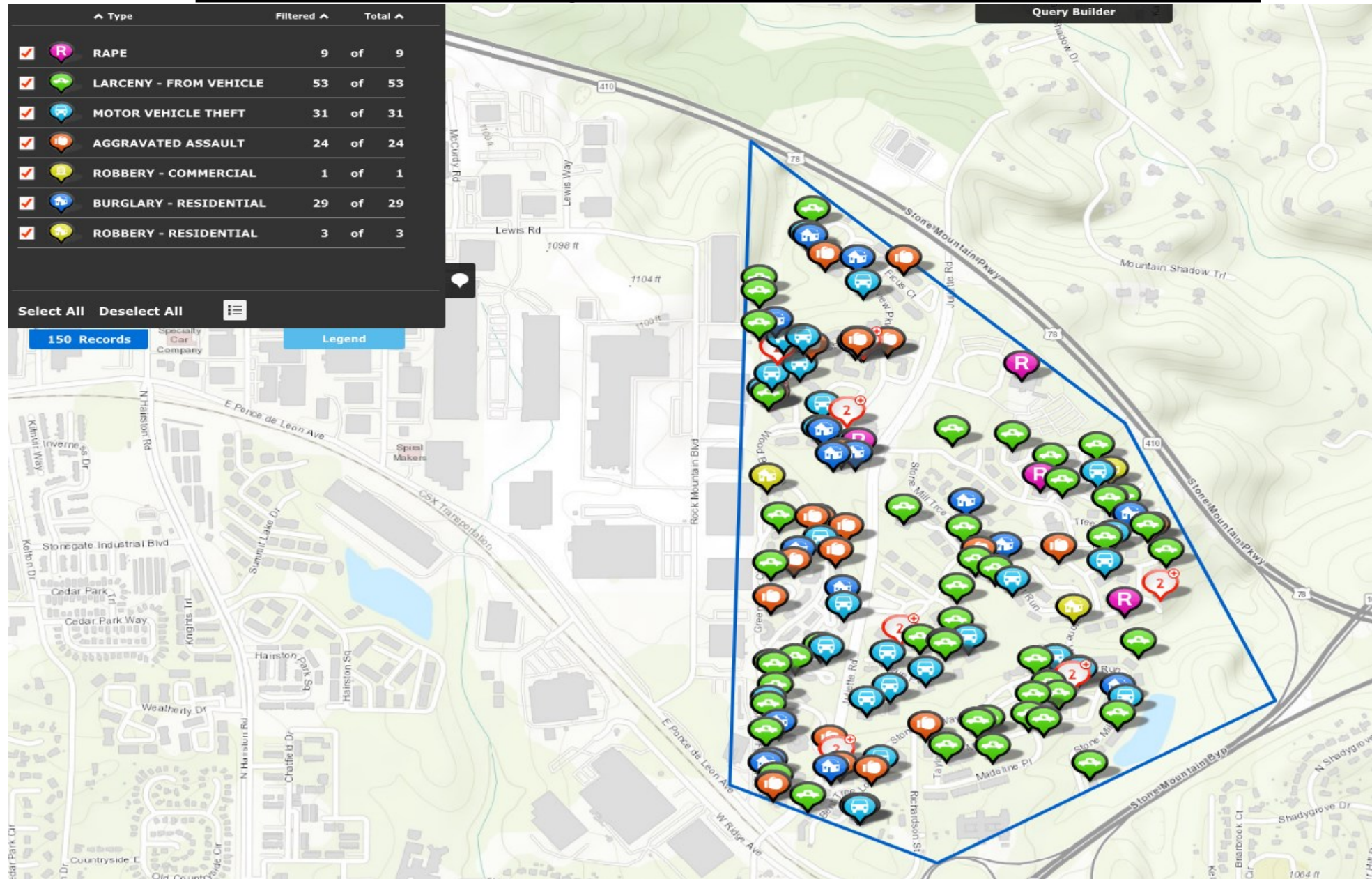
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning RZ-21-0005 1551 Juliette Road

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

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1551 Juliette Road has been identified for potential rezoning as it is zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 22.7-acre site is located on the eastern side of Juliette Road, near Highway 78. The parcel is triangular in shape and is developed with a large office building and two surface parking lots.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

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neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval of RZ-21-0005.

Planning Commission recommended approval of RZ-21-0005 at their Oct. 21, 2021 meeting.

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



City of Tucker

Land Use Petition: RZ-21-0005

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1551 Juliette Road
APPLICATION NUMBER	RZ-21-0005
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 137
ACREAGE:	22.7 acres
EXISTING ZONING	M (Light Industrial)
EXISTING LAND USE	Office Building with Surface Parking Lot
PROPOSED ZONING	RSM (Small Lot Residential Mix)
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Elman Stone Mountain Associates, LLC
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

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1551 Juliette Road has been identified for potential rezoning as it is zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 22.7-acre site is located on the eastern side of Juliette Road, near Highway 78. The parcel is triangular in shape and is developed with a large office building and two surface parking lots.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that the city could study the area and draft the proposed zoning amendments. The moratorium is in effect

until December 14, 2021. A certified letter was sent to the property owner, Elman Stone Mountain Associates, LLC, regarding the justification for, and timeline of the rezoning process. City staff has made several attempts to get in touch with the property owner and its tenant over the last year but have been unsuccessful. Staff will continue to reach out and try and communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the 'Preserve and Improve Neighborhoods' goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	M	Landscape Company
Adjacent: East	NA	Highway 78
Adjacent: South	MR-1	Park at East Ponce Apartment Homes
Adjacent: West	MR-1	East Ponce Village Apartment Homes

Rezoning (RZ-21-0005)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located to the east and north of MR-1 (Medium Density Residential – 1) multifamily developments. Additionally, it abuts a M (light industrial) zoned property, which is also being proposed for rezoning as part of this city-initiated process. If 1551 Juliette is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby if ever redeveloped. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

The existing office building would be allowed to continue operating under the city's non-conforming use ordinance.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. Staff will note that the only access to this office building is from Juliette Road at East Ponce De Leon. There is no direct access to Highway 78, which would be more ideal for a large office building.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

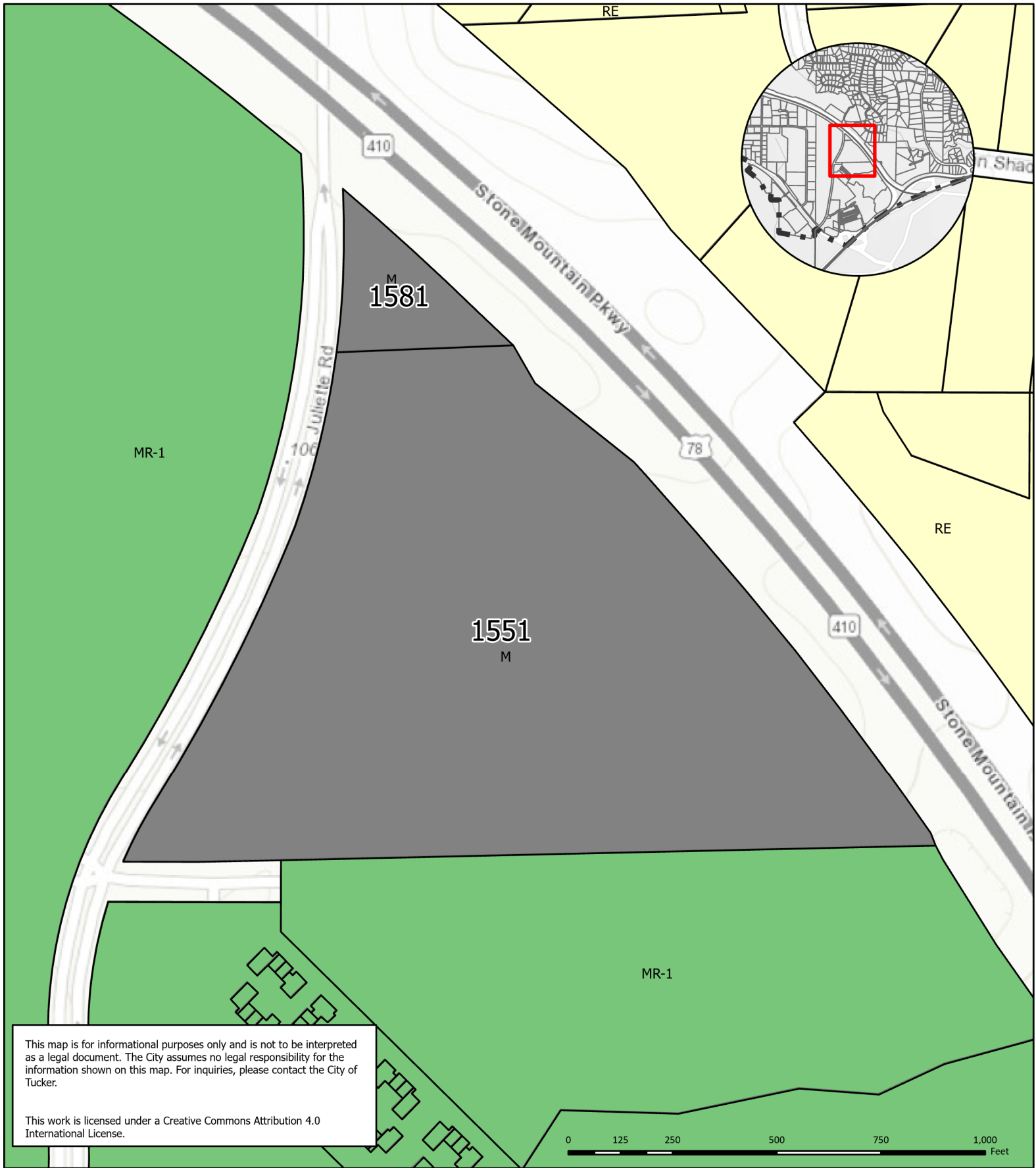
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0005**.

Planning Commission Recommendation

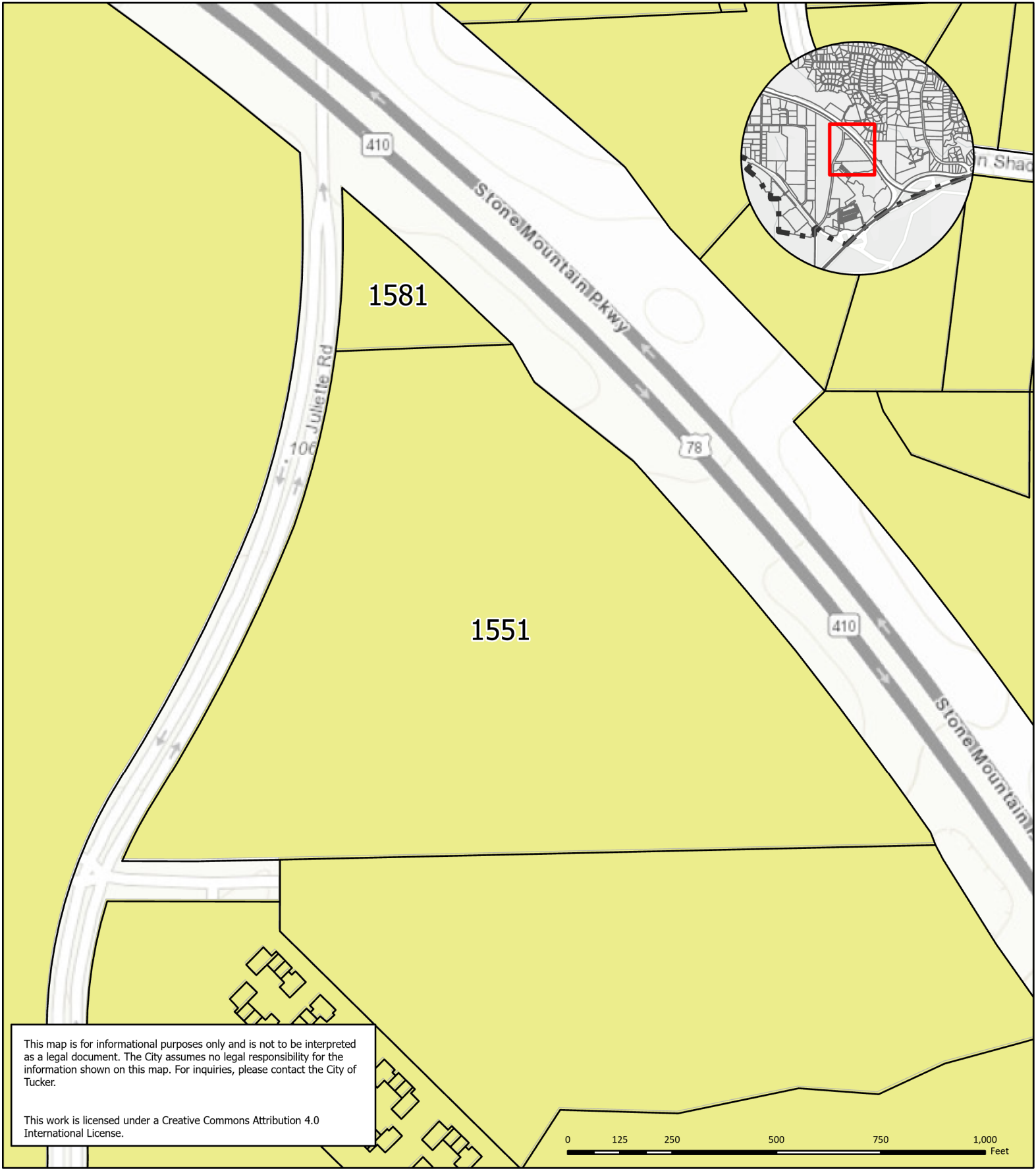
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0005**.




Zoning
1551 & 1581 Juliette Rd

- RE (Residential Estate)
- MR-1 (Medium Density Residential-1)
- M (Light Industrial)





FLU
1551 & 1581 Juliette Rd

 Suburban



DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

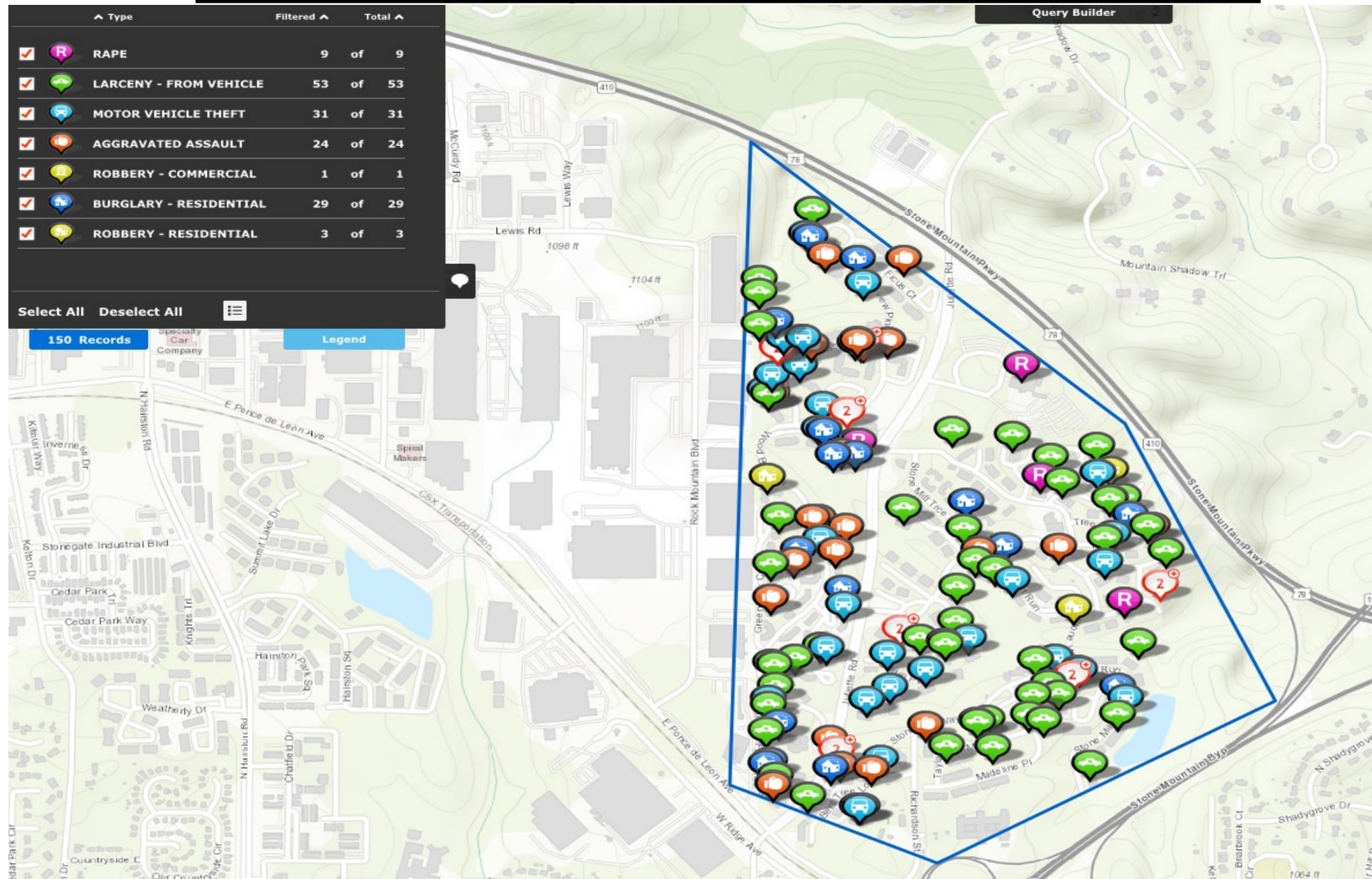
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning RZ-21-0006 5960 East Ponce De Leon

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

5960 East Ponce has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 4.41-acre parcel is located off of East Ponce De Leon, near the intersection of Juliette Road. It is rectangular in shape and is currently under development for a convenience store and retail building. The construction, per PLD20-0025, would not be impacted by this city-initiated rezoning.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. While neither M (light industrial) or C-1 (local commercial) is a permitted zoning district, C-1 (local commercial) is more compatible than M (light industrial) in terms of the surrounding land uses. Additionally, the frontage on East Ponce De Leon gives support for a commercial zoning designation over residential.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the surrounding area.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole by allowing commercial uses and services to surrounding residents.

Recommendation:

Staff recommends approval of RZ-21-0006

Planning Commission recommended approval of RZ-21-0006

Summary:

Staff finds that the proposed zoning district, C-1 (local commercial), more closely aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that is more compatible with the Suburban character area, this parcel should be rezoned to C-1 (local commercial). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



City of Tucker

Land Use Petition: RZ-21-0006

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	5960 East Ponce De Leon Avenue
APPLICATION NUMBER	RZ-21-0006
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	4.41 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Vacant; under development for a convenience store and retail building
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	Mountain Industrial Overlay District
APPLICANT:	City of Tucker
OWNER:	Tucker Land Group, LLC
PROPOSED DEVELOPMENT:	None as part of RZ-21-0006
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

5960 East Ponce has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 4.41-acre parcel is located off of East Ponce De Leon, near the intersection of Juliette Road. It is rectangular in shape and is currently under development for a convenience store and retail building. The construction, per PLD20-0025, would not be impacted by this city-initiated rezoning.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. While neither M (light industrial) or C-1 (local commercial) is a permitted zoning district, C-1 (local commercial) is more compatible than M (light industrial) in terms of the surrounding land uses. Additionally, the frontage on East Ponce De Leon gives support for a commercial zoning designation over residential.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the surrounding area.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole by allowing commercial uses and services to surrounding residents.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that the city could study the area and draft the proposed zoning amendments. The moratorium is in effect until December 14, 2021. A certified letter was sent to the property owner, Tucker Land Group, LLC, regarding the justification for, and timeline of the rezoning process. City staff has spoken to the property owner previously about the possibility of a city initiated rezoning and has offered to meet

again now that the process has been initiated. Staff will continue to reach out to communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the 'Preserve and Improve Neighborhoods' goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	MR-1	East Ponce Village Apartment Homes
Adjacent: North	M	Undeveloped
Adjacent: East	NA	NA
Adjacent: South	NA	NA
Adjacent: West	MR-1	East Ponce Village Apartment Homes

Rezoning (RZ-21-0006)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification of C-1 (local commercial) more closely aligns with the policy and intent of the Tucker Tomorrow comprehensive plan than M (light industrial). Rezoning this parcel to C-1 (local commercial) would provide commercial uses and services to surrounding residents. It would also meet the goal of preserving and improving neighborhoods by not allowing industrial encroachment abutting residential uses.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, near an MR-1 (Medium Density Residential – 1) multifamily development. If 5960 East Ponce De Leon is rezoned to C-1 (local commercial), it would permit more compatible development for adjacent and nearby properties. The property abuts M (light industrial) zoned properties to the north, however these parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

The existing development of a convenience store and retail building are permitted in the C-1 (local commercial) zoning district.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and C-1 (local commercial) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to C-1 (local commercial) will help to provide the nearby residential developments with commercial uses and services. C-1 (local commercial) zoning is appropriate given the frontage on East Ponce De Leon Avenue.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is on condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools. The private developer of the site will be making improvements to the southern portion of Richardson Street. Additionally, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources.

CONCLUSION

Staff finds that the proposed zoning district, C-1 (local commercial), more closely aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that is more compatible with the Suburban character area, this parcel should be rezoned to C-1 (local commercial). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

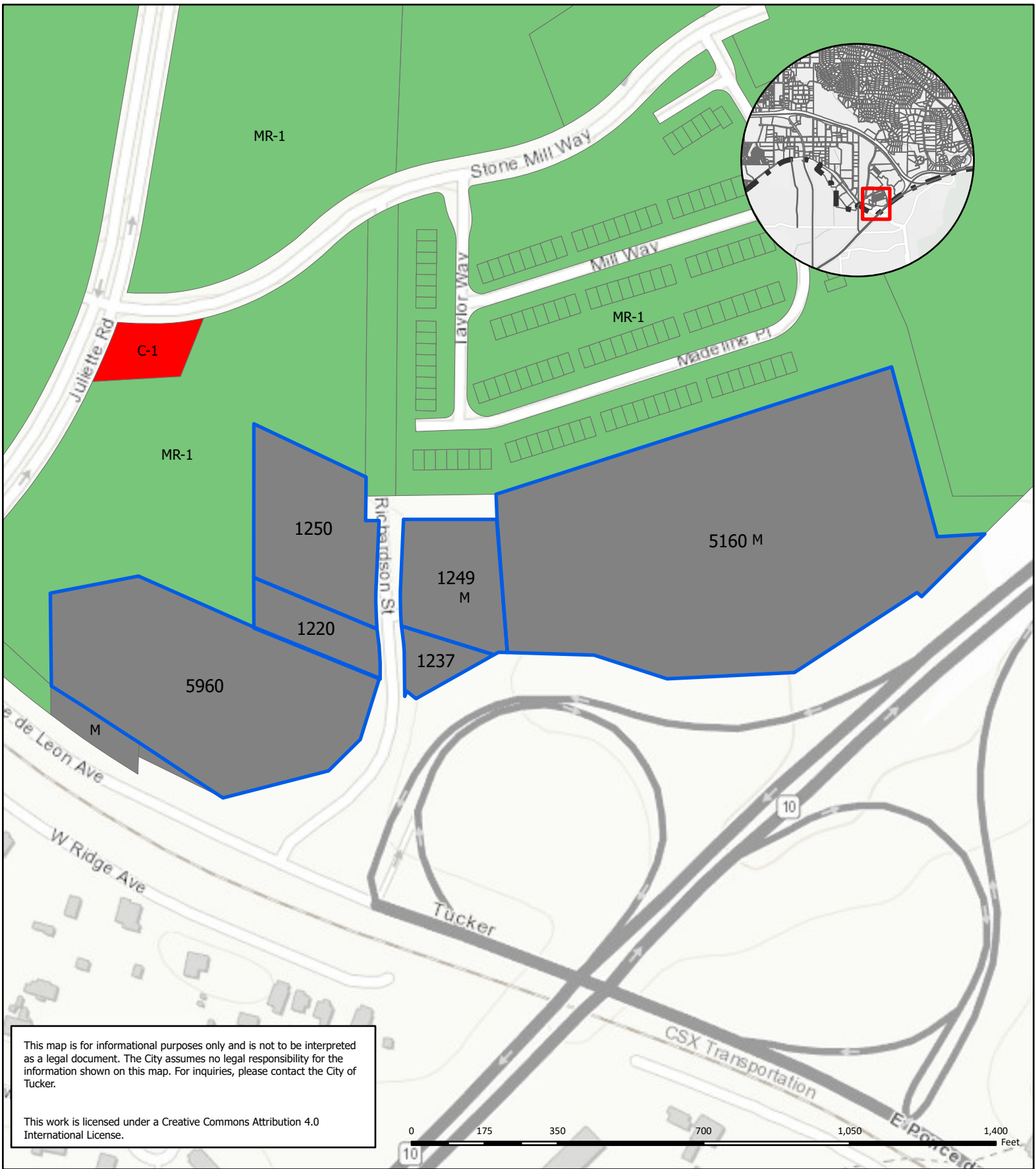
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0006**.

Planning Commission Recommendation

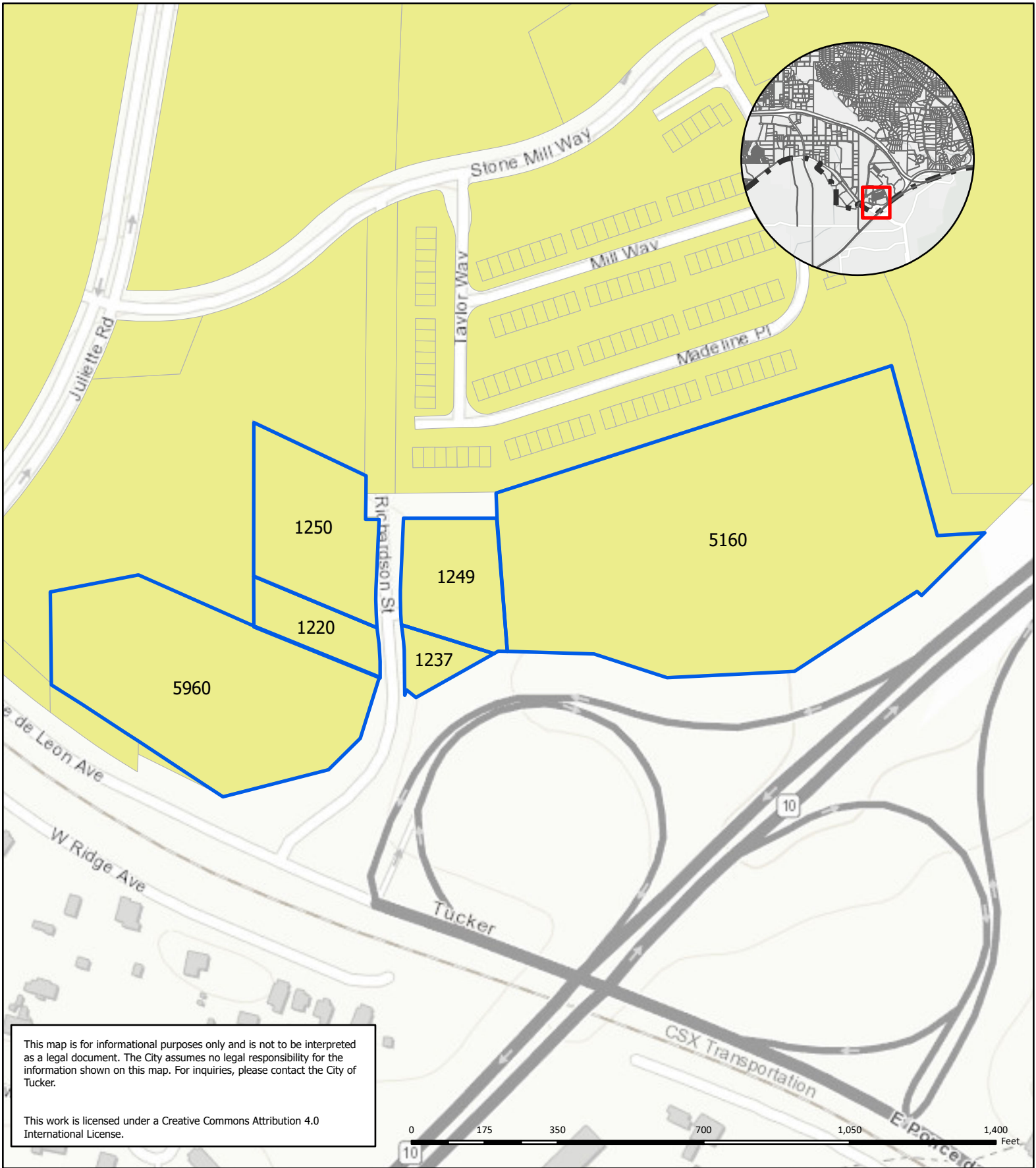
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0006**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)





5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

Suburban



Aug 20, 2021 at 9:21:56 AM
1200–1224 Richardson St
Stone Mountain GA 30083
United States



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/25/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0006
5932 East Ponce De Leon Avenue, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-022
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 4.5609 acre tract of land (per legal description) located on the northwest intersection of Richardson Street and East Ponce De Leon Avenue.

The subject is somewhat rectangular in shape and has around 400 feet of frontage along East Ponce De Leon Avenue. The property slopes very gently upward from road grade. On the date of inspection, the property was largely cleared and level.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The subject conforms with all of the requirements in the Light Industrial zoning district.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to C-1; Local Commercial.

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 4.5609 acres of \$387,677 to \$483,455. The subject was purchased in December of 2017 for \$137,503 per acre. The property was purchased for contemplation of commercial development.

Value of Land for Commercial Development The following chart demonstrates the relative values of land for commercial development in the Tucker Summit Industrial District in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. Hugh Howell @ Mtn Industrial Bld	5/2020	13.992 ac.	\$4,800,000	\$343,053
2. Mtn Industrial north of Hugh Howell	3/2020	29.9 acres	\$7,000,000	\$240,550
3. Smokerise Elementary School Site	11/2017	12.42 ac	\$4,378,500	\$352,536
4. 1727 Mountain Industrial Boulevard	7/2017	2.262 ac.	\$600,000	\$265,252
5. Mtn Industrial @ E. Ponce De Leon	3/2018	3.718 ac.	\$965,000	\$259,550

These sales demonstrate a relative value of around \$250,000 to \$350,000 per acre. This results in a land value for the subject's 4.5609 acres of \$1,140,225 to \$1,596,315 and exceeds the price paid by the current owner for commercial development.

Conclusions Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce R. Penn", with a long horizontal flourish extending to the right.

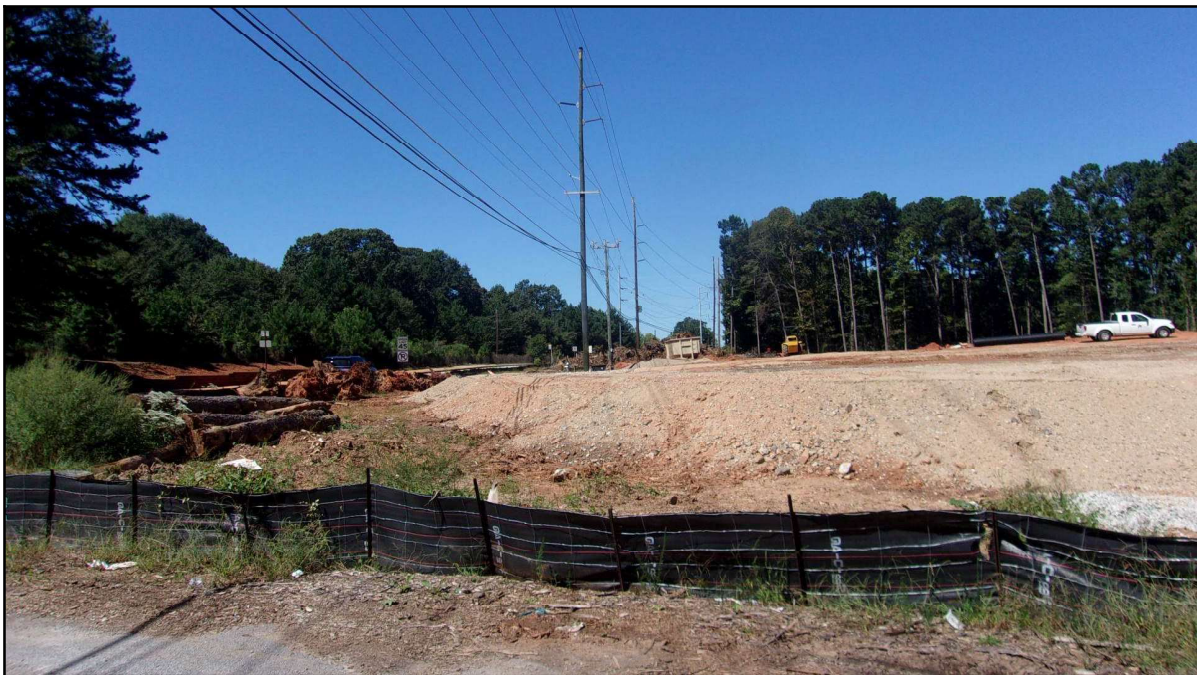
Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

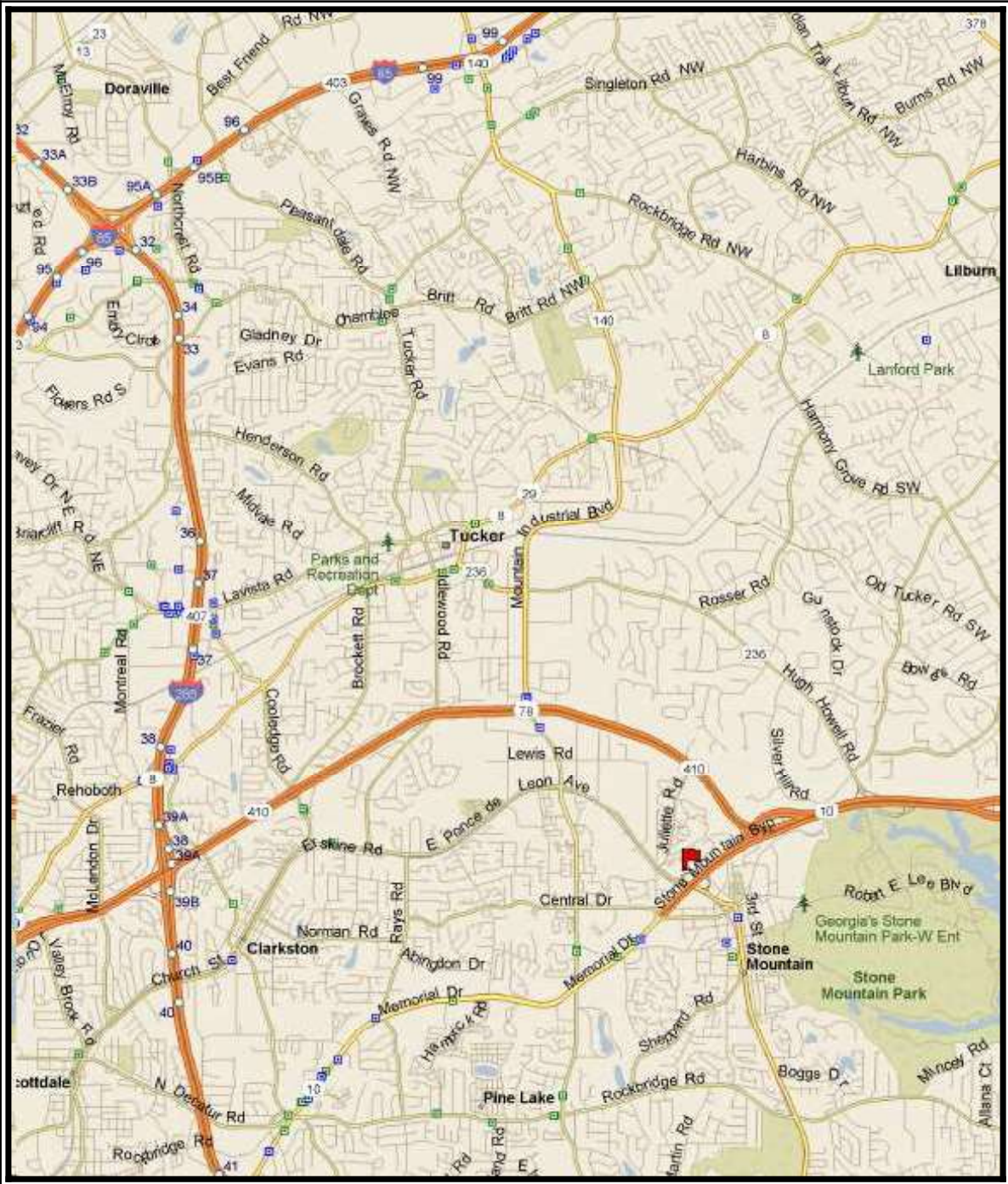
APPENDIX A: SUBJECT PROPERTY

**Subject Photographs
Subject Location Map
Subject Tax Plat Map
Flood Plain Map
Zoning Map
Most Recent Transfer Documents**

SUBJECT PHOTOGRAPHS



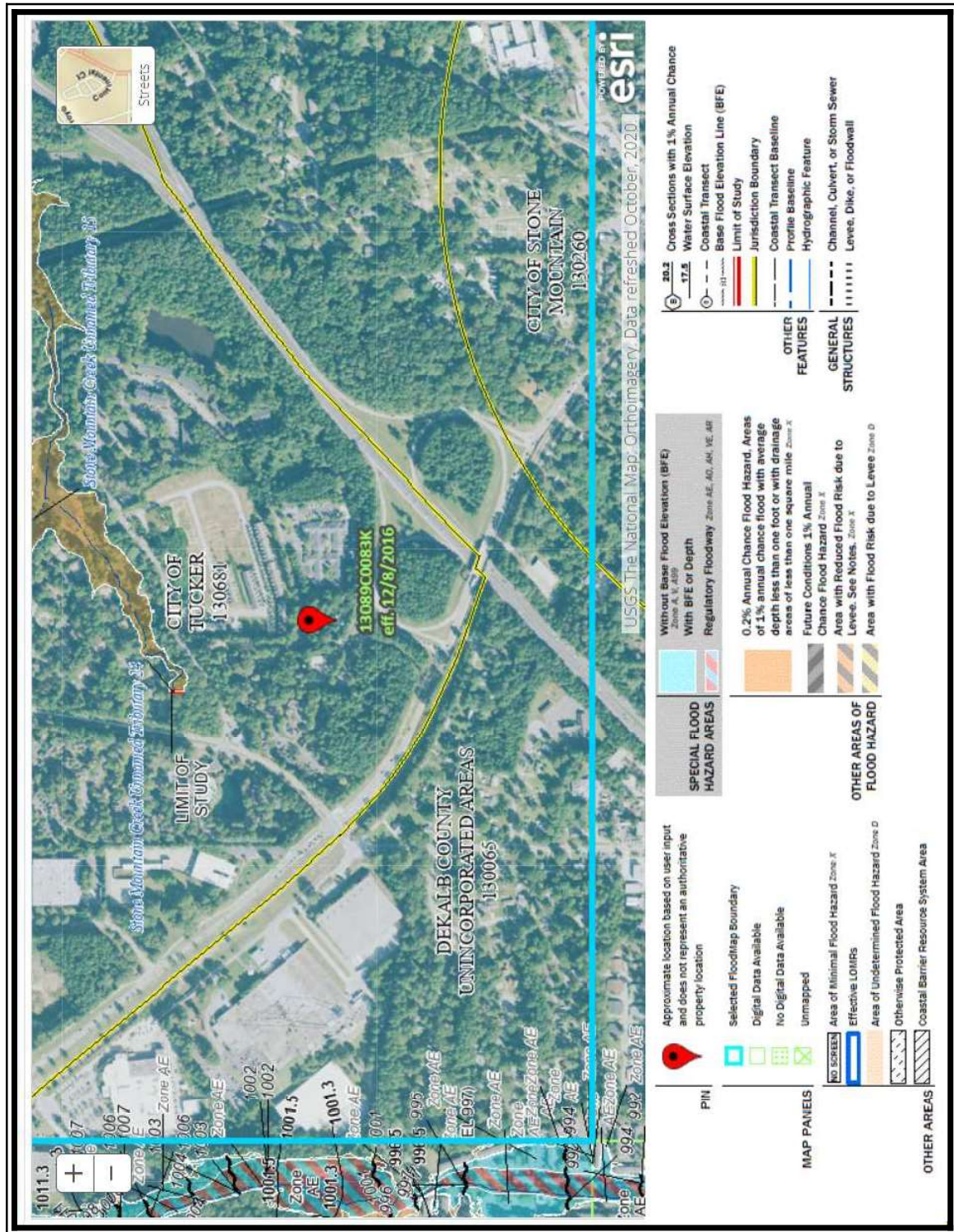
SUBJECT LOCATION MAP



AERIAL TAX PLAT MAP



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

DIVISION 26. C-1 (LOCAL COMMERCIAL) DISTRICT

Sec. 46-758. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the C-1 (Local Commercial) District is as follows:

- (1) To provide convenient local retail shopping and service areas within the city for all residents;
- (2) To provide for auto-oriented needs outside of the downtown, medical area, commercial redevelopment corridor, institutional and regional activity center character areas, but to focus on the pedestrian oriented development within these districts;
- (3) To provide for quality control in development through materials and building placement;
- (4) To ensure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods;
- (5) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.26.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-759. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted, but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.26.2), 7-11-2016)

Sec. 46-760. Dimensional requirements.

Dimensional requirements for the C-1 (Local Commercial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.26.3), 7-11-2016)

Sec. 46-761. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.26.4), 7-11-2016)

Secs. 46-762—46-790. Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front— Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only— min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non- res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes


*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

When Recorded Return To:
Heather Townsend
National Commercial Services
First American Title Insurance Company
Six Concourse Parkway, Ste. 2000
Atlanta, GA 30328
File No: NCS 519511

2017179897 DEED BOOK 26657 Pg 614

Filed and Recorded:
12/19/2017 2:11:12 PM
Debra DeBerry
Clerk of Superior Court
DeKalb County, Georgia
Real Estate Transfer Tax \$620.00

This instrument prepared by:
Eversheds Sutherland (US) LLP
999 Peachtree Street, NE, Suite 2300
Atlanta, Georgia 30309-3996
Attn: Patrick W. Spook, Esq.

When recorded, return to:
Battle Law, P.C.
One West Square, Suite 750
Decatur, Georgia 30030
Attention: Michele L. Battle, Esq.

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED, made this 15th day of December, 2017, between **STONE MOUNTAIN INDUSTRIAL PARK, INC.**, a Georgia corporation ("**Grantor**"), whose address is c/o Pattillo Industrial Real Estate, 1000 Abernathy Road, NE, Suite 325, Atlanta, Georgia 30328, and **TUCKER LAND GROUP LLC**, a Georgia limited liability company ("**Grantee**"; the words "**Grantor**" and "**Grantee**" to include their respective heirs, successors and assigns where the context requires or permits), whose address is 1833 Lawrenceville Highway, Decatur, Georgia 30033.

WITNESSETH:

For and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION delivered to Grantor by Grantee at and before the execution, sealing and delivery hereof, the receipt and sufficiency of which are hereby acknowledged, Grantor has and hereby does grant, bargain, sell, alien, convey and confirm unto Grantee, subject to all matters set forth on Exhibit B attached hereto and made a part hereof ("**Permitted Title Exceptions**"), all that tract or parcel of land lying and being in Land Lot 125 of the 18th District of DeKalb County, Georgia, as more particularly described on Exhibit A attached hereto and hereby made a part hereof (the "**Property**").

TO HAVE AND TO HOLD said Property, together with any and all improvements located thereon, and any and all of the rights, members, easements, hereditaments and appurtenances thereof to the same being, belonging or in anywise appertaining to the only proper use, benefit and behoof of Grantee, subject to the Permitted Exceptions, forever, in FEE SIMPLE.

AND, SUBJECT TO the Permitted Exceptions Grantor shall warrant and forever defend the right and title to said Property unto Grantee, against the claims of all persons whomsoever claiming by, through or under Grantor, but not otherwise.

[signature appears on following page]

IN WITNESS WHEREOF, Grantor has signed, sealed and delivered this deed the day and year first above written.

GRANTOR:

Signed, sealed and delivered
in the presence of:

STONE MOUNTAIN INDUSTRIAL PARK, INC.,
a Georgia corporation

Unofficial Witness

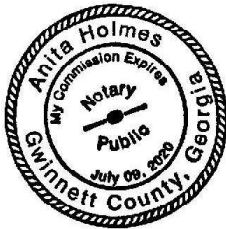
By: Joshua W. Harrison
Name: Joshua W. Harrison
Title: Chief Operating Officer

Notary Public

Attest: Casey J. Farmer
Name: Casey J. Farmer
Title: Assistant Secretary

My commission expires: July 9, 2020

[NOTARIAL SEAL]



Signature Page to Limited Warranty Deed

EXHIBIT A**Legal Description of Property**

All that tract or parcel of land lying and being in Land Lot 125 of the 18th District, DeKalb County, Georgia, and being more particularly described as follows:

To find the True Point of Beginning, commence at a point on the land lot line dividing Land Lots 124 and 125, aforesaid District, at its intersection with the northeastern right of way line of Georgia Railroad (said point being 100 foot from the centerline of said right of way at this point); thence along said northeastern right of way line of Georgia Railroad the following two (2) courses and distances: South 41 degrees 13 minutes 27 seconds East 68.55 feet to a point and along the arc of a 2135.30 feet radius curve to the left an arc distance of 507.76 feet to a point (said arc being subtended by a chord bearing South 48 degrees 02 minutes 11 seconds East a chord distance of 506.26 foot), said point being the True Point of Beginning; from the True Point of Beginning as thus established, leave said right of way line North 00 degrees 20 minutes 03 seconds West 17.22 feet to a ½ inch rebar set; thence continue North 00 degrees 20 minutes 03 seconds West 238.59 feet to a ½ inch rebar set; thence North 70 degrees 15 minutes 57 seconds East 179.20 feet to a ½ inch hollow pipe found; thence South 67 degrees 37 minutes 03 seconds East 249.85 feet to a ½ inch rebar found; thence South 67 degrees 28 minutes 23 seconds East 250.10 feet to a ½ inch rebar found; thence South 07 degrees 05 minutes 57 seconds West 151.60 feet to a 5/8 inch rebar found on the western right of way line of Stone Mountain By-Pass (per Project F-010-2 (6), DeKalb County); thence along said western right of way line of Stone Mountain By-Pass South 31 degrees 31 minutes 26 seconds West 85.00 feet to a ½ inch rebar set at the northeastern point of the mitered intersection of the western right of way line of Stone Mountain By-Pass and the northern right of way line of East Ponce de Leon Avenue; thence along said mitered intersection South 81 degrees 21 minutes 53 seconds West 217.50 feet to a ½ inch rebar set at the southwestern point of said mitered intersection; thence along said northern right of way line of East Ponce de Leon Avenue the following two courses and distances: North 66 degrees 21 minutes 56 seconds West 173.93 feet to a point and North 65 degrees 41 minutes 37 seconds West 35.77 feet to a ½ inch rebar found; thence leaving said right of way line of East Ponce de Leon Avenue South 01 degree 17 minutes 00 seconds West 26.87 feet to a point on the aforesaid northeastern right of way line of Georgia Railroad (said point being 100 foot from the centerline of said right of way); thence along said northeastern right of way line of Georgia Railroad along the arc of 2135.30 feet radius curve to the right an arc distance of 196.79 feet to a point (said arc being subtended by a chord bearing North 57 degrees 29 minutes 20 seconds West a chord distance of 196.72 feet), said point being the True Point of Beginning.

The above-described property contains 4.5609 acres as shown on and described according to that certain Survey for Gwinnett Industries, Inc. prepared by L00-Turley &

A-1

39912732.2

Associates, P.C. and bearing the stamp and seal of Richard Loo, GRLS No. 2129, dated June 2, 1992, which plat is hereby made a part of and incorporated in this description.

39912732.2

A-2

EXHIBIT B

Permitted Title Exceptions

1. All taxes and assessments relating to the Property, including without limitation, any lien for past due or current ad valorem taxes and assessments, any assessments or liens for assessments under any agreements of record, and all utility charges or liens for utility charges.
2. Applicable zoning and other ordinances affecting the Property.
3. Easement from Georgia Railroad and Banking Company, a Georgia corporation; and Louisville and Nashville Railroad Company and Seaboard Coast Line Railroad Company, who, as lessees of the railroad properties of the Georgia Railroad and Banking Company, conduct their business under the name Georgia Railroad to Stone Mountain Industrial Park, Inc., a Georgia corporation, and The Ervin Company, a Delaware corporation, dated December 2, 1970, filed for record December 11, 1970, and recorded in Deed Book 2598, Page 13, DeKalb County, Georgia records.
4. All matters that would be revealed by a current accurate survey and inspection of the Property.

B-1

39912732.2

TAX PARCEL #: 18-125-01-022

STATE OF GEORGIA
COUNTY OF DEKALB

QUITCLAIM DEED

THIS INDENTURE made and entered into this **22nd** day of **June, 2020**, by and between: **DeKalb County**, a political subdivision of the State of Georgia (herein referred to as "**Grantor**") and **Tucker Land Group, LLC**, as party of the second part (herein referred to as "**Grantee**").

WITNESSETH:

That **Grantor**, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release and forever quit-claim to **Grantee**, its successors and assigns, all the right, title, interest, claim or demand which the said party of the first part has or may have had in and to the following described property:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 125 of the 18th District, City of Tucker, DeKalb County, Georgia, and being more particularly described on **Exhibit "A"** attached hereto and made a part hereof by reference.

Together with all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

For the same consideration, **Grantor** hereby conveys unto **Grantee**, all interest, if any, of **Grantor** in strips and gores between the Land and abutting properties owned by **Grantee** and any land lying in or under the bed of any street, alley, road or right of way, open or proposed, abutting or adjacent to the Land (all of said Land and interest being collectively referred to as the "**Property**").

TO HAVE AND TO HOLD the **Property** to said **Grantee**, its successors and assigns, so that neither **Grantor** nor its heirs, successors, nor any other person claiming under it shall at any time claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

Provided, however, that nothing herein shall be construed to deprive any person or other legal entity of any private rights of record according to any recorded plat or to affect any existing easements, for utilities or other purpose, held by a legal entity other than DeKalb County, Georgia.

Provided further that the county hereby reserves for itself, its successors and assigns any and all

existing water and sewer easements upon, over, across and under that above-described property, and an easement upon, over, across and under the above-described property for the collection, direction, concentration, discharge, ponding or retention of rain water, surface water or other water from the roads, streets, alleys, parks, lots, ditches culvert, drains, lakes, rivers, streams, ponds and properties of DeKalb County, Georgia, or properties devoted to a public use.

IN WITNESS WHEREOF, **Grantor** has hereunto set its hand and seal the day and year first written above.

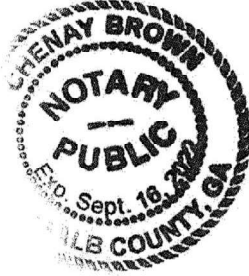
Signed, sealed and delivered in
the presence of:

Kristen Korfus
Witness

Cheney Brown
Notary Public

My commission expires: 9/16/22

(NOTARIAL SEAL)



DEKALB COUNTY, GEORGIA

BY: [Signature] (SEAL)
Michael C. Thurmond
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

[Signature]
Barbara H. Sanders-Norwood, CEC
County Clerk
Board of Commissioners
and Chief Executive Officer of
DeKalb County, Georgia

Exhibit "A"Legal Description

PROPERTY TAX ID:18-125-01-022

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 125, OF THE 18TH DISTRICT, OF DEKALB COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

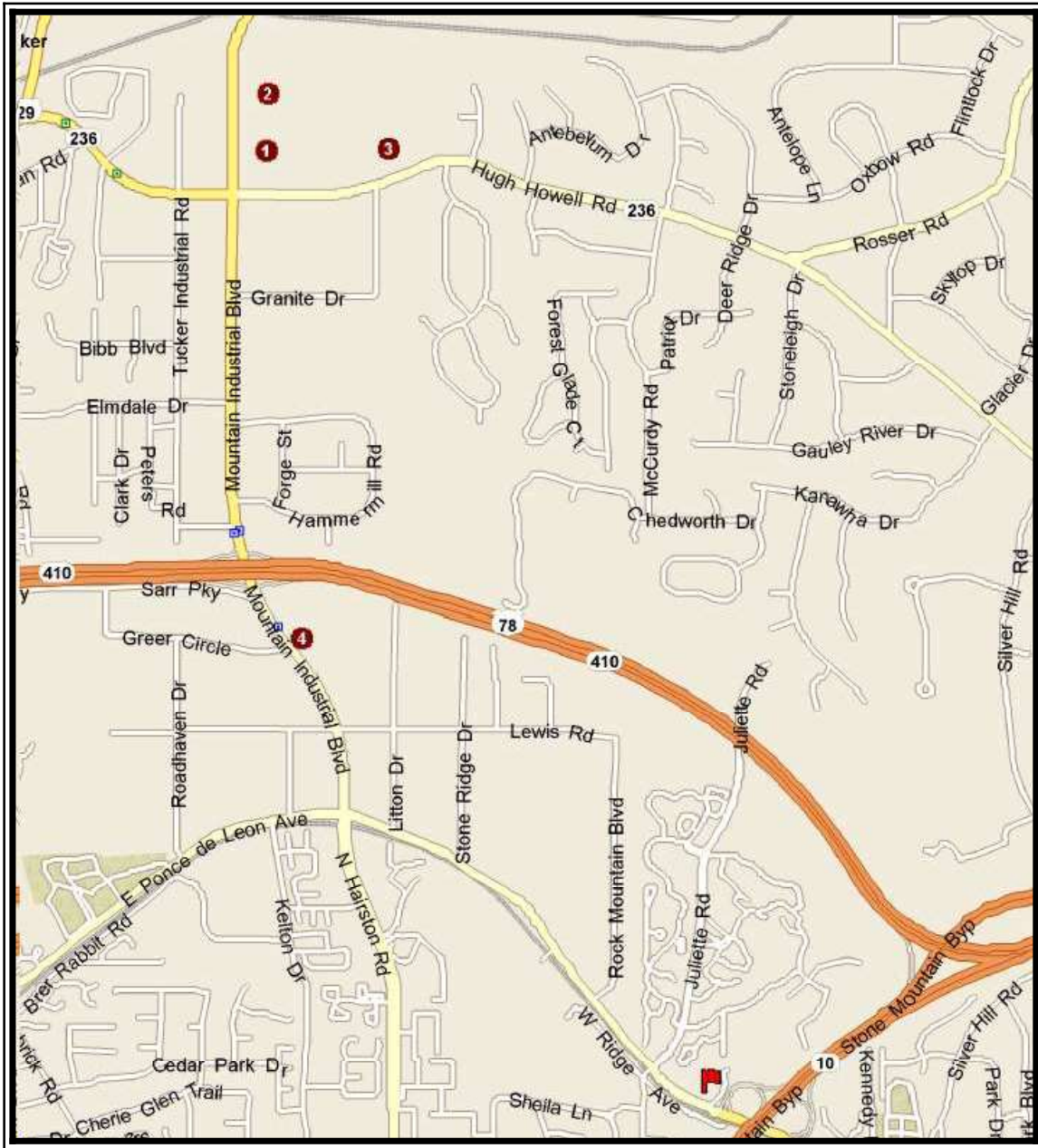
TO FIND THE POINT OF BEGINNING, COMMENCE FROM AN IRON PIN FOUND (1/2" REBAR) AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF RICHARDSON STREET WITH THE NORTHERLY RIGHT-OF-WAY LINE OF EAST PONCE DE LEON AVENUE (VARIABLE R/W), THENCE LEAVING SAID INTERSECTION AND RUNNING ALONG SAID RIGHT-OF-WAY LINE OF EAST PONCE DE LEON AVENUE NORTH 64 DEGREES 58 MINUTES 50 SECONDS WEST A DISTANCE OF 174.00 FEET TO AN IRON PIN FOUND (1/2" REBAR); THENCE NORTH 64 DEGREES 01 MINUTES 57 SECONDS WEST A DISTANCE OF 35.82 FEET TO AN IRON PIN FOUND (1/2" REBAR); THENCE LEAVING SAID RIGHT-OF-WAY LINE NORTH 02 DEGREES 41 MINUTES 44 SECONDS EAST A DISTANCE OF 16.28 FEET TO AN IRON PIN SET (1/2" REBAR), SAID POINT BEING THE POINT OF BEGINNING, FROM SAID POINT OF BEGINNING AS THUS ESTABLISHED; THENCE ALONG A CURVE TO THE RIGHT A DISTANCE OF 76.35 FEET, HAVING A RADIUS OF 1132.58 FEET, AND BEING SUBTENDED BY A CHORD BEARING OF NORTH 61 DEGREES 22 MINUTES 44 SECONDS WEST, A DISTANCE OF 76.33 FEET; THENCE ALONG A CURVE TO THE RIGHT A DISTANCE OF 121.02 FEET, HAVING A RADIUS OF 1484.81 FEET, AND BEING SUBTENDED BY A CHORD BEARING OF NORTH 56 DEGREES 12 MINUTES 56 SECONDS WEST, A DISTANCE OF 120.98 FEET TO IRON PIN SET (1/2" REBAR); THENCE NORTH 01 DEGREES 54 MINUTES 07 SECONDS EAST A DISTANCE OF 36.87 FEET TO A POINT; THENCE SOUTH 58 DEGREES 16 MINUTES 54 SECONDS EAST A DISTANCE OF 197.69 FEET TO A POINT; THENCE SOUTH 02 DEGREES 41 MINUTES 48 SECONDS WEST A DISTANCE OF 36.85 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINING (0.158 ACRES 6888 SQUARE FEET),

APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access
Frontage: Frontage along Private Drive
Utilities: All utilities available
Drainage: Adequate
Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

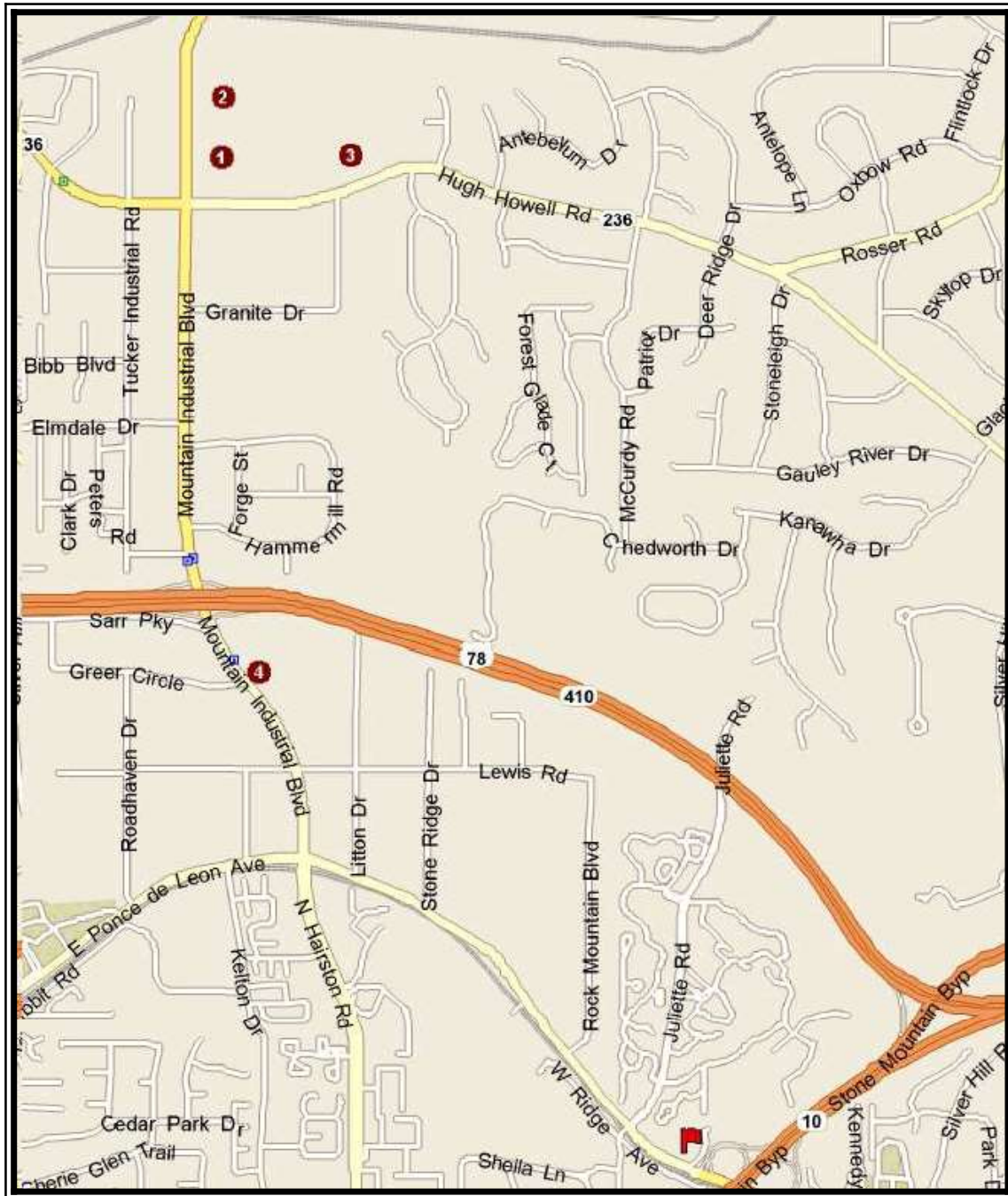
Topography: Level to gently rolling



APPENDIX C: COMMERCIAL LAND SALES

Commercial Land Sales Map Commercial Land Sales

COMMERCIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
COMMERCIAL LAND SALE**

GRANTOR: Habersham Partners, LLC

GRANTEE: Branch Hugh Howell Associates, LP

RECORDED: **BOOK:** 2831 **PAGE:** 637 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/6/2020

CONSIDERATION: \$ 4,800,000 **PRICE PER ACRE:** \$343,053

LOCATION: 4650 Hugh Howell Road, Tucker, GA

PARCEL IDENTIFICATION: 18 215 01 002

ZONING: M - Industrial District

TOTAL AREA: 13.992 acres per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: Approximately 789' along Hugh Howell Road
And Approximately 882" along Mountain Industrial Blvd

Utilities: All utilities

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 2
COMMERCIAL LAND SALE**

GRANTOR: TF Tucker GA, LLC

GRANTEE: Jedi Owned Property, LLC

RECORDED: **BOOK:**28178 **PAGE:**349 **COUNTY:**Dekalb

DATE OF TRANSACTION: 3/17/2020

CONSIDERATION: \$7,000,000 **PRICE PER ACRE:** \$240,550

LOCATION: 2301 Mountain Industrial Boulevard, Tucker, GA

PARCEL IDENTIFICATION: 18 215 01 003

ZONING: M - Industrial District

TOTAL AREA: 29.90 Acres; Per Dekalb County Property Records

DESCRIPTION OF PROPERTY

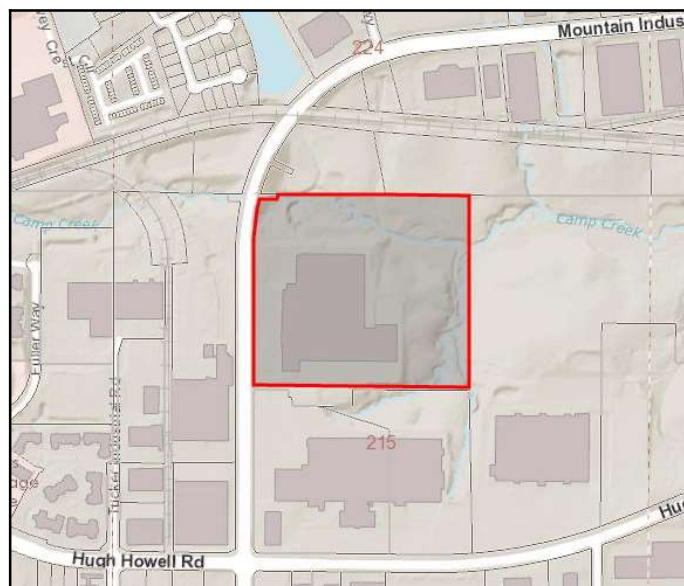
Access: Good Access

Frontage: Approximately 1,012' along Mountain Industrial Blvd

Utilities: All utilities

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
COMMERCIAL LAND SALE**

GRANTOR: Sears Roebuck and Company

GRANTEE: Dekalb Board of Education

RECORDED: **BOOK:**26645 **PAGE:** 554 **COUNTY:**Dekalb

DATE OF TRANSACTION: 11/30/2017

CONSIDERATION: \$4,378,500 **PRICE PER ACRE:** \$352,536

LOCATION: 4780 Hugh Howell Road, Tucker, GA

PARCEL IDENTIFICATION: 18 215 01 004

ZONING: M-2 Multiple Zoning

TOTAL AREA: 12.42 Acres; Per Dekalb County Property Records

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: Approximately 619' along Hugh Howell Road

Utilities: All utilities

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 4
COMMERCIAL LAND SALE**

GRANTOR: Stone Mountain Industrial Park, INC.

GRANTEE: VRE Stone Mountain, LLC

RECORDED: **BOOK:** 26413 **PAGE:** 323 **COUNTY:** Dekalb

DATE OF TRANSACTION: 7/27/2017

CONSIDERATION: \$600,000 **PRICE PER ACRE:** \$265,252

LOCATION: 1727 Mountain Industrial Blvd, Stone Mountain, GA

PARCEL IDENTIFICATION: 18 170 01 001

ZONING: C1 - Local Commercial District

TOTAL AREA: 2.262 acres per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: Approximately 143' along Mountain Industrial Blvd

Utilities: All utilities

Drainage: Adequate

Topography: Drops Below Road Grade to Become Level



APPENDIX D

Certification Assumptions & Limiting Conditions Qualifications of the Appraiser

CERTIFICATE OF APPRAISER

I certify that to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The report analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of this report.
5. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
6. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice, the Georgia Real Estate Appraiser Classification and Regulation Act and the rules and regulations of the Georgia Appraisers Board.
7. I have made a personal inspection of the property that is the subject of this report.
8. I certify that I have not performed any service on the subject property as an appraiser or any other capacity in the past three years.
9. I acknowledge that I serve on the Tucker Downtown Development Authority



Bruce R. Penn

Georgia Certified General Real Property Appraiser #000228

ASSUMPTIONS AND LIMITING CONDITIONS

This report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property and subsoil that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the report.
9. It is assumed that all required licences, consents or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

10. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety. Therefore, the liability of the appraiser shall be expressly limited to the person for whom the report was addressed and any reliance thereon by any third party shall not be justifiable and therefore shall be at the peril of such third party.
11. The appraiser is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless such arrangements have been previously made.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relation, news sales, or other media without the prior written consent and approval of the appraiser.
13. It is a condition of this appraisal that the subject property, including any proposed improvement, meets all governmental regulations and restrictions including but not limited to zoning requirements, building and development codes, drainage requirements and all fire safety laws.
14. It is a condition of this report that the property is subject to typical easements such as right of way for electrical power lines, sewer easements, natural gas lines, as well as telephone lines and water lines.
15. It is a condition of the report that no soil boring test has been made and the stated value would be subject to such a test.
16. It is a condition of this report that any marketing of the subject property would expressly require effective and aggressive sales methods and techniques, reasonable pricing, market exposure and coverage, and unless stated any suggested improvements or repairs must be completed in order to market the property.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

17. The subject is specifically conditioned on present market conditions, any change may affect the market value stated.
18. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, leaking underground storage tanks, contaminated areas, hazardous wastes, dangerous substances, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

QUALIFICATIONS

Bruce R. Penn

SPECIAL QUALIFICATIONS (PRESENT & HISTORICAL)

- State of Georgia, Certified General Real Estate Appraiser No. CG- 000228
- South Carolina, Certified General Real Estate Appraiser No. CG-3575 (retired)
- Senior Member, National Association of Real Estate Appraisers, Designated as Certified Commercial Real Estate Appraiser (#38173) retired
- Appraisal Institute - MAI Candidate (#M86-3542) (retired)
- State of Georgia, Department of Transportation; Approved Appraiser; retired
- Hartsfield Airport Noise Abatement Program Approved Appraiser
- Fulton County, Approved Appraiser
- Dekalb County Approved Appraiser
- Cobb County Department of Transportation, Approved Appraiser
- Cobb County Water Department, Approved Appraiser
- Floyd County Approved Appraiser
- Chatham County Approved Appraiser
- Rockdale County Approved Appraiser
- Cherokee County Approved Appraiser
- City of Atlanta Approved Appraiser
- Jasper County Approved Appraiser

SPECIALIZED REAL ESTATE TRAINING

- Atlanta Institute of Real Estate
 - Principles and Practices of Real Estate; Sales I, Sales II, Sales III
- Appraisal Institute (FKA American Institute of Real Estate Appraisers)
 - Course 1A1, Basic Appraisal Principles, Methods and Techniques
 - Course 1A2, Basic Valuation Procedures
 - Course 023, Standards of Professional Practice
 - Course 1BA, Capitalization Theory and Techniques (Part A)
 - Course 1BB, Capitalization Theory and Techniques (Part B)
 - Business Valuation
 - Valuation in Litigation
- Columbia Institute
 - Condemnation Appraising
- Society of Real Estate Appraisers
 - Course 101, An Introduction to Appraising Real Property
 - Course 102, Applied Residential Property Valuation
- Georgia State University
 - RE 410, Real Estate Valuation
 - RE 310, Real Estate Principles and Practices
 - RE 460, Income Property Valuation

GENERAL EDUCATION

- Georgia State University: Bachelor of Business Administration (1987)
- South Georgia College; Associate of Science in Business Administration (1979)

EXPERIENCE

- 1989- Present Penn, Hastings & Associates, Partner, Commercial/ Condemnation Appraiser.
Responsibilities include project manager for all acquisition projects as well appraisals of condemnation properties and commercial properties in the southern United States.
- 1988-1989 Acquisition Consultants, Chief Appraiser.
Responsibilities include appraising for various condemnation properties and commercial properties in the southern United States.
- 1986-1988 Scott Appraisal Service, Commercial Appraiser.
Responsible for appraising all types of commercial appraisals in the Atlanta area and the southern United States. Also specialized training in appraising of special purpose properties.
- 1984-1986 Certified Commercial Investments, Inc., Research & income property analyst.
Responsibilities included analyzing cash flow from commercial properties in the southeastern United States. Also responsible for researching neighborhoods in the Atlanta area for large scale buy-outs for commercial developments.

REPRESENTATIVE CLIENT LIST: LENDING INSTITUTIONS

- | | |
|-----------------------------------|-----------------------------------|
| - Wachovia Bank | -RBC Centura |
| - Bartow County Bank | -Home Bank |
| - West Georgia National Bank | -Century Bank |
| - United Community Bank; | -Community Bank of Pickens County |
| - First National Bank of Cherokee | |

REPRESENTATIVE CLIENT LIST: LITIGATION ATTORNEYS

- | | |
|--|-----------------------------------|
| - Charles Pursley | - Donald Evans |
| - Richard Hubert | - George Butler |
| - Warren Coppedge | - Walter Hotz |
| - Jenkins & Bowen | - Christian Torggrimson |
| - Jack Wilson, Webb, Tanner & Powell | - Luther Beck, Chandler & Britt |
| - James SS Howell III, | -Weiner, Yancey, Dimpsey & Diggs, |
| - Moore, Ingram Johnson & Steele | - Sams, Larkin & Huff |
| - Flint, Conolly & Walker | - Banks, Stubbs, Neville & Cunat |
| - Paul Kesmodel, Duluth | - James Ledbetter, Calhoun |
| - Michael D. McRae | - Sal Serio |
| - Michael Sumner | - John C. Whiting |
| - Tom Bowman, Maddox Nix Bowman & Zoeckler | |

REPRESENTATIVE GENERAL WORK EXPERIENCE

- | | |
|---|------------------------------------|
| - Vacant Land | - Vacant Land Leases |
| - Remnant Properties | - Residential Properties |
| - Small Income Residential Properties | - Multi-family Properties |
| - Commercial Properties | - Income Producing Properties |
| - Industrial and Build to Suit Properties | - Shopping Centers |
| - Rural Properties | - Residential Subdivision Analysis |
| - Farm Properties | - Business Valuation |
| - Specialty Studies for Evaluation of Economic Obsolescence in Residential Properties | |
| - Specialty Studies for Evaluation of Economic Obsolescence in Commercial Properties | |

REPRESENTATIVE SPECIALIZED PROPERTIES EXPERIENCE

- | | |
|---|---------------------------------------|
| - C&D Landfill | - Billboards |
| - Mixed Use Developments | - Mass Appraisals for Tax Assessments |
| - Regional Hospital | - Mineral Rights |
| - Wetlands Valuation | - Adult Entertainment Establishment |
| - Motel/Hotel | - Historic Properties |
| - Historic Loft Buildings | - Elementary Schools |
| - Commercial Property in a Watershed District | - Conservation Subdivisions |
| - Greenspace Valuations | - Radio Stations |
| - Land Under A Lake | - Golf Course |
| - Log Homes | - Fire Station |
| - Car Dealership | - Manufactured Housing Plant |
| - Contaminated Properties | - Solid Waste Facility |
| - Family Farm Valuation (2032) for IRS | - Steel Plant |
| - Chicken Farms | - Churches |
| - Nudist Colonies | - Regional Malls |
| - DeKalb County Courthouse | - Parking Lots |
| - Library | - Airport |
| - Leasehold Valuations | - Leased Fee Valuations |
| - Geodetic Dome Homes | - Telecom Facility |
| - Air Rights | - Water Rights |
| - Mobile Home Parks | - R/V Park |
| - Equestrian Properties | - Skating Ring |
| - Retirement Facility | - Recording Studio |
| - Railroad Right of Way | - |

REPRESENTATIVE MUNICIPALITY WORK: APPRAISAL

TRANSPORTATION PROJECTS

Georgia Department of Transportation Projects Under Federal Guidelines (Partial Listing)

- Outer Perimeter, Gwinnett County & Forsyth County
- Riverside Parkway, Floyd County
- Georgia Highway 42, Clayton County
- Georgia Highway 314, Fayette County
- Highway 138 Extension, Fulton County
- Georgia Highway 316, Barrow County & Oconee County
- Watkinsville By-Pass (advanced acquisitions)
- Dawsonville Highway, Hall County
- Fairburn Industrial Boulevard, Fulton County
- Thornton Road By-Pass, Douglas County
- Cedartown By-Pass, Polk County
- Macland Road, Cobb County
- Reinhardt College Parkway; Cherokee County
- State Route 124; Scenic Highway, Gwinnett County
- U.S. 80; Talbot-Muscogee Counties
- U.S. 278; DeKalb County
- State Route 20; Rockdale County
- State Route; 29; Rockdale County
- Pumpkinvine Creek Bridge; Bartow County
- State Route 120; Gwinnett County

Virginia Department of Transportation Projects Under Federal Guidelines:

- Virginia Beach Boulevard, Virginia Beach
- Haycock Road, Fairfax County

Airport Projects Per Federal (Funding) Guidelines:

- Aerial Easements of Commercial Property Inside Flight Impacted Areas in the vicinity of Atlanta-Hartsfield Airport
- Residential appraisals for Expansion of DeKalb Peachtree Airport
- Aviation Easements, Hartsfield-Atlanta Airport
- Relocation Appeals Program, Hartsfield-Atlanta Airport

Department of Housing and Urban Development Grant Projects

- Thompson Street, Alpharetta, Fulton County
- Scottdale Mill Road, Dekalb County
- Canton Street, Cherokee County

Local Government Transportation Projects (Partial Listing)

- Presidential Parkway, City of Atlanta
- Roxboro Road, Dekalb County & Fulton County
- Skidaway Road, Savannah, Chatham County
- Jones Shaw Road, Cobb County
- Lawrenceville-Suwannee Road, Phases I & II, Gwinnett County
- Sandy Plains Road, Cobb County
- Johnson Ferry Road Phase I & Phase III, Cobb County
- Holly Springs Road, Cobb County
- Gordon Road, Floyd County
- Blackburn Road Extension, Cobb County
- Chastain Road; Cobb County
- Milford Church Road; Cobb County

NON-TRANSPORTATION PROJECTS

Utility Projects (Client List)

- Oglethorpe Power Corporation
- Georgia Power Company
- Cobb Electrical Municipal Corporation
- Municipal Electric Association of Georgia (MEAG)
- Atlanta Gas Light Company
- Southern Bell

Reservoir Appraisals

- Bear Creek Reservoir, Newton County
- Yellow Creek Reservoir, Cherokee County

Municipal Appraisals

- East Point Development Authority, Fulton County; downtown redevelopment
- State Properties Commission; Improved Property; Georgia Dome Stadium, Atlanta.
- Paulding County Board of Education; Land for new school complex
- Spalding County Board of Education: East Griffin Elementary School
- Spalding County Board of Education: Third Ward Elementary School
- Spalding County Board of Education: Fourth Ward Elementary School
- Solid Waste Management Authority of Crisp County; Solid Waste Processing Facility, Crisp County
- Solid Waste Management Authority of Crisp County; Transfer Station, Coffee County
- Solid Waste Management Authority of Crisp County; Transfer Station, Houston County
- Solid Waste Management Authority of Crisp County; Transfer Station, Sumter County
- Solid Waste Management Authority of Crisp County; Transfer Station, Terrell County
- Waste Management; Landfill, Doraville, Georgia
- Cobb County Water Authority; Land for Expansion; R.L. Sutton Treatment Facility

Water & Sewer Authorities (Client List)

- | | |
|-------------------|-------------------|
| - Gwinnett County | - Rockdale County |
| - Paulding County | - Cobb County |
| - City of Atlanta | - Fulton County |
| - City of Buford | - City of Roswell |

Impact Studies for Court Testimony (Partial Listing)

- Study on the Proximity of Interstate Highways to Residential Property; Georgia Highway 400 extension, Fulton County and City of Atlanta.
- Study on the Impact to Residential Property Values from Increased Road Proximity
- Study on the Impact to Residential Property Values from the Elimination of a Wooded Buffer
- Study on the Impact to Residential Property Values from Increased Slopes
- Study on the Impact to Commercial Property Values from Increased Slopes and Installation of Guardrails.
- Study on the Impact to Residential Property Values from Floodplain
- Study of the Impact to Residential Property Values from Loss of Access
- Study of the Impact to Commercial Property Values from Loss of Access
- Various Parking Studies to Show Loss of Value to Commercial Properties from Loss of Parking
- Study of the Impact to Residential Property Values from Proximity to a Sewage Treatment Plant
- Study of the Impact to Residential Property Values from Particulate Contamination
- Study of the Impact to Residential Property Values from Proximity to Large Manufacturing Facilities
- Study of the Impact to Residential Property Values from Proximity to an Airport

APPRAISAL/TESTIMONY EXPERIENCE/REFERENCES
(Partial Listing)
Bruce R. Penn

Initial Training: James S.S. Howell III (deceased)
Dana Jackel, Cobb County
Fred Bently Sr. & Jr./Cobb County

Regional Court Work Experience (For Municipalities):

Dalton:	Warren Coppedge; private case against developer
Pickens County:	Wills Picket for Pickens County & City of Jasper
Cherokee County:	Jonathan Pope, for Georgia Power Mark Mahler, County Attorney for Cherokee DOT
Bartow County:	Boyd Petit, County Attorney, for Georgia Power Rick Wells, for Georgia Power
Paulding County:	Mason Roundtree (against Paulding County/Reservoir)
Fayette County:	Tom Camp for Georgia Power Jack Parks for Georgia DOT
Clayton County:	Steve Fincher for Clayton Water Authority
Fulton County:	Numerous Attorneys, for Fulton County Land Department Robert Diggs, for Georgia DOT & against Hartsfield Airport Barrell Weiner, for Georgia DOT Anne Sapp, against Georgia DOT
Cobb County:	Linda Brunt (retired); County Attorney/DOT Dana Jackel for Cobb DOT John Moore; against Cobb DOT Kevin Moore; against Cobb DOT Parks Huff; zoning cases and against Cobb DOT Garvis Sams Jr.; zoning cases and against Cobb DOT
Rockdale County:	Tom Bowman, County Attorney for Tax Assessor, State DOT, Rockdale Water Authority
Newton County:	William Thomas Craig for Bear Creek Reservoir Scott Cole for Bear Creek Reservoir

Benchmark Cases: Swanson v. DOT
Ga. Power v. Mosteller Mill
DOT v. Bowles
City of Marietta v. Sumerour
Duron Davis v. Toyo Tire

COMMUNITY DEVELOPMENT EXPERIENCE

- Chairperson of Community Council, District 1, DeKalb County.
Community Council is an approval board with board members appointed by County Commissioner of that District. Board members are representative of the communities of that Commission District and charged with representing the interests of the community and oversight of community goals in the zoning and land use and development process. Community Council is the 1st in the zoning approval process.
- Member, Downtown Development Authority of the City of Tucker
- Member, Transportation Committee; Tucker Northlake Community Improvement District (Tucker Northlake CID)
- Member (former chairperson) of the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association.
- Served as member of the Mainstreet Tucker Alliance in the LCI approval process and ARC grants for redevelopment of downtown Tucker.
- Testified as a value witness in zoning and land use matters in DeKalb County, Cobb County, Cherokee County, Gilmer County and Pickens County.

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

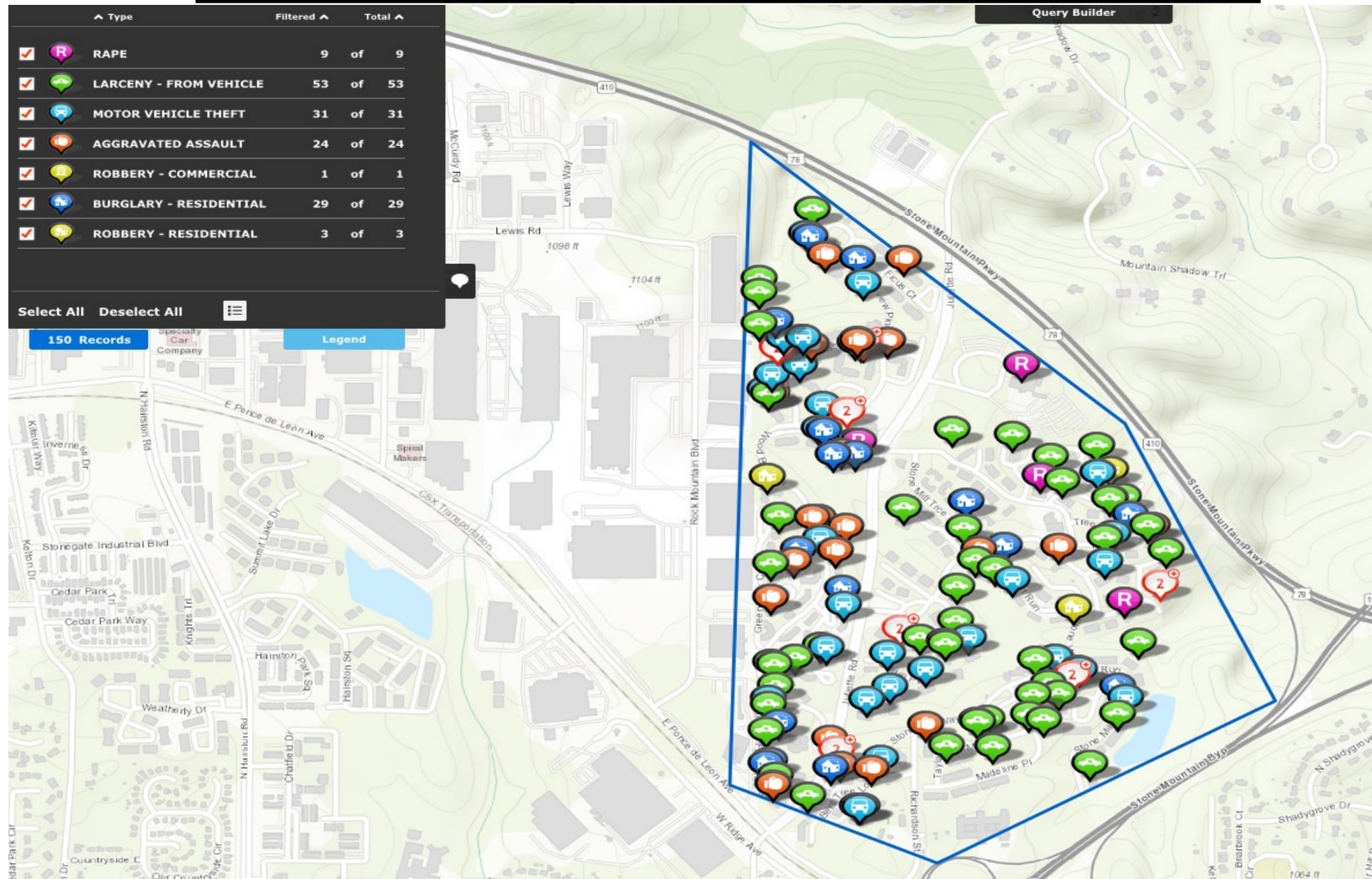
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

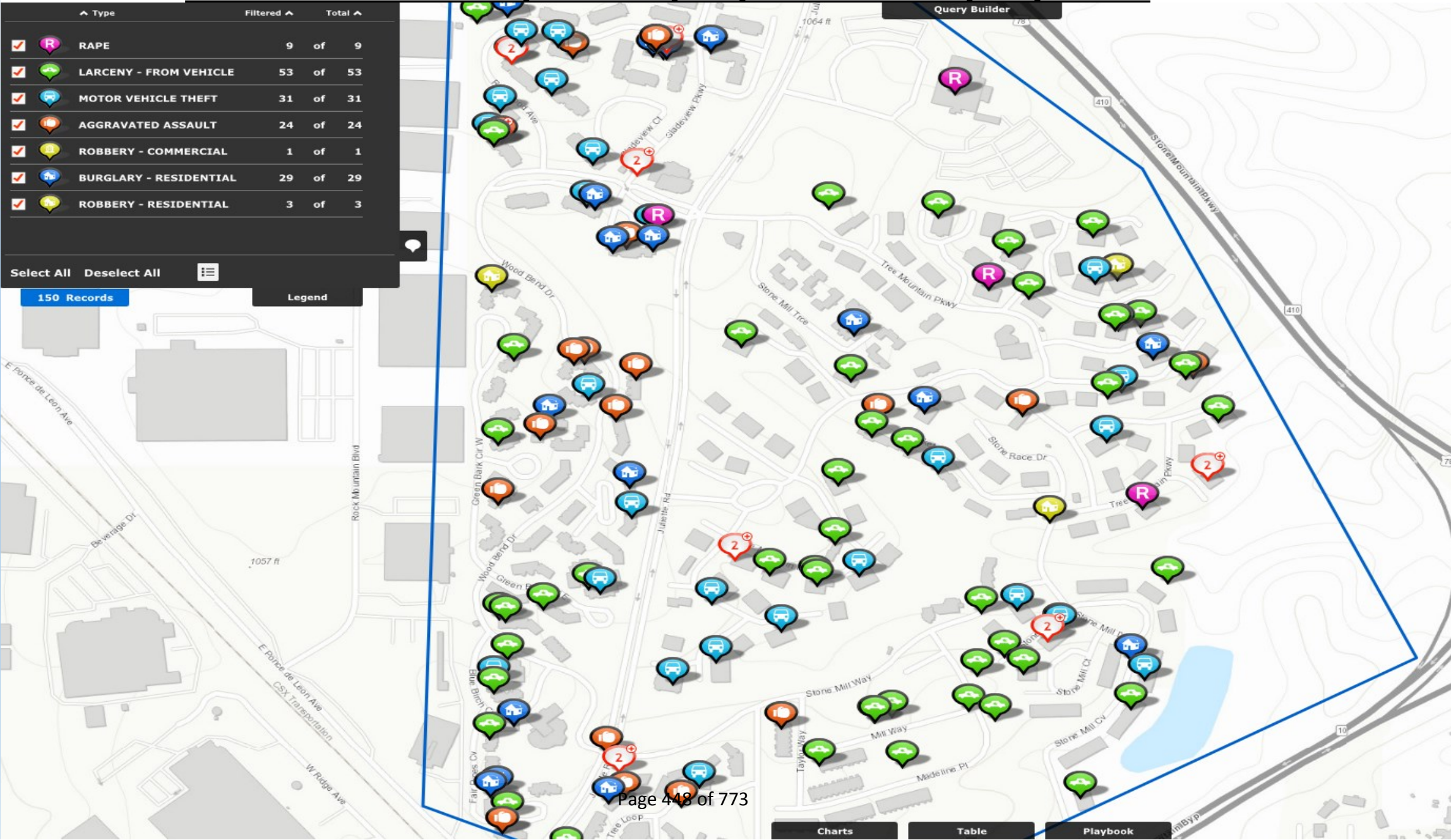
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Part 1 Crimes Map for 11/01/2020 to 11/01/2021



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning of RZ-21-0007 1220 Richardson Street

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1220 Richardson Street has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The .57-acre parcel is located on the western side of Richardson Street, off of East Ponce de Leon Avenue. It is long and narrow, relatively flat, and developed with several dilapidated buildings, gravel, and broken asphalt.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of

4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval of RZ-21-0007

Planning Commission recommended approval of RZ-21-0007 at their Oct. 21, 2021 meeting

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



Land Use Petition: RZ-21-0007

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1220 Richardson Street
APPLICATION NUMBER	RZ-21-0007
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	0.57 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	RSM (Small Lot Residential Mix)
EXISTING LAND USE	Partially Vacant; Owned by Concrete Company
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	RM Concrete Specialist, LLC
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

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The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that

the city could study the area and draft the proposed zoning amendments. The moratorium is in effect until December 14, 2021. A certified letter was sent to the property owner, RM Concrete Specialist, LLC, regarding the justification for, and timeline of the rezoning process. City staff has met with the owner to discuss the rezoning process and options for the property. Staff will continue to communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the ‘Preserve and Improve Neighborhoods’ goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	M	Former Landscaping Company
Adjacent: East	M	Undeveloped
Adjacent: South	M	Vacant land being developed with a gas station and retail building
Adjacent: West	MR-1	East Ponce Village Apartments

Rezoning (RZ-21-0007)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, surrounded by parcels zoned MR-1 (Medium Density Residential – 1) that are developed as multifamily and single-family attached residential uses. If 1220 Richardson Street is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby. The property abuts M (light industrial) zoned properties to the north and south, however those parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

If the property was developed under RSM (Small Lot Residential Mix), it would align with the nearby and adjacent zonings. Rezoning this parcel from M (light industrial) to RSM (Small Lot Residential Mix) would allow for the possibility of future medium-density growth, compatible with existing nearby developments.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole. Rezoning from M (light industrial) to RSM (Small Lot Residential Mix) also provides each landowner with more developable area, as transitional buffers would no longer be required.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. However, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

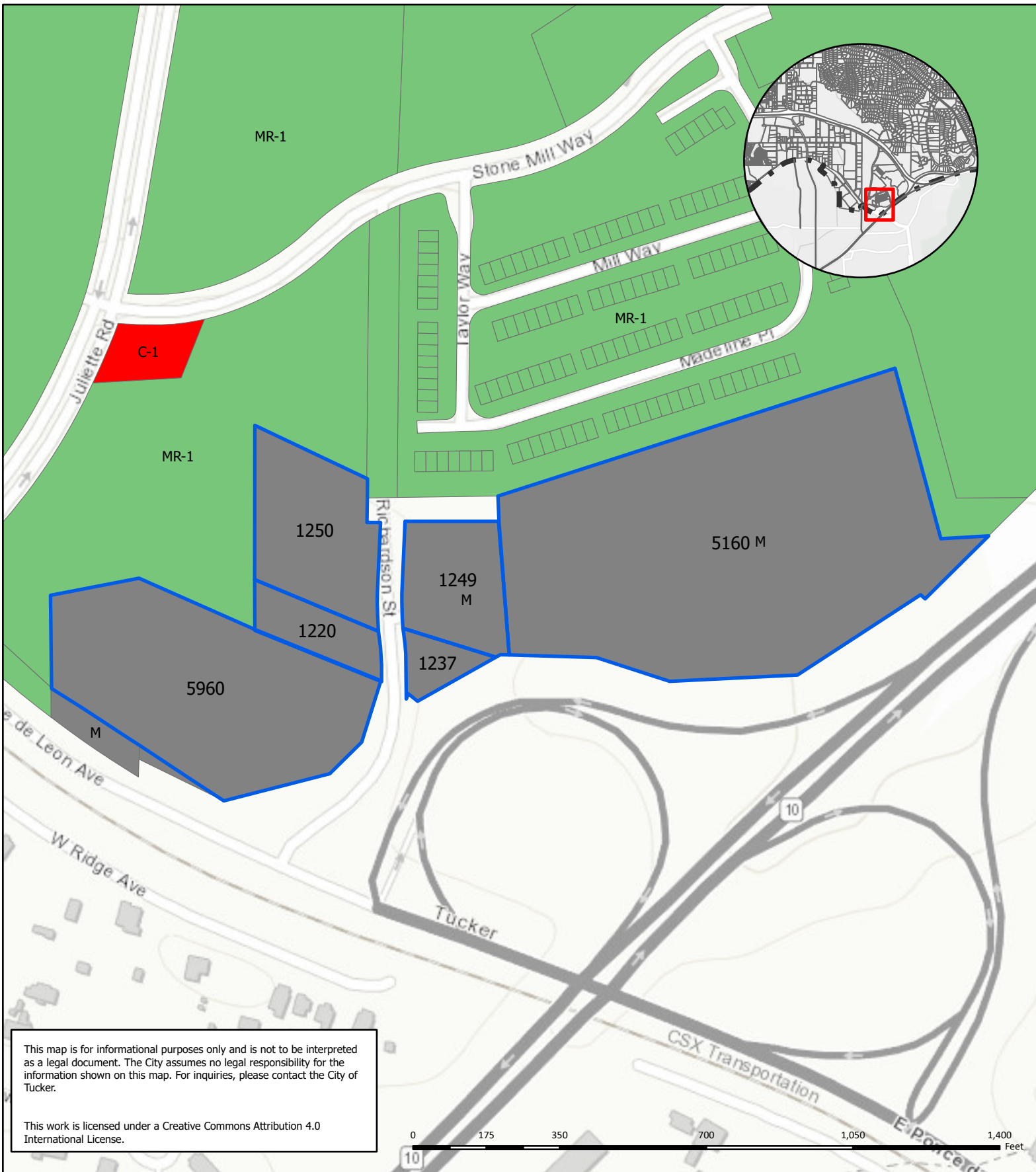
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0007**.

Planning Commission Recommendation

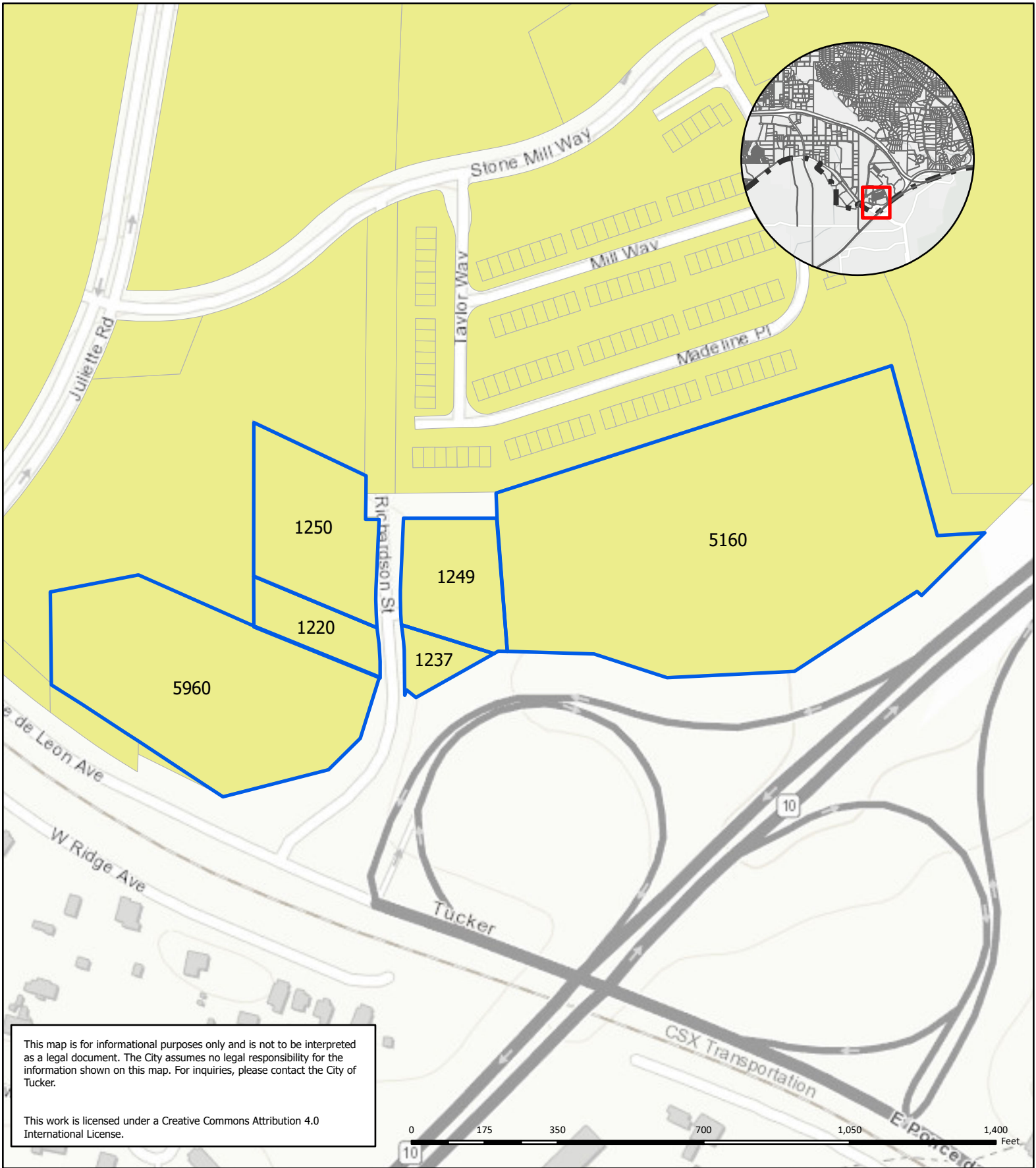
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0007**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)





5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

Suburban



Apr 30, 2021 at 10:03:18 AM
1220 Richardson St
Stone Mountain GA 30083
United States



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/15/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0007
1220 Richardson Street, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-005
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 0.57 acre tract of land (per legal description) located on the west side of Richardson Street just north of East Ponce De Leon Avenue.

The subject is rectangular in shape with 100 feet of road frontage along Richardson Street. The property is level at road grade and slopes very gently upward from road grade. On the date of inspection, the property was largely cleared and level. The property is improved with an old commercial building which contributes no value to the property. The building has several forms of functional obsolescence and is out of code compliance.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The minimum lot size in the Light Industrial category is 30,000 square feet. The subject’s size of 25,000 square feet does not meet the legal minimum lot size. As such, the subject is considered a lot of record by the City of Tucker.

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to RSM; Small Lot Residential Mix. This zoning category allows for development of up to 6 single family units per acre. The minimum lot size in the RSM district is 1,000 square feet for an attached townhome and 6,000 square feet for a detached residential home. The subject property would no longer be a legally non-conforming lot in the RSM zoning category. However, due to the subject's small size, only three homes would be allowed on the property.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 0.57 acre of \$48,450 to \$60,420.

However, these sales are legally conforming. For these reasons, it is reasonable to assume that the subject would have a value lower than the range of values provided by these sales.

Value of Low Density Multi-family or Single Family Residential Land The following chart demonstrates the relative values of multi-family or higher density single family detached residential sales in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Unit</i>
1. Behind Rehoboth Baptist Church	5/2019	12.187ac	\$2,579,800	\$34,397
2. 1409 Ashbrooke Trace	2/2019	22.49 acres	\$2,895,755	\$36,168*
3 Midvale @ LaVista Roads	10/2020	22.49 acres	\$4,261,705	\$67,650

* represents unit value of the attached residential portion

These sales demonstrate a relative value of around \$35,000 to \$60,000 per unit. The subject could accommodate three residential structures, resulting in a likely land value of \$105,000 to \$180,000.

Conclusions Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce R. Penn", with a long horizontal flourish extending to the right.

Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

APPENDIX A: SUBJECT PROPERTY

Subject Photographs

Subject Location Map

Subject Tax Plat Map

Flood Plain Map

Zoning Map

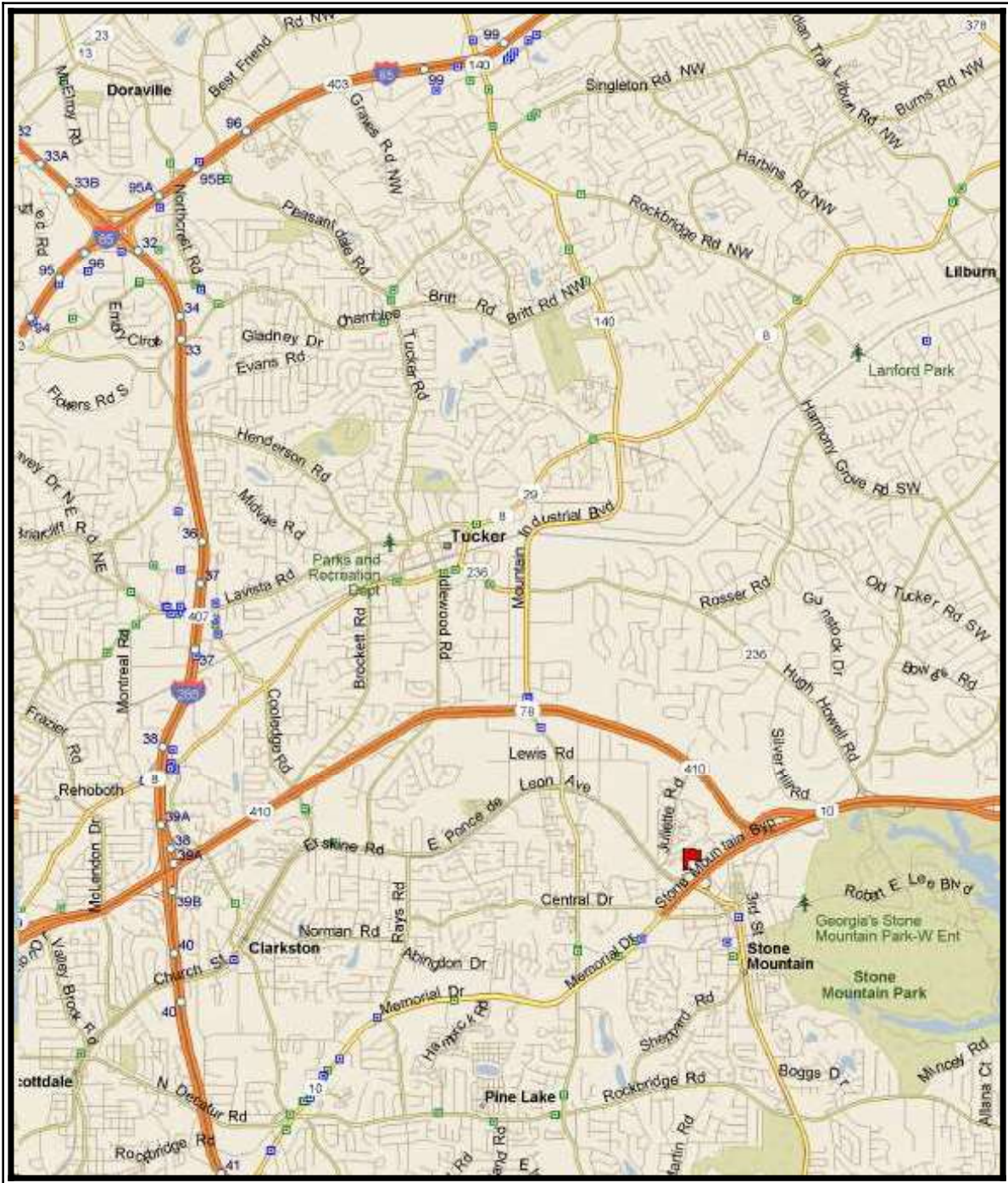
Zoning Excerpts from City of Tucker

Most Recent Transfer Documents

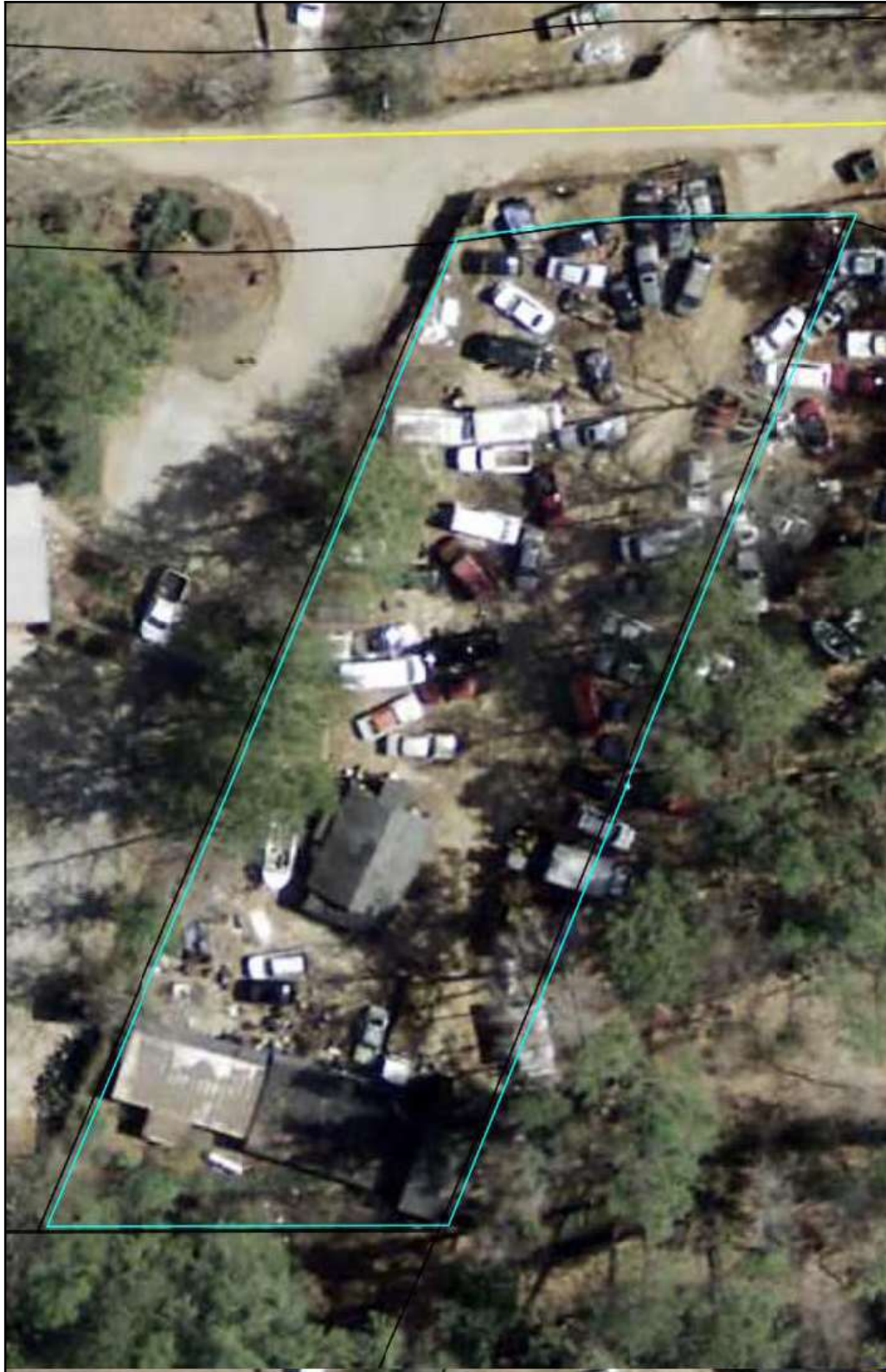
SUBJECT PHOTOGRAPHS



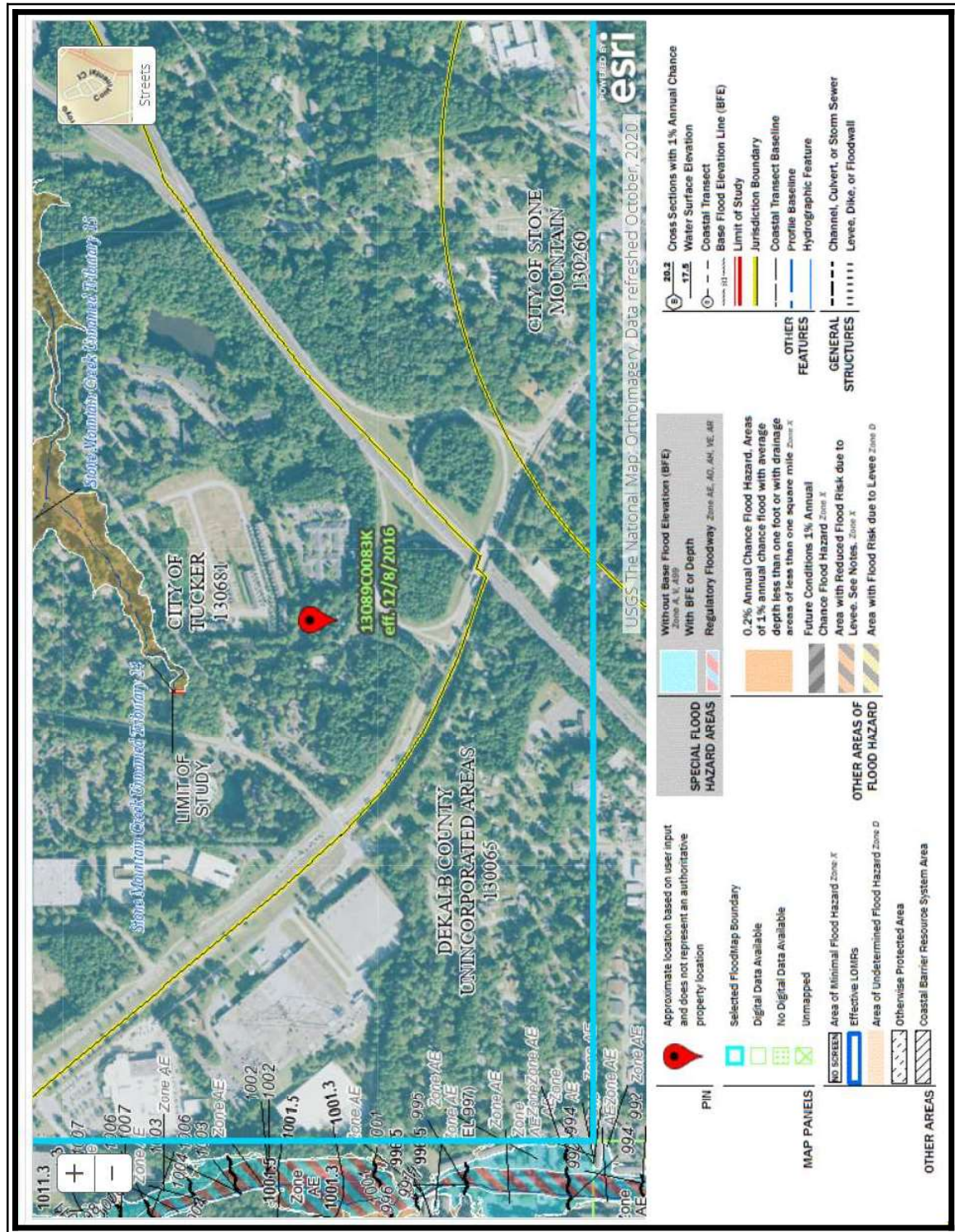
SUBJECT LOCATION MAP



AERIAL TAX PLAT MAP



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front—Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only—min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non-res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

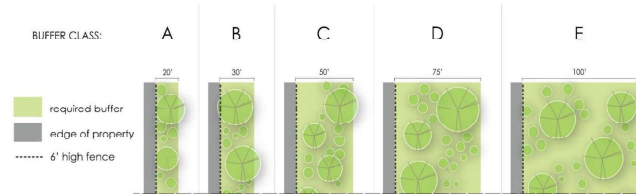
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

Return Recorded Document to:
SERRANO UMPIERRE, LLC
3190 NORTHEAST EXPRESSWAY
STE 310
ATLANTA, GA 30341
File No: 2021253smu
TAX ID 18-125-01-005

2020131854 DEED BOOK 28635 Pg 205



Real Estate Transfer Tax \$375.00

Filed and Recorded:
9/15/2020 9:33:35 AM
Debra DeBerry
Clerk of Superior Court
DeKalb County, Georgia

LIMITED WARRANTY DEED

STATE OF GEORGIA

COUNTY OF DEKALB

THIS INDENTURE, made the 20th of August, 2020, between ROY LAMAR NELMS JR of the State of Georgia and County of DeKalb party of the first part, and RM CONCRETE SPECIALIST, LLC of the State of Georgia and County of DeKalb party of the second part,

WITNESSETH That: the said party of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other goods and valuable considerations in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns,

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 125 of the 18th District of DeKalb County, Georgia, and being more particularly described as follows: **BEGINNING** at a point on the west side of Richardson Street (sometimes also known as Richardson Road), 250 feet north of the northwest corner of the intersection of Moore Street and Richardson Street; running thence north along the west side of Richardson Street a distance of 100 feet; running thence northwesterly a distance of 250 feet to a point; extending thence southerly 100 feet to a point; running thence in a southeasterly direction a distance of 250 feet to the west side of Richardson Street and the **POINT OF BEGINNING**; further being known as Lot 6 of the R.C. Knox property, and being improved with a house located thereon known as 1220 Richardson Street, according to the present system of numbering houses in DeKalb County.

Property is less and except Right of Way Easement to Georgia DOT as recorded in DB 1586 Page 741, DeKalb County, Georgia Records.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns, forever, in FEE SIMPLE.

AND THE SAID party of the first part, for his heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the said party of the second part, his heirs and assigns, against claims of all persons owning, holding or claiming by, through or under the said party of the first part.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal, the day and year above written.

Signed, sealed and delivered in the presence of:

ROY LAMAR NELMS JR

(Seal)

Unofficial Witness

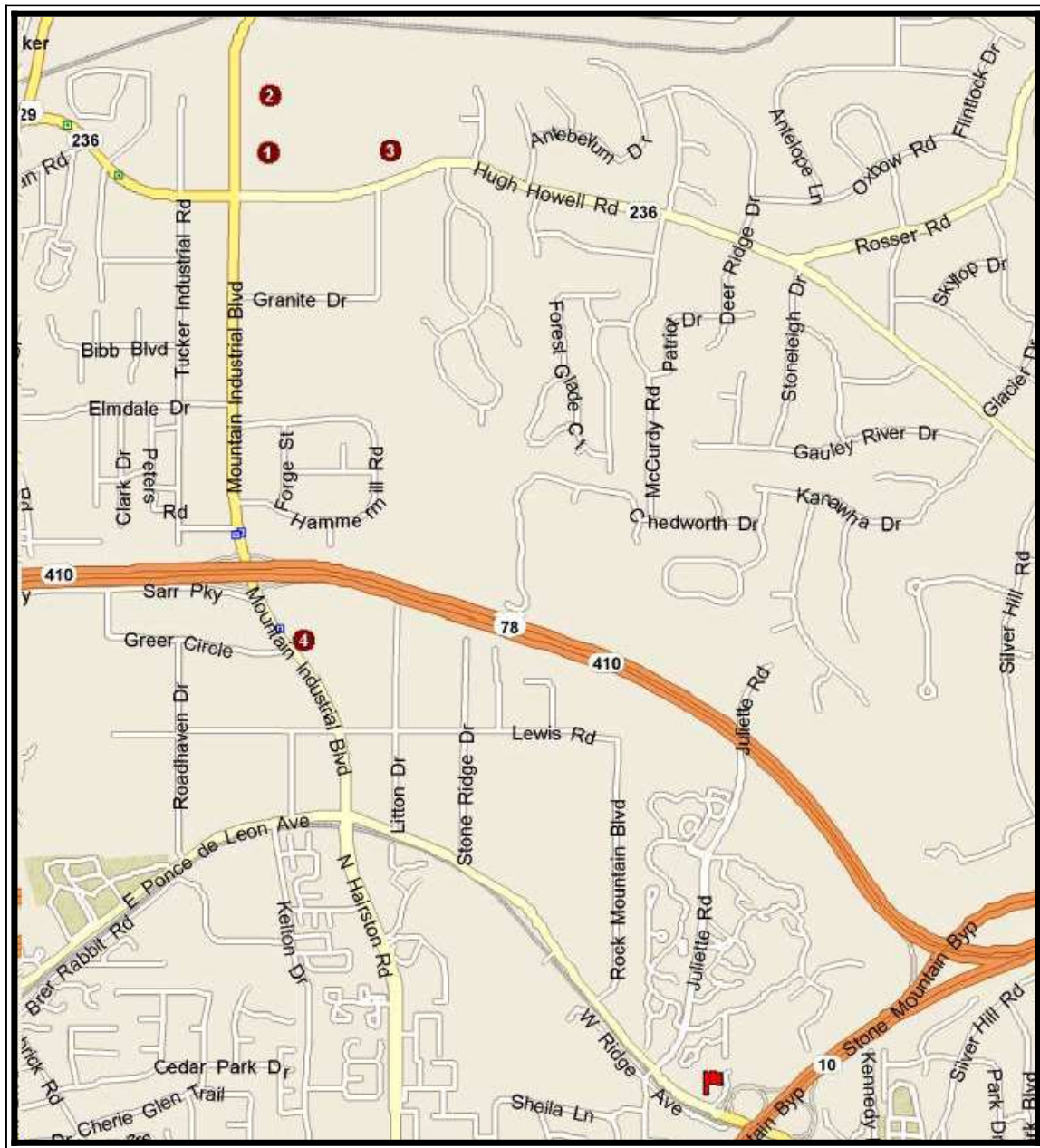
Notary Public



APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access
Frontage: Frontage along Private Drive
Utilities: All utilities available
Drainage: Adequate
Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

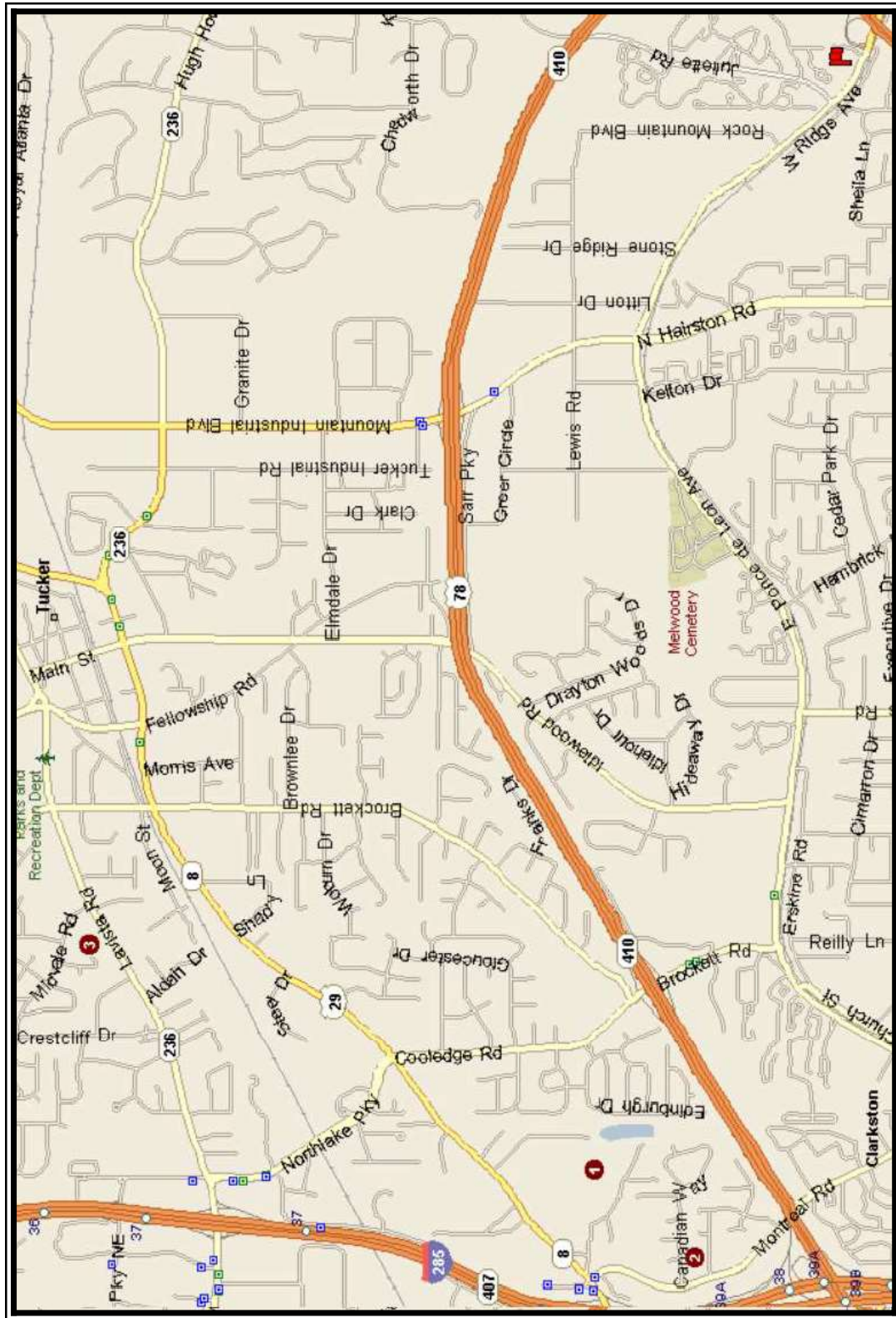
Topography: Level to gently rolling



APPENDIX C: MULTI-FAMILY LAND SALES

Multi-Family Land Sales Map **Multi-Family Land Sales**

COMPARABLE MULTI-FAMILY LAND SALES LOCATION MAP



COMPARABLE NO. 1 MULTI-FAMILY LAND SALE

GRANTOR: Rehoboth Baptist Church, Inc.

GRANTEE: MH Settlement, LLC

RECORDED: **BOOK:** 27558 **PAGE:** 244 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/17/2019

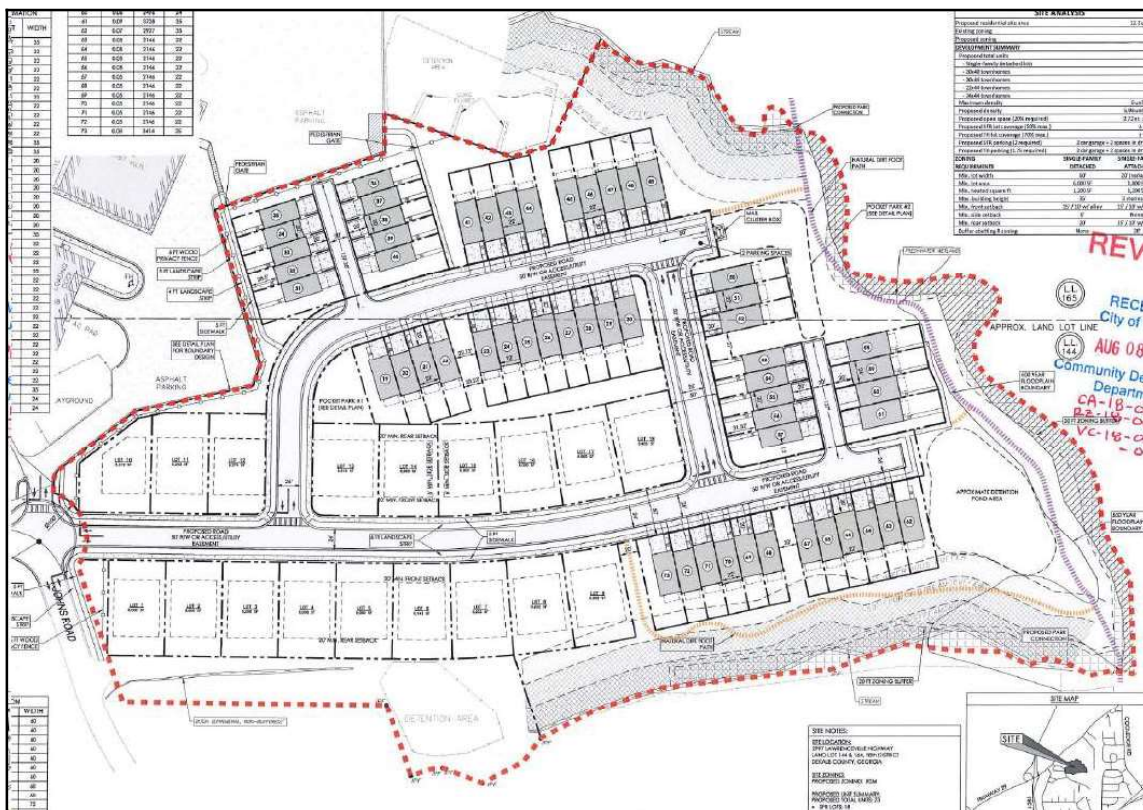
CONSIDERATION: \$2,579,800 **PRICE PER UNIT:** \$34,397

LOCATION: Behind Rehoboth Baptist Church at 2997 Lawrenceville Hwy.

PARCEL ID: 18 144 03 233

ZONING: RSM; Small Lot Residential Mix

TOTAL AREA: 12.187 acres per survey



**COMPARABLE NO. 2
MULTI-FAMILY LAND SALE**

GRANTOR: Ashbrooke Towns, LLC

GRANTEE: Ashbrooke Home Builders, Inc.

RECORDED: **BOOK:** 27725 **PAGE:** 52 **COUNTY:** Dekalb

DATE OF TRANSACTION: 2/11/2019

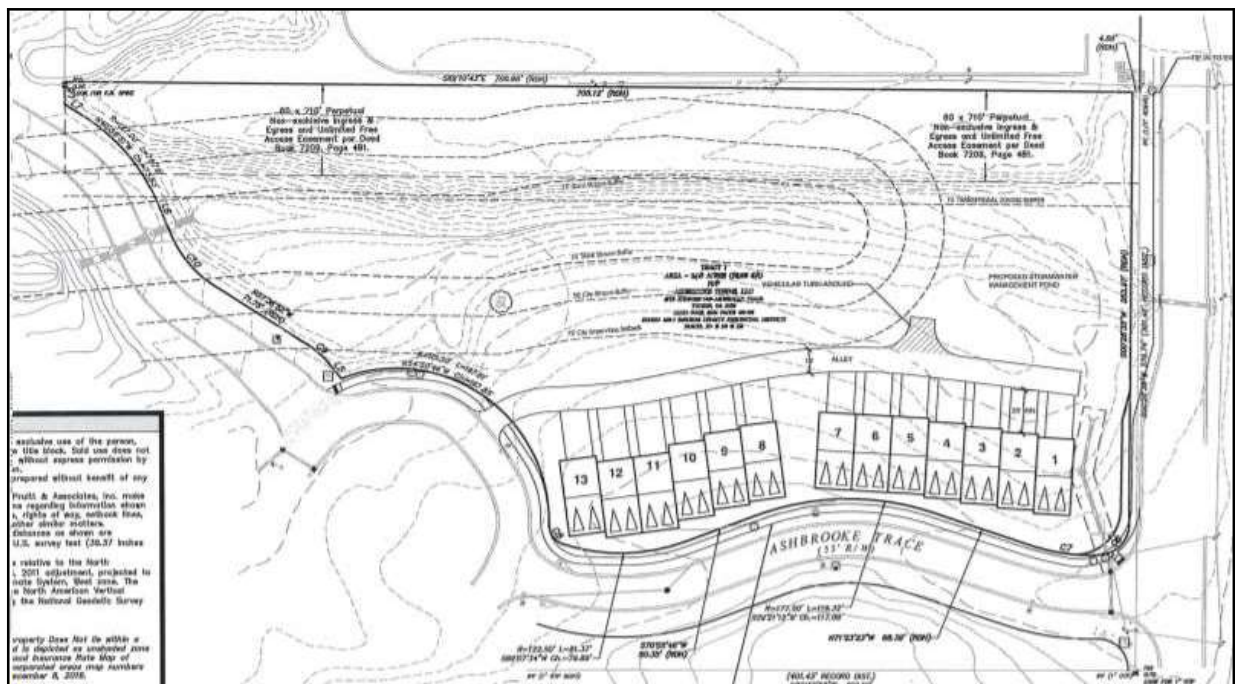
CONSIDERATION: \$2,895,755 **PRICE PER UNIT:** \$36,168

LOCATION: 1409 Ashbrooke Trace

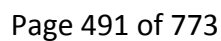
PARCEL ID: 18 140 01 226

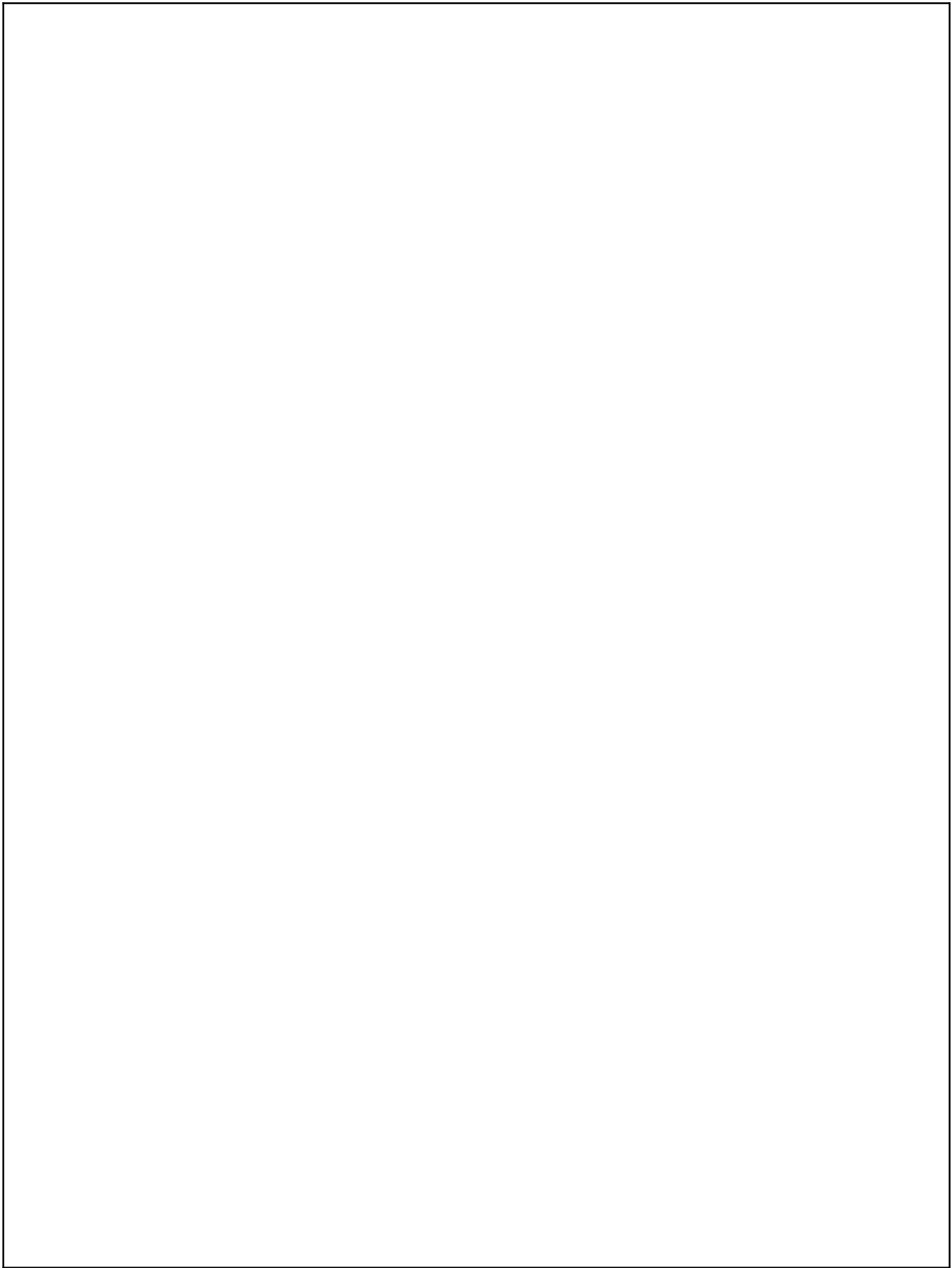
ZONING: MR-1 Medium Density Residential; This tract was modified for townhome development.

TOTAL AREA: 22.49 acres per survey



GRANTOR:	Charles A Orth, Trustee, etal.
GRANTEE:	JWC Lavista, LLC
RECORDED:	BOOK: 28788 PAGE: 210 COUNTY: Dekalb
DATE OF TRANSACTION:	10/30/2020
CONSIDERATION:	\$4,261,705 PRICE PER UNIT: \$67,650
LOCATION:	Intersection of Midvale Road at Lavista Road
PARCEL ID:	18 212-01-002, 006, 018, 019, 042
ZONING:	MZ Multiple Zoning.
TOTAL AREA:	22.49 acres per survey





APPENDIX D

Certification Assumptions & Limiting Conditions Qualifications of the Appraiser

CERTIFICATE OF APPRAISER

I certify that to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The report analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of this report.
5. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
6. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice, the Georgia Real Estate Appraiser Classification and Regulation Act and the rules and regulations of the Georgia Appraisers Board.
7. I have made a personal inspection of the property that is the subject of this report.
8. I certify that I have not performed any service on the subject property as an appraiser or any other capacity in the past three years.
9. I acknowledge that I serve on the Tucker Downtown Development Authority



Bruce R. Penn

Georgia Certified General Real Property Appraiser #000228

ASSUMPTIONS AND LIMITING CONDITIONS

This report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property and subsoil that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the report.
9. It is assumed that all required licences, consents or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

10. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety. Therefore, the liability of the appraiser shall be expressly limited to the person for whom the report was addressed and any reliance thereon by any third party shall not be justifiable and therefore shall be at the peril of such third party.
11. The appraiser is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless such arrangements have been previously made.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relation, news sales, or other media without the prior written consent and approval of the appraiser.
13. It is a condition of this appraisal that the subject property, including any proposed improvement, meets all governmental regulations and restrictions including but not limited to zoning requirements, building and development codes, drainage requirements and all fire safety laws.
14. It is a condition of this report that the property is subject to typical easements such as right of way for electrical power lines, sewer easements, natural gas lines, as well as telephone lines and water lines.
15. It is a condition of the report that no soil boring test has been made and the stated value would be subject to such a test.
16. It is a condition of this report that any marketing of the subject property would expressly require effective and aggressive sales methods and techniques, reasonable pricing, market exposure and coverage, and unless stated any suggested improvements or repairs must be completed in order to market the property.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

17. The subject is specifically conditioned on present market conditions, any change may affect the market value stated.
18. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, leaking underground storage tanks, contaminated areas, hazardous wastes, dangerous substances, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

QUALIFICATIONS

Bruce R. Penn

SPECIAL QUALIFICATIONS (PRESENT & HISTORICAL)

- State of Georgia, Certified General Real Estate Appraiser No. CG- 000228
- South Carolina, Certified General Real Estate Appraiser No. CG-3575 (retired)
- Senior Member, National Association of Real Estate Appraisers, Designated as Certified Commercial Real Estate Appraiser (#38173) retired
- Appraisal Institute - MAI Candidate (#M86-3542) (retired)
- State of Georgia, Department of Transportation; Approved Appraiser; retired
- Hartsfield Airport Noise Abatement Program Approved Appraiser
- Fulton County, Approved Appraiser
- Dekalb County Approved Appraiser
- Cobb County Department of Transportation, Approved Appraiser
- Cobb County Water Department, Approved Appraiser
- Floyd County Approved Appraiser
- Chatham County Approved Appraiser
- Rockdale County Approved Appraiser
- Cherokee County Approved Appraiser
- City of Atlanta Approved Appraiser
- Jasper County Approved Appraiser

SPECIALIZED REAL ESTATE TRAINING

- Atlanta Institute of Real Estate
 - Principles and Practices of Real Estate; Sales I, Sales II, Sales III
- Appraisal Institute (FKA American Institute of Real Estate Appraisers)
 - Course 1A1, Basic Appraisal Principles, Methods and Techniques
 - Course 1A2, Basic Valuation Procedures
 - Course 023, Standards of Professional Practice
 - Course 1BA, Capitalization Theory and Techniques (Part A)
 - Course 1BB, Capitalization Theory and Techniques (Part B)
 - Business Valuation
 - Valuation in Litigation
- Columbia Institute
 - Condemnation Appraising
- Society of Real Estate Appraisers
 - Course 101, An Introduction to Appraising Real Property
 - Course 102, Applied Residential Property Valuation
- Georgia State University
 - RE 410, Real Estate Valuation
 - RE 310, Real Estate Principles and Practices
 - RE 460, Income Property Valuation

GENERAL EDUCATION

- Georgia State University: Bachelor of Business Administration (1987)
- South Georgia College; Associate of Science in Business Administration (1979)

EXPERIENCE

- 1989- Present Penn, Hastings & Associates, Partner, Commercial/ Condemnation Appraiser.
Responsibilities include project manager for all acquisition projects as well appraisals of condemnation properties and commercial properties in the southern United States.
- 1988-1989 Acquisition Consultants, Chief Appraiser.
Responsibilities include appraising for various condemnation properties and commercial properties in the southern United States.
- 1986-1988 Scott Appraisal Service, Commercial Appraiser.
Responsible for appraising all types of commercial appraisals in the Atlanta area and the southern United States. Also specialized training in appraising of special purpose properties.
- 1984-1986 Certified Commercial Investments, Inc., Research & income property analyst.
Responsibilities included analyzing cash flow from commercial properties in the southeastern United States. Also responsible for researching neighborhoods in the Atlanta area for large scale buy-outs for commercial developments.

REPRESENTATIVE CLIENT LIST: LENDING INSTITUTIONS

- | | |
|-----------------------------------|-----------------------------------|
| - Wachovia Bank | -RBC Centura |
| - Bartow County Bank | -Home Bank |
| - West Georgia National Bank | -Century Bank |
| - United Community Bank; | -Community Bank of Pickens County |
| - First National Bank of Cherokee | |

REPRESENTATIVE CLIENT LIST: LITIGATION ATTORNEYS

- | | |
|--|-----------------------------------|
| - Charles Pursley | - Donald Evans |
| - Richard Hubert | - George Butler |
| - Warren Coppedge | - Walter Hotz |
| - Jenkins & Bowen | - Christian Torggrimson |
| - Jack Wilson, Webb, Tanner & Powell | - Luther Beck, Chandler & Britt |
| - James SS Howell III, | -Weiner, Yancey, Dimpsey & Diggs, |
| - Moore, Ingram Johnson & Steele | - Sams, Larkin & Huff |
| - Flint, Conolly & Walker | - Banks, Stubbs, Neville & Cunat |
| - Paul Kesmodel, Duluth | - James Ledbetter, Calhoun |
| - Michael D. McRae | - Sal Serio |
| - Michael Sumner | - John C. Whiting |
| - Tom Bowman, Maddox Nix Bowman & Zoeckler | |

REPRESENTATIVE GENERAL WORK EXPERIENCE

- | | |
|---|------------------------------------|
| - Vacant Land | - Vacant Land Leases |
| - Remnant Properties | - Residential Properties |
| - Small Income Residential Properties | - Multi-family Properties |
| - Commercial Properties | - Income Producing Properties |
| - Industrial and Build to Suit Properties | - Shopping Centers |
| - Rural Properties | - Residential Subdivision Analysis |
| - Farm Properties | - Business Valuation |
| - Specialty Studies for Evaluation of Economic Obsolescence in Residential Properties | |
| - Specialty Studies for Evaluation of Economic Obsolescence in Commercial Properties | |

REPRESENTATIVE SPECIALIZED PROPERTIES EXPERIENCE

- | | |
|---|---------------------------------------|
| - C&D Landfill | - Billboards |
| - Mixed Use Developments | - Mass Appraisals for Tax Assessments |
| - Regional Hospital | - Mineral Rights |
| - Wetlands Valuation | - Adult Entertainment Establishment |
| - Motel/Hotel | - Historic Properties |
| - Historic Loft Buildings | - Elementary Schools |
| - Commercial Property in a Watershed District | - Conservation Subdivisions |
| - Greenspace Valuations | - Radio Stations |
| - Land Under A Lake | - Golf Course |
| - Log Homes | - Fire Station |
| - Car Dealership | - Manufactured Housing Plant |
| - Contaminated Properties | - Solid Waste Facility |
| - Family Farm Valuation (2032) for IRS | - Steel Plant |
| - Chicken Farms | - Churches |
| - Nudist Colonies | - Regional Malls |
| - DeKalb County Courthouse | - Parking Lots |
| - Library | - Airport |
| - Leasehold Valuations | - Leased Fee Valuations |
| - Geodetic Dome Homes | - Telecom Facility |
| - Air Rights | - Water Rights |
| - Mobile Home Parks | - R/V Park |
| - Equestrian Properties | - Skating Ring |
| - Retirement Facility | - Recording Studio |
| - Railroad Right of Way | - |

REPRESENTATIVE MUNICIPALITY WORK: APPRAISAL

TRANSPORTATION PROJECTS

Georgia Department of Transportation Projects Under Federal Guidelines (Partial Listing)

- Outer Perimeter, Gwinnett County & Forsyth County
- Riverside Parkway, Floyd County
- Georgia Highway 42, Clayton County
- Georgia Highway 314, Fayette County
- Highway 138 Extension, Fulton County
- Georgia Highway 316, Barrow County & Oconee County
- Watkinsville By-Pass (advanced acquisitions)
- Dawsonville Highway, Hall County
- Fairburn Industrial Boulevard, Fulton County
- Thornton Road By-Pass, Douglas County
- Cedartown By-Pass, Polk County
- Macland Road, Cobb County
- Reinhardt College Parkway; Cherokee County
- State Route 124; Scenic Highway, Gwinnett County
- U.S. 80; Talbot-Muscogee Counties
- U.S. 278; DeKalb County
- State Route 20; Rockdale County
- State Route; 29; Rockdale County
- Pumpkinvine Creek Bridge; Bartow County
- State Route 120; Gwinnett County

Virginia Department of Transportation Projects Under Federal Guidelines:

- Virginia Beach Boulevard, Virginia Beach
- Haycock Road, Fairfax County

Airport Projects Per Federal (Funding) Guidelines:

- Aerial Easements of Commercial Property Inside Flight Impacted Areas in the vicinity of Atlanta-Hartsfield Airport
- Residential appraisals for Expansion of DeKalb Peachtree Airport
- Aviation Easements, Hartsfield-Atlanta Airport
- Relocation Appeals Program, Hartsfield-Atlanta Airport

Department of Housing and Urban Development Grant Projects

- Thompson Street, Alpharetta, Fulton County
- Scottdale Mill Road, Dekalb County
- Canton Street, Cherokee County

Local Government Transportation Projects (Partial Listing)

- Presidential Parkway, City of Atlanta
- Roxboro Road, Dekalb County & Fulton County
- Skidaway Road, Savannah, Chatham County
- Jones Shaw Road, Cobb County
- Lawrenceville-Suwannee Road, Phases I & II, Gwinnett County
- Sandy Plains Road, Cobb County
- Johnson Ferry Road Phase I & Phase III, Cobb County
- Holly Springs Road, Cobb County
- Gordon Road, Floyd County
- Blackburn Road Extension, Cobb County
- Chastain Road; Cobb County
- Milford Church Road; Cobb County

NON-TRANSPORTATION PROJECTS

Utility Projects (Client List)

- Oglethorpe Power Corporation
- Georgia Power Company
- Cobb Electrical Municipal Corporation
- Municipal Electric Association of Georgia (MEAG)
- Atlanta Gas Light Company
- Southern Bell

Reservoir Appraisals

- Bear Creek Reservoir, Newton County
- Yellow Creek Reservoir, Cherokee County

Municipal Appraisals

- East Point Development Authority, Fulton County; downtown redevelopment
- State Properties Commission; Improved Property; Georgia Dome Stadium, Atlanta.
- Paulding County Board of Education; Land for new school complex
- Spalding County Board of Education: East Griffin Elementary School
- Spalding County Board of Education: Third Ward Elementary School
- Spalding County Board of Education: Fourth Ward Elementary School
- Solid Waste Management Authority of Crisp County; Solid Waste Processing Facility, Crisp County
- Solid Waste Management Authority of Crisp County; Transfer Station, Coffee County
- Solid Waste Management Authority of Crisp County; Transfer Station, Houston County
- Solid Waste Management Authority of Crisp County; Transfer Station, Sumter County
- Solid Waste Management Authority of Crisp County; Transfer Station, Terrell County
- Waste Management; Landfill, Doraville, Georgia
- Cobb County Water Authority; Land for Expansion; R.L. Sutton Treatment Facility

Water & Sewer Authorities (Client List)

- | | |
|-------------------|-------------------|
| - Gwinnett County | - Rockdale County |
| - Paulding County | - Cobb County |
| - City of Atlanta | - Fulton County |
| - City of Buford | - City of Roswell |

Impact Studies for Court Testimony (Partial Listing)

- Study on the Proximity of Interstate Highways to Residential Property; Georgia Highway 400 extension, Fulton County and City of Atlanta.
- Study on the Impact to Residential Property Values from Increased Road Proximity
- Study on the Impact to Residential Property Values from the Elimination of a Wooded Buffer
- Study on the Impact to Residential Property Values from Increased Slopes
- Study on the Impact to Commercial Property Values from Increased Slopes and Installation of Guardrails.
- Study on the Impact to Residential Property Values from Floodplain
- Study of the Impact to Residential Property Values from Loss of Access
- Study of the Impact to Commercial Property Values from Loss of Access
- Various Parking Studies to Show Loss of Value to Commercial Properties from Loss of Parking
- Study of the Impact to Residential Property Values from Proximity to a Sewage Treatment Plant
- Study of the Impact to Residential Property Values from Particulate Contamination
- Study of the Impact to Residential Property Values from Proximity to Large Manufacturing Facilities
- Study of the Impact to Residential Property Values from Proximity to an Airport

APPRAISAL/TESTIMONY EXPERIENCE/REFERENCES
(Partial Listing)
Bruce R. Penn

Initial Training: James S.S. Howell III (deceased)
Dana Jackel, Cobb County
Fred Bently Sr. & Jr./Cobb County

Regional Court Work Experience (For Municipalities):

Dalton:	Warren Coppedge; private case against developer
Pickens County:	Wills Picket for Pickens County & City of Jasper
Cherokee County:	Jonathan Pope, for Georgia Power Mark Mahler, County Attorney for Cherokee DOT
Bartow County:	Boyd Petit, County Attorney, for Georgia Power Rick Wells, for Georgia Power
Paulding County:	Mason Roundtree (against Paulding County/Reservoir)
Fayette County:	Tom Camp for Georgia Power Jack Parks for Georgia DOT
Clayton County:	Steve Fincher for Clayton Water Authority
Fulton County:	Numerous Attorneys, for Fulton County Land Department Robert Diggs, for Georgia DOT & against Hartsfield Airport Barrell Weiner, for Georgia DOT Anne Sapp, against Georgia DOT
Cobb County:	Linda Brunt (retired); County Attorney/DOT Dana Jackel for Cobb DOT John Moore; against Cobb DOT Kevin Moore; against Cobb DOT Parks Huff; zoning cases and against Cobb DOT Garvis Sams Jr.; zoning cases and against Cobb DOT
Rockdale County:	Tom Bowman, County Attorney for Tax Assessor, State DOT, Rockdale Water Authority
Newton County:	William Thomas Craig for Bear Creek Reservoir Scott Cole for Bear Creek Reservoir

Benchmark Cases: Swanson v. DOT
Ga. Power v. Mosteller Mill
DOT v. Bowles
City of Marietta v. Sumerour
Duron Davis v. Toyo Tire

COMMUNITY DEVELOPMENT EXPERIENCE

- Chairperson of Community Council, District 1, DeKalb County.
Community Council is an approval board with board members appointed by County Commissioner of that District. Board members are representative of the communities of that Commission District and charged with representing the interests of the community and oversight of community goals in the zoning and land use and development process. Community Council is the 1st in the zoning approval process.
- Member, Downtown Development Authority of the City of Tucker
- Member, Transportation Committee; Tucker Northlake Community Improvement District (Tucker Northlake CID)
- Member (former chairperson) of the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association.
- Served as member of the Mainstreet Tucker Alliance in the LCI approval process and ARC grants for redevelopment of downtown Tucker.
- Testified as a value witness in zoning and land use matters in DeKalb County, Cobb County, Cherokee County, Gilmer County and Pickens County.

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

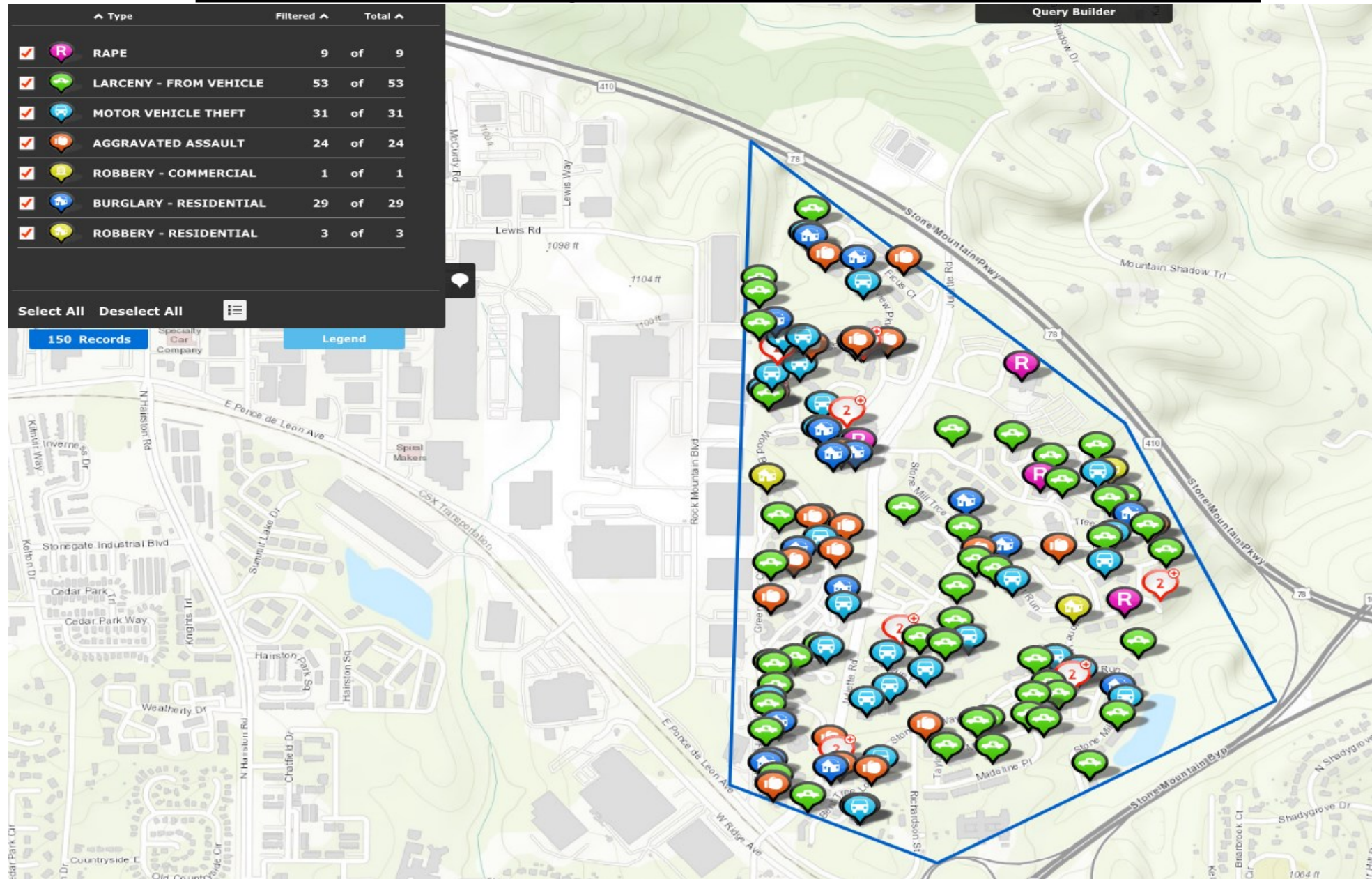
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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150 Records Legend



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning RZ-21-0008 1250 Richardson Street

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1250 Richardson Street has been identified for potential rezoning as it currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The property is on the western side of Richardson Street, south of its intersection with Spring View Avenue and north of its intersection with E Ponce de Leon Avenue. The subject property is a medium sized, developed parcel, with a wireless communications tower, a metal building, and concrete parking areas. The subject property is owned by and was previously used for Pearson Landscapes Inc., a landscaping company. The owners closed the business in 2020 and the site is being used for storage by the neighboring owner of 1220 Richardson Street.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval of RZ-21-0008

Planning Commission recommended approval of RZ-21-0008 at their Oct. 21, 2021 meeting

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



Land Use Petition: RZ-21-0008

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1250 Richardson Street
APPLICATION NUMBER	RZ-21-0008
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	1.64 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	RSM (Small Lot Residential Mix)
EXISTING LAND USE	Former Landscaping Business
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Pearson Landscapes, Inc.
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1250 Richardson Street has been identified for potential rezoning as it currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The property is on the western side of Richardson Street, south of its intersection with Spring View Avenue and north of its intersection with E Ponce de Leon Avenue. The subject property is a medium sized, developed parcel, with a wireless communications tower, a metal building, and concrete parking areas. The subject property is owned by and was previously used for Pearson Landscapes Inc., a landscaping company. The owners closed the business in 2020 and the site is being used for storage by the neighboring owner of 1220 Richardson Street.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that the city could study the area and draft the proposed zoning amendments. The moratorium is in effect until December 14, 2021. A certified letter was sent to the property owner, Pearson Landscapes, LLC, regarding the justification for, and timeline of the rezoning process. City staff has met with the owners to discuss the rezoning process and options for the property. Staff will continue to communicate with the owners of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the ‘Preserve and Improve Neighborhoods’ goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	MR-1	East Ponce Village Apartments
Adjacent: East	M	Undeveloped
Adjacent: South	M	Undeveloped
Adjacent: West	MR-1	East Ponce Village Apartments

Rezoning (RZ-21-0008)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, surrounded by parcels zoned MR-1 (Medium Density Residential – 1) that are developed as multifamily and single-family attached residential uses. If 1250 Richardson Street is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby. The property abuts M (light industrial) zoned properties to the south and east, however those parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

If the property was developed under RSM (Small Lot Residential Mix), it would align with the nearby and adjacent zonings. Rezoning this parcel from M (light industrial) to RSM (Small Lot Residential Mix) would allow for the possibility of future medium-density growth, compatible with existing nearby developments.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole. Rezoning from M (light industrial) to RSM (Small Lot Residential Mix) also provides each landowner with more developable area, as transitional buffers would no longer be required.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. However, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

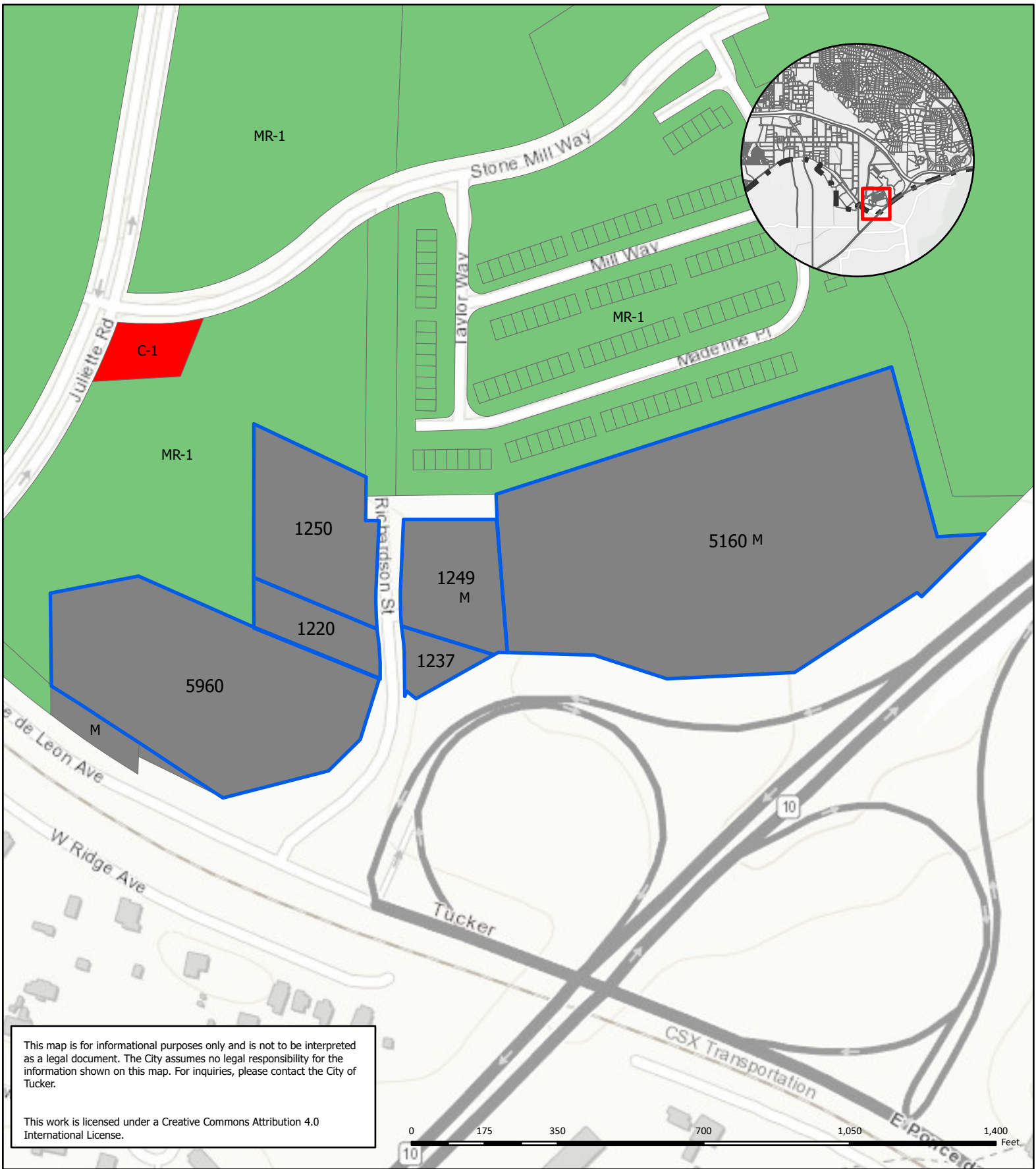
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0008**.

Planning Commission Recommendation

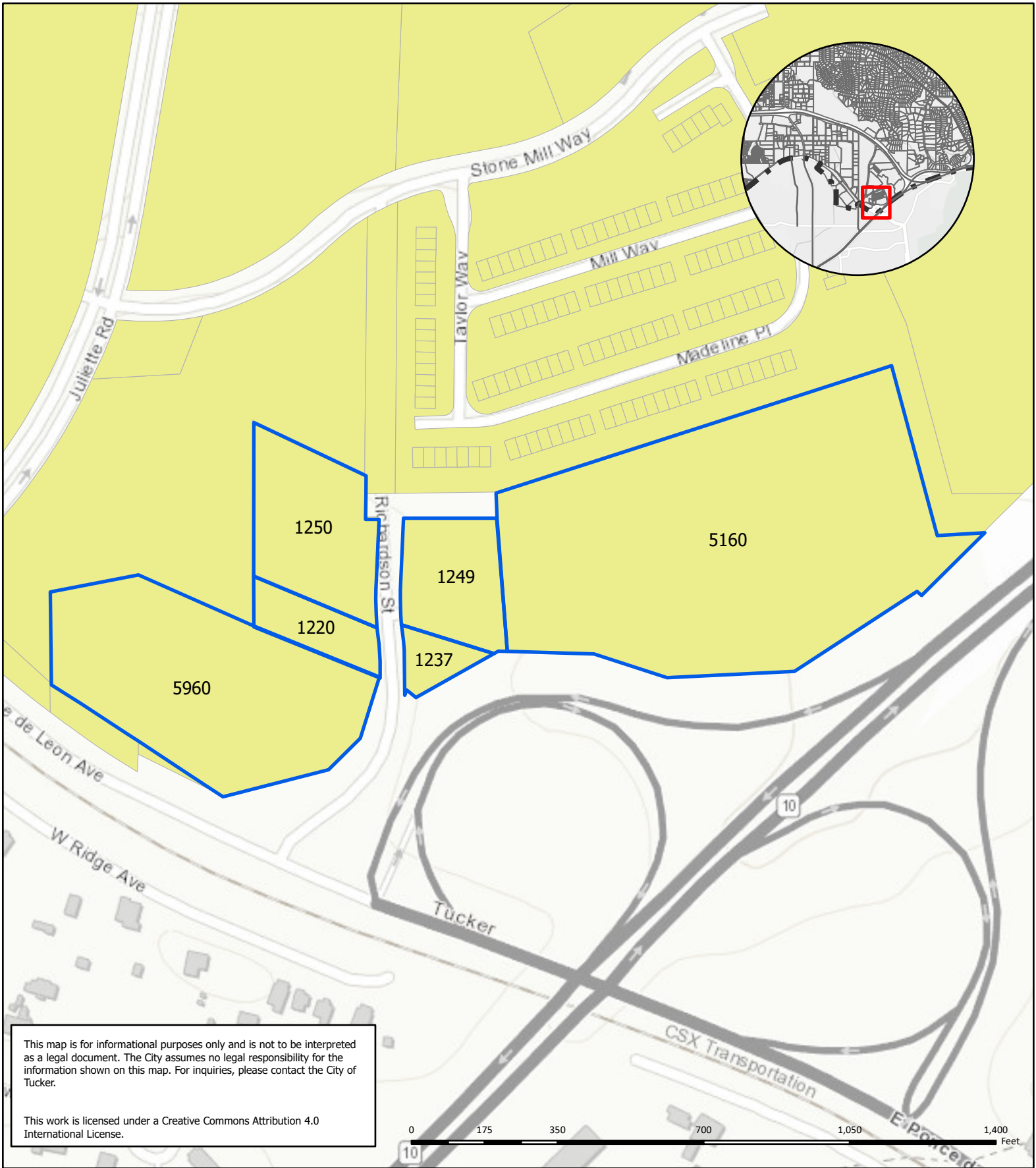
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0008**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)





5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

Suburban



Aug 20, 2021 at 9:23:36 AM
1237 Richardson St
Stone Mountain GA 30083
United States



Aug 20, 2021 at 9:23:54 AM
1250 Richardson St
Stone Mountain GA 30083
United States



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/27/2021
10/28/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0008
1250 Richardson Street, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-006
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 1.67 acre tract of land (per tax records) located on the west side of Richardson Street at its termination. The subject is a rectangular tract of land with an estimated 300 feet along the Richardson Street Right of Way. The property is level at road grade, then slopes upward for the improvements on the property.

The property is improved with a one story building of prefabricated metal construction containing 5,008 square feet of building area constructed in 1989. Building is an office warehouse design with approximately 3,200 square feet of office and 1,808 square feet of unfinished building area. The rear of the property is fenced in and used for storage of vehicles and large equipment. Presently, the subject is being leased for \$2,500 per month to RM Concrete Specialists.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The subject is a legal non-conforming use in the M: Light Industrial zoning category due to the location of the improvements being in the required undisturbed buffer area required by the City of Tucker. Any

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

modifications, updates or upgrades to the property would require the owner to bring the property into compliance with the requirements of the Light Industrial Zoning District of the City of Tucker.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to RSM; Small Lot Residential Mix. This zoning category allows for development of up to 6 single family units per acre. The subject will continue to be a legal non-conforming use if rezoned.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 1.67 acres of \$142,000 (\$141,950 rounded) to \$177,000 (\$177,020 rounded).

Value of Low Density Multi-family or Single Family Residential Land The following chart demonstrates the relative values of multi-family or higher density single family detached residential sales in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Unit</i>
1. Behind Rehoboth Baptist Church	5/2019	12.187ac	\$2,579,800	\$34,397
2. 1409 Ashbrooke Trace	2/2019	22.49 acres	\$2,895,755	\$36,168*
3 Midvale @ LaVista Roads	10/2020	22.49 acres	\$4,261,705	\$67,650

* represents unit value of the attached residential portion

These sales demonstrate a relative value of around \$35,000 to \$60,000 per unit. The subject could accommodate 10 residential structures, resulting in a likely land value of \$350,000 to \$600,000.

Value of the Subject as Improved In estimating the value of improved real estate, three (3) Approaches to Value are typically used. These Approaches are the Depreciated Replacement Cost Approach, the Income Approach and the Market Data/Direct Sales Comparison Approach. The three (3) approaches provide indications of value which are reconciled by the appraiser to a final value estimate according to the relative reliability.

In this analysis, the Market Approach and Income Approach will be used.

Income Approach This procedure converts dollar income to be derived from the ownership of property into a value estimate. Anticipated future income is discounted to a present worth figure through the capitalization process. The gross income, occupancy rate, operating expenses, and overall rate, is derived from a study of properties in the immediate area of the subject or properties that are similar to the subject investment characteristics. This data is then analyzed and adjusted to the subject property to render an indication of value based on this study and analysis.

For purposes of this analysis, the appraiser utilized the actual lease income and property taxes for the subject property. The expenses are based on similar properties in the market area of the subject. The capitalization rate or Overall Rate (OAR) was obtained from Realty Rates, a national data base for real estate financial information. The valuation of the subject by the Income Approach is as follows:

Income \$2,500 per month X 12 months	\$30,000
Less Expenses	<u>-\$8,400</u>
Property taxes of \$3,200	
Property insurance of \$3,000	
Repairs of \$950	
Reserves of \$1,250	
Net Operating Income	\$21,600
\$21,600 (NOI) ÷ 8.4% =	\$257,143
Rounded	\$257,500

Market Data/Direct Sales Comparison Approach An analysis was made of recent sales of similar properties in the area of the subject. Adjustments were made to each sale for the dissimilarities between the sales and the subject. The adjusted sales price of each property was then correlated to arrive at an indication of market value for the subject property. The following sales were considered for the retail building on the subject property:

<i>Comparable Improved Sales</i>			
<i>Location</i>	<i>Size (sq ft.)</i>	<i>Sale Date</i>	<i>Sale Price/Sq Ft Bldg Area</i>
2030 Tucker Industrial Rd	8,845 sf	12/2019	\$66.70
2058 Kilman Drive	23,314 sf	4/2021	\$60.00
2527 Commerce Place	57,512 sf	1/2019	\$57.96

The subject would fall in the upper range of value established by the comparable sales due to its smaller size and the economies of scale associated with properties like the subject. Based on these sales, the value of the subject property would be around \$70 per square foot of building area. Therefore, the value of the subject based on the market sales of similar properties is calculated as follows:

$$5,008 \text{ sf of building area} \times \$70 \text{ per sf of bldg area} = \$350,560$$

Conclusions The change in zoning will not alter the subject's status of legal non-conformance under the Tucker Development Code. The current value of the subject is between \$257,500 to \$350,560. The value of the subject under its proposed zoning category is \$350,000 to \$600,000.

Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,



Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

APPENDIX A: SUBJECT PROPERTY

Subject Photographs

Subject Location Map

Subject Tax Plat Map

Flood Plain Map

Zoning Map

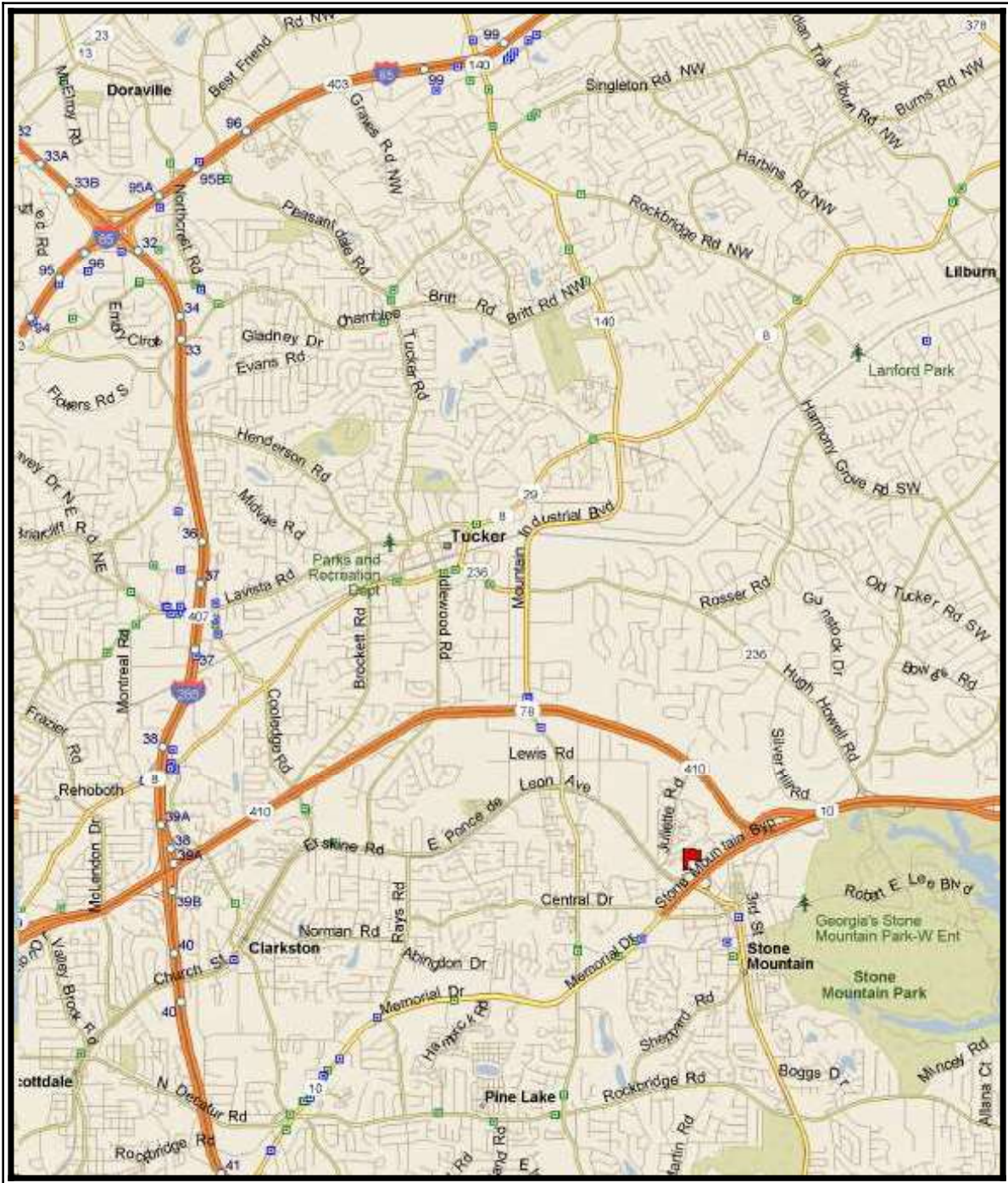
Zoning Excerpts from City of Tucker

Most Recent Transfer Documents

SUBJECT PHOTOGRAPHS



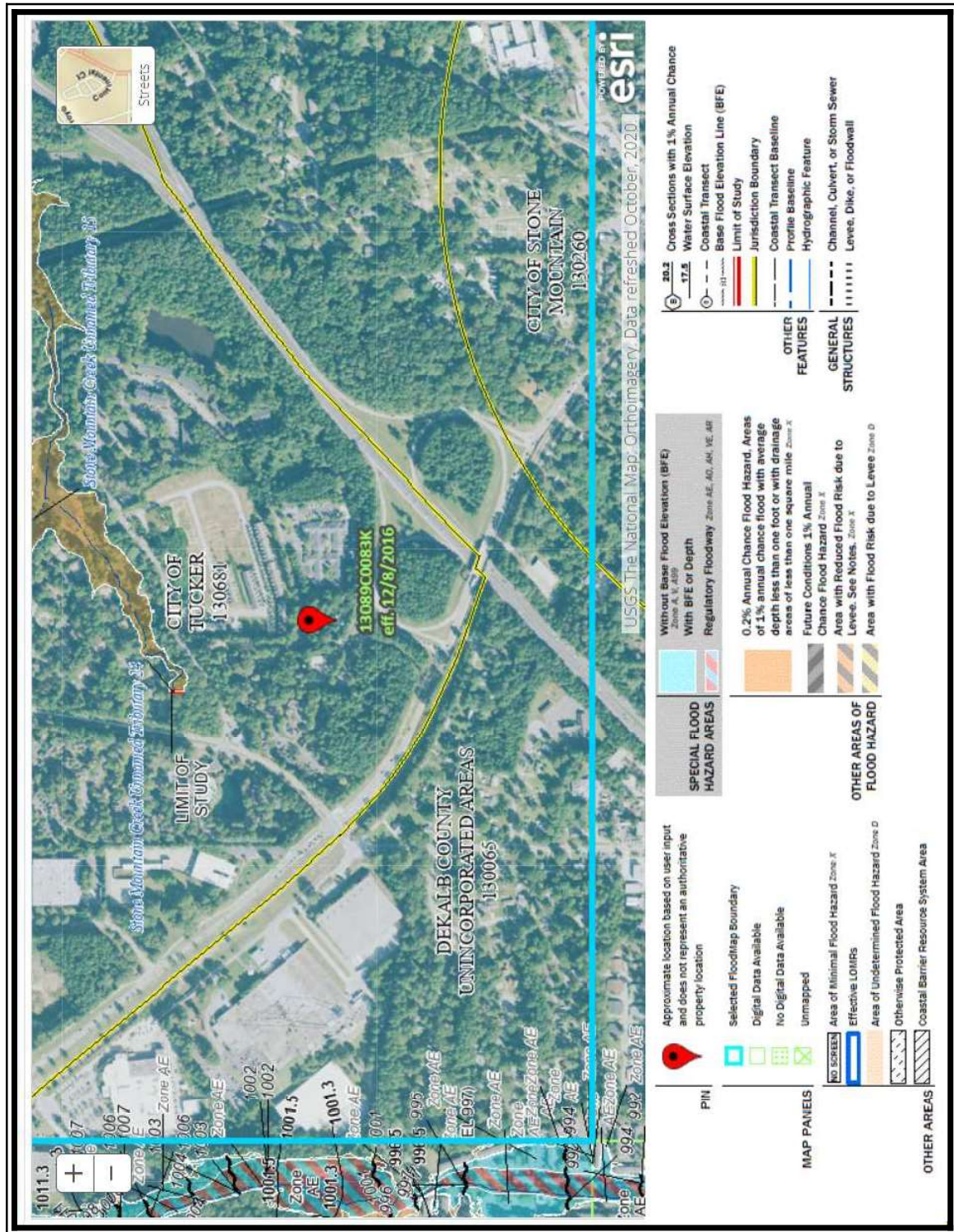
SUBJECT LOCATION MAP



AERIAL TAX PLAT MAP



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front—Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only—min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non-res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

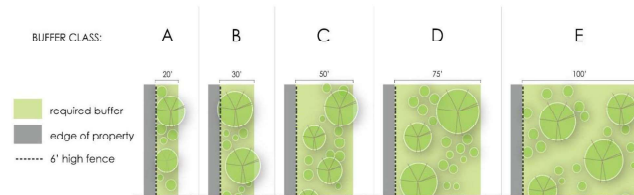
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

FILED & RECORDED
DEKALB CO. GA.STATE OF GEORGIA, County of DEKALB

JUN 14 3 42 PM '88

THIS INDENTURE, Made this 17th day of May ^{WHITFIELD C. SMITH}
 Year of Our Lord One Thousand Nine Hundred and Eighty-Eight between
SAM MIDDLEBROOKS and MRS. SAM MIDDLEBROOKS
 of the State of Georgia and County of DeKalb of the first part, and
PEARSON LANDSCAPES, INC.

of the State of Georgia and County of DeKalb of the second part.

WITNESSETH: That the said part 1st of the first part, for and in consideration of the
 sum of TEN Dollars,

in hand paid, at and before the sealing and delivery of these presents, the receipt of which is
 hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents
 do grant, bargain, sell and convey unto the said part y of the second part, its
 heirs and assigns, all that tract or parcel of land lying and being in Land
 Lot 125 of the 18th District, DeKalb County, Georgia.

TRACT I:

Lots 7 and 8, of the Knox Subdivision, near Stone Mountain,
 Georgia, and being more particularly described as follows:

Lot 7 beginning at a corner with Lot 6 on Richardson Street;
 and running westerly 250 feet to rear of Lots 19 and 20;
 thence northerly 100 feet along rear of said lots; thence
 easterly along line with Lot 8, 250 feet to Richardson
 Street; thence along Richardson Street 100 feet to the point
 of beginning. Said Lot 8, beginning at a corner with Lot 7;
 running westerly 250 feet to rear of Lots 20 and 21; thence
 northerly 100 feet to corner with Lot 9; thence along Lot 9
 easterly 250 feet to Richardson Street; thence southerly
 along Richardson Street to the point of beginning.

TRACT II:

Lot 9 of a tract of land near Stone Mountain, by R.C. Knox,
 surveyor, beginning 550 feet from corner of Moore Street
 and Richardson Street of said plat, measuring 100 feet,
 fronting on Richardson Street and extending back in equal
 width 250 feet. Being Lot 9 of said subdivision. 100 feet
 by 250 feet measurements.

Both tracts as more particularly shown on that certain survey
 dated May 12, 1988 by Roy E. Housworth, Jr. for Pearson
 Landscapes, Inc., the original of which is attached to this
 Warranty Deed and incorporated therein by reference.

DeKalb County, Georgia
 Real Estate Transfer Tax

Paid \$ 105.50

Date 6-14-88

CLERK, SUPERIOR COURT

By: Henry A. Brown
 Deputy Clerk

800 6159 PAGE 386

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said part y of the second part, its heirs and assigns, forever, in Fee Simple.

AND THE SAID part ies of the first part, for their heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the said part y of the second part, its heirs and assigns, against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the said part ies of the first part have hereunto set their hand and seals, the day and year above written.

Signed, sealed and delivered in presence of:

SAM MIDDLEBROOKS
SAM MIDDLEBROOKS

MRS. SAM MIDDLEBROOKS
MRS. SAM MIDDLEBROOKS (Seal)

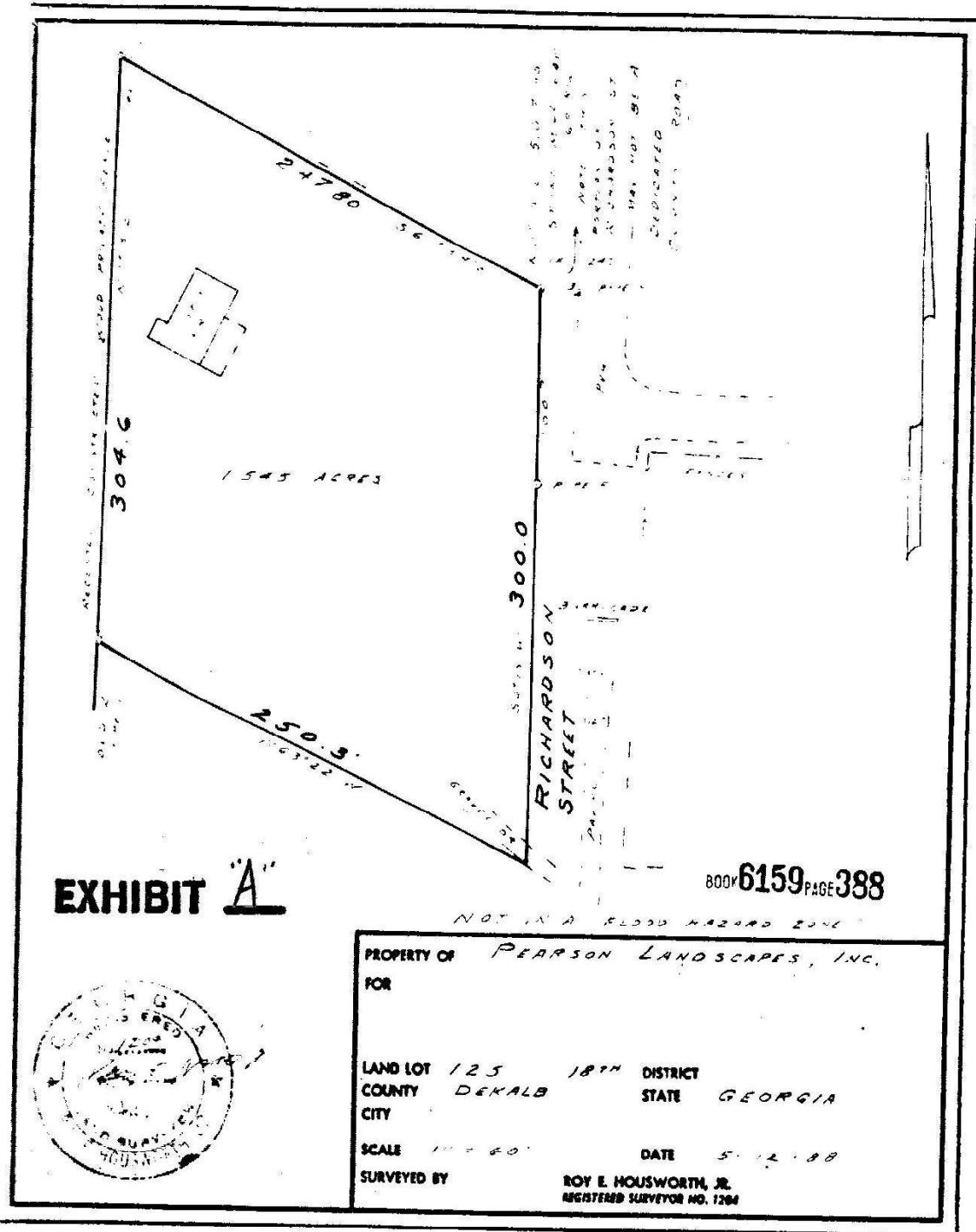
WITNESS
Witness

Sworn to and Subscribed before Me
This 17th Day of May, 1982
J. B. H.
Notary Public
Notary Public, Chatham County, Georgia
My Commission Expires 12/31/1990

WARRANTY DEED (Long Form)	FROM	TO
	SAM MIDDLEBROOKS and MRS. SAM MIDDLEBROOKS	PEARSON LANDSCAPES, INC.
	GEORGIA, County of	
	Clerk's Office, Superior Court	
	Filed for Record at o'clock <u>M.</u>	
	<u>19</u>	
	Recorded in Deed Book <u>Folio</u>	
	<u>19</u>	
	Clerk	

POWER NO. 214 WAM ALLEN CO

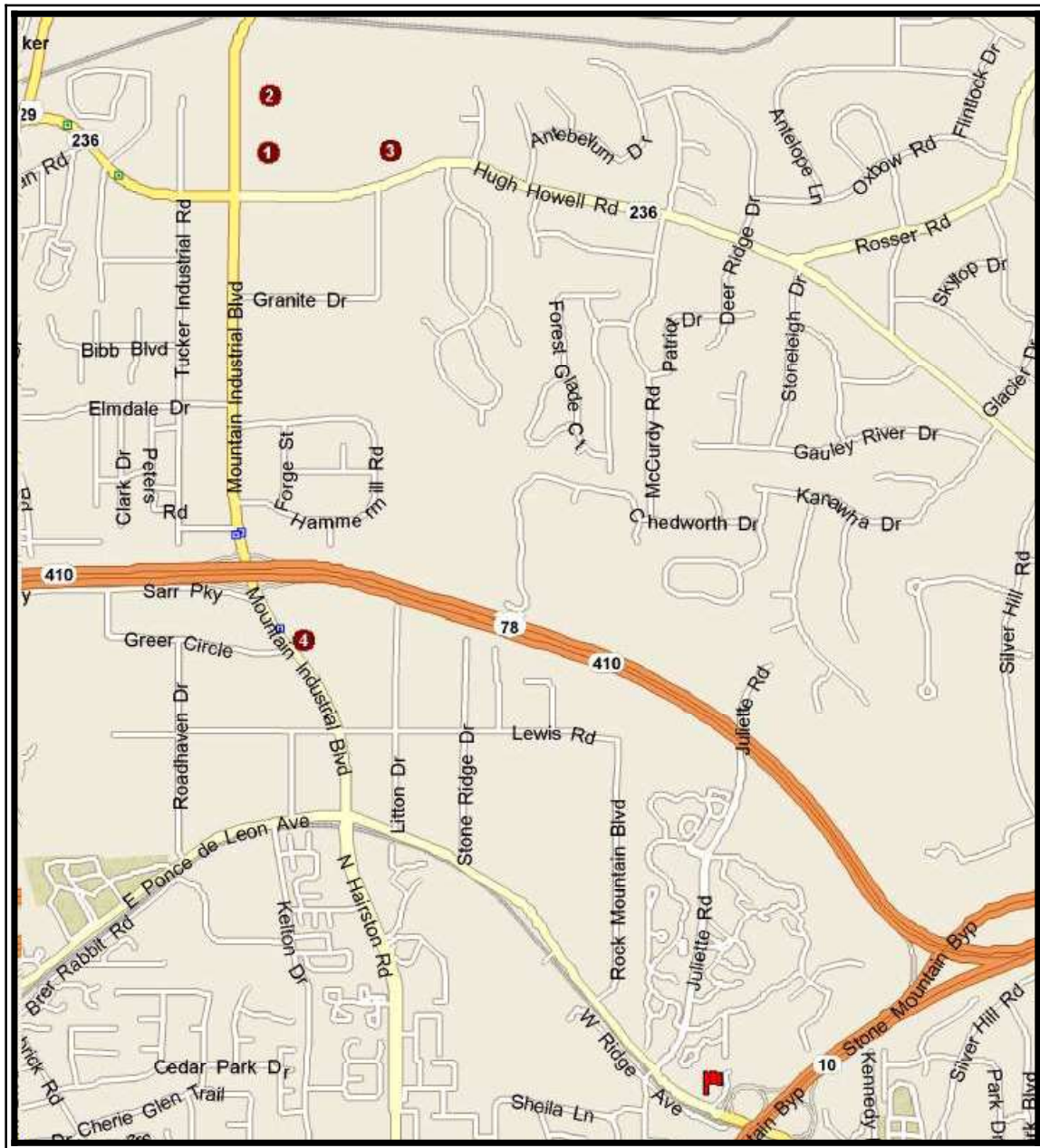
6152-387



APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access
Frontage: Frontage along Private Drive
Utilities: All utilities available
Drainage: Adequate
Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

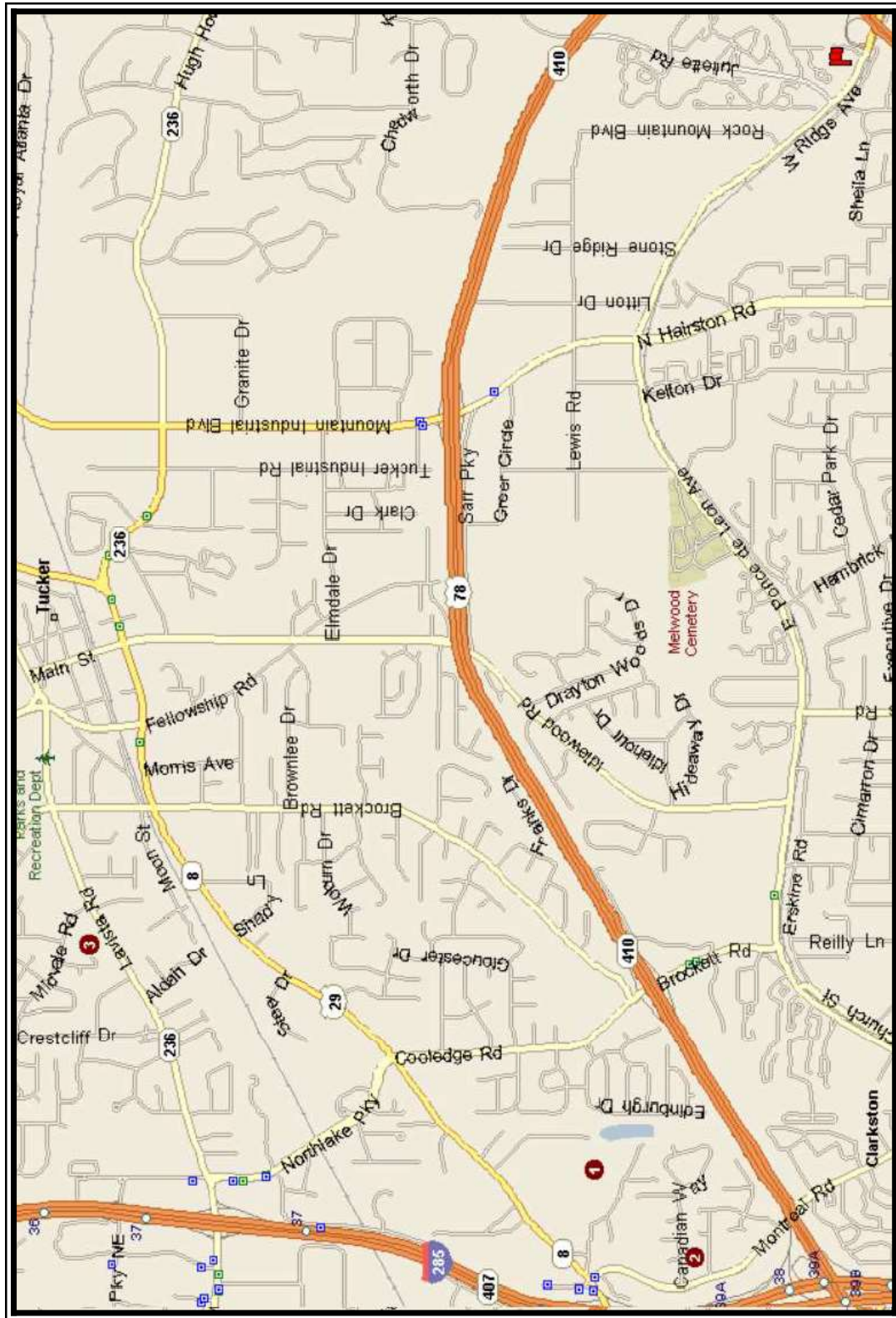
Topography: Level to gently rolling



APPENDIX C: MULTI-FAMILY LAND SALES

Multi-Family Land Sales Map **Multi-Family Land Sales**

COMPARABLE MULTI-FAMILY LAND SALES LOCATION MAP



COMPARABLE NO. 1 MULTI-FAMILY LAND SALE

GRANTOR: Rehoboth Baptist Church, Inc.

GRANTEE: MH Settlement, LLC

RECORDED: **BOOK:** 27558 **PAGE:** 244 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/17/2019

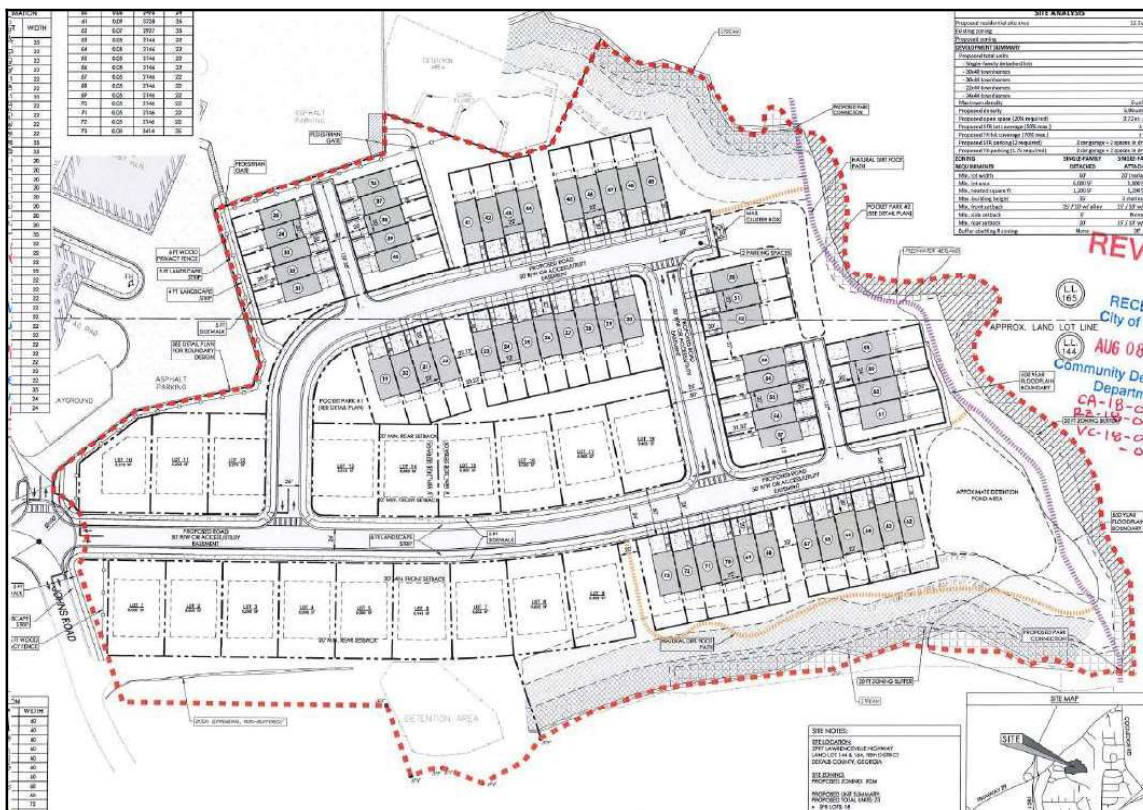
CONSIDERATION: \$2,579,800 **PRICE PER UNIT:** \$34,397

LOCATION: Behind Rehoboth Baptist Church at 2997 Lawrenceville Hwy.

PARCEL ID: 18 144 03 233

ZONING: RSM; Small Lot Residential Mix

TOTAL AREA: 12.187 acres per survey



COMPARABLE NO. 2 MULTI-FAMILY LAND SALE

GRANTOR: Ashbrooke Towns, LLC

GRANTEE: Ashbrooke Home Builders, Inc.

RECORDED: **BOOK:** 27725 **PAGE:** 52 **COUNTY:** Dekalb

DATE OF TRANSACTION: 2/11/2019

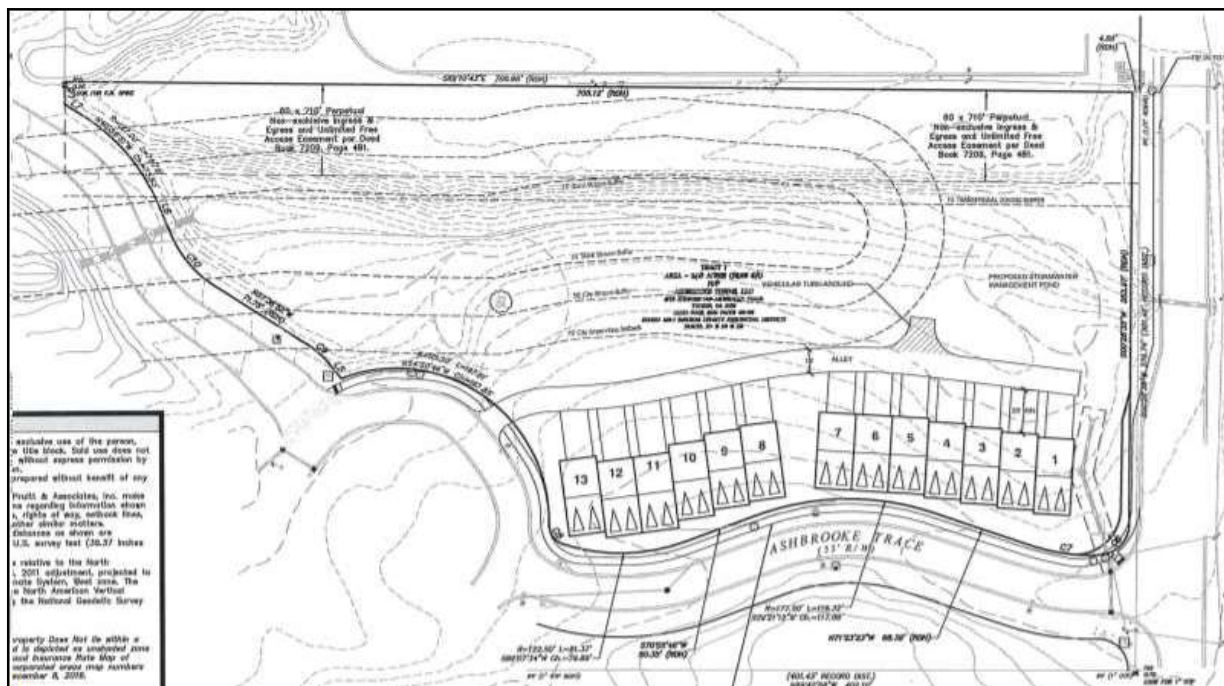
CONSIDERATION: \$2,895,755 **PRICE PER UNIT:** \$36,168

LOCATION: 1409 Ashbrooke Trace

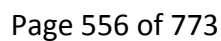
PARCEL ID: 18 140 01 226

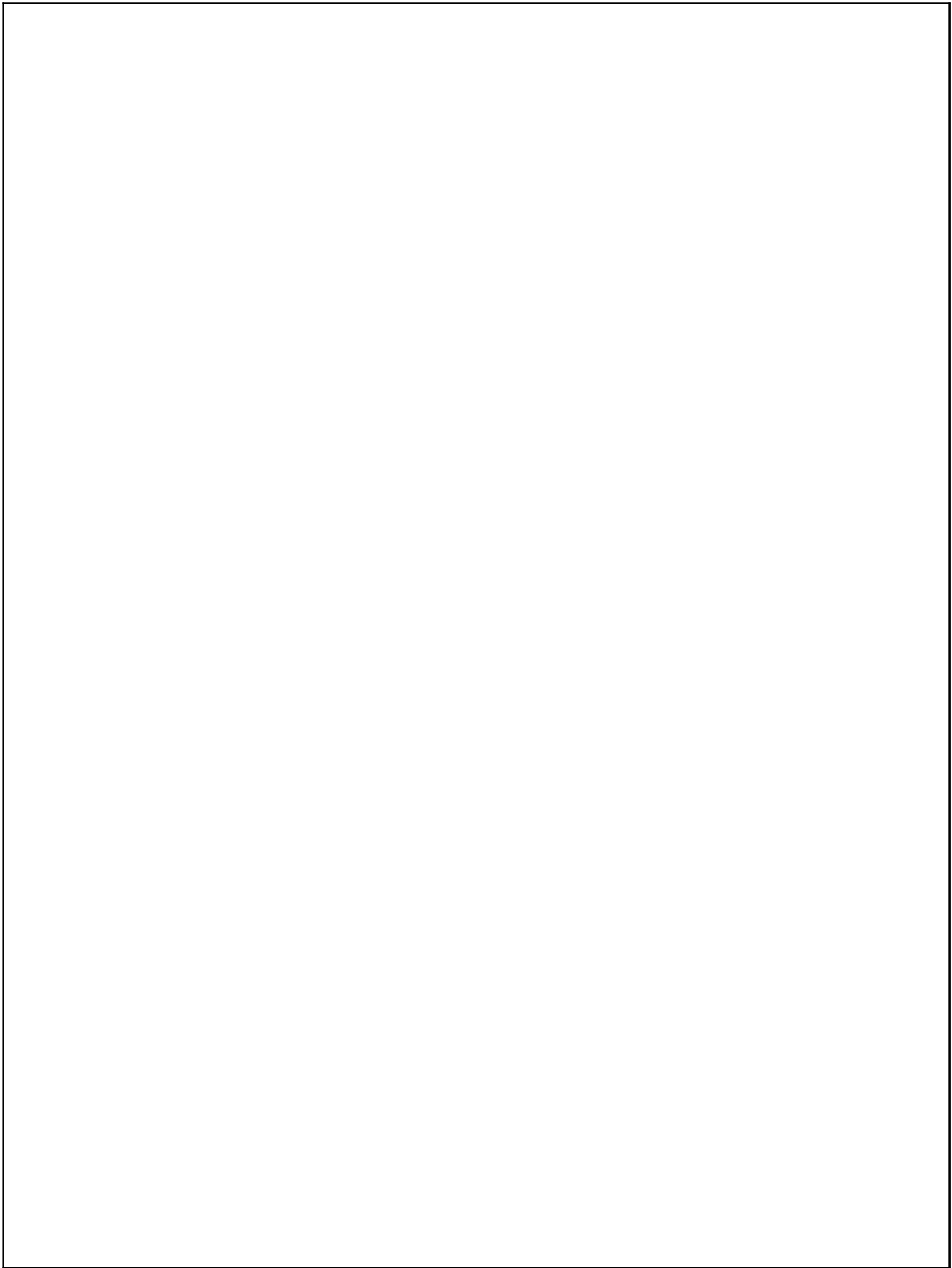
ZONING: MR-1 Medium Density Residential; This tract was modified for townhome development.

TOTAL AREA: 22.49 acres per survey



GRANTOR:	Charles A Orth, Trustee, etal.
GRANTEE:	JWC Lavista, LLC
RECORDED:	BOOK: 28788 PAGE: 210 COUNTY: Dekalb
DATE OF TRANSACTION:	10/30/2020
CONSIDERATION:	\$4,261,705 PRICE PER UNIT: \$67,650
LOCATION:	Intersection of Midvale Road at Lavista Road
PARCEL ID:	18 212-01-002, 006, 018, 019, 042
ZONING:	MZ Multiple Zoning.
TOTAL AREA:	22.49 acres per survey

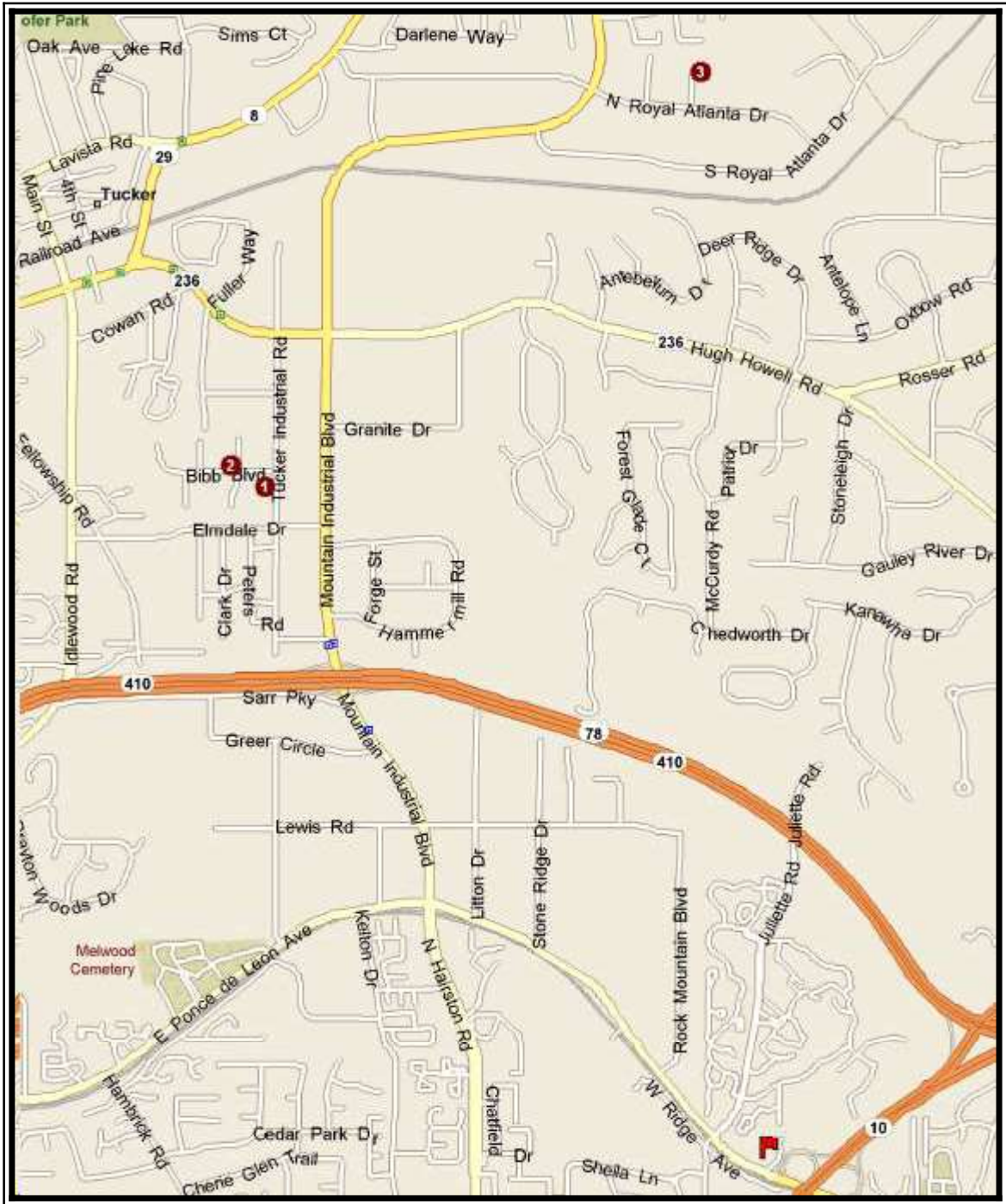




APPENDIX D: IMPROVED INDUSTRIAL SALES

Improved Industrial Sales Map Improved Industrial Sales

COMPARABLE SALES LOCATION MAP



**COMPARABLE NO. 1
IMPROVED INDUSTRIAL SALE**

GRANTOR: Tucker Industrial Road, LLC.

GRANTEE: Bethel Mission Church Atlanta, Inc.

RECORDED: **BOOK:** 27969 **PAGE:** 320 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/5/2019

CONSIDERATION: \$590,000 **PRICE PER SF:** \$66.70

LOCATION: 2030 Tucker Industrial Road at Bibb Boulevard

PARCEL ID: 18 185 001 070

ZONING: M; Light Industrial

IMPROVEMENTS: The property is improved with an 8,845 square foot office warehouse building of brick and block construction built in 1973.

TOTAL AREA: 1 acre



**COMPARABLE NO. 1
IMPROVED INDUSTRIAL SALE**



**COMPARABLE NO. 2
IMPROVED INDUSTRIAL SALE**

GRANTOR: Marinus B. Van De Kreke & Honey J. Van De Kreke

GRANTEE: ZAZ Realty, LLC.

RECORDED: **BOOK:** 29270 **PAGE:** 645 **COUNTY:** Dekalb

DATE OF TRANSACTION: 4/14/2021

CONSIDERATION: \$1,400,000 **PRICE PER SF:** \$60.00

LOCATION: 2058 Kilman Drive, Tucker

PARCEL ID: 18 185 001 068

ZONING: M; Light Industrial

IMPROVEMENTS: The property is improved with a 23,314 square foot office warehouse building of brick and block construction built in phases from 1974 to 1991.

TOTAL AREA: 1.2 acre



**COMPARABLE NO. 2
IMPROVED INDUSTRIAL SALE**



**COMPARABLE NO. 3
IMPROVED INDUSTRIAL SALE**

GRANTOR: Hart-Plaisted Building, LLC

GRANTEE: Rivan Commerce Place, LLC

RECORDED: **BOOK:** 27366 **PAGE:** 228 **COUNTY:** Dekalb

DATE OF TRANSACTION: 1/29/2019

CONSIDERATION: \$3,333,333 **PRICE PER SF:** \$57.96

LOCATION: 2030 Tucker Industrial Road at Bibb Boulevard

PARCEL ID: 18 223 007 257

ZONING: M; Light Industrial

IMPROVEMENTS: The property is improved with a 57,512 square foot office warehouse building of brick and block construction built in 1994.

TOTAL AREA: 3.715 acres



**COMPARABLE NO. 3
IMPROVED INDUSTRIAL SALE**



APPENDIX E

Certification Assumptions & Limiting Conditions Qualifications of the Appraiser

CERTIFICATE OF APPRAISER

I certify that to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The report analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of this report.
5. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
6. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice, the Georgia Real Estate Appraiser Classification and Regulation Act and the rules and regulations of the Georgia Appraisers Board.
7. I have made a personal inspection of the property that is the subject of this report.
8. I certify that I have not performed any service on the subject property as an appraiser or any other capacity in the past three years.
9. I acknowledge that I serve on the Tucker Downtown Development Authority



Bruce R. Penn

Georgia Certified General Real Property Appraiser #000228

ASSUMPTIONS AND LIMITING CONDITIONS

This report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property and subsoil that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the report.
9. It is assumed that all required licences, consents or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

10. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety. Therefore, the liability of the appraiser shall be expressly limited to the person for whom the report was addressed and any reliance thereon by any third party shall not be justifiable and therefore shall be at the peril of such third party.
11. The appraiser is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless such arrangements have been previously made.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relation, news sales, or other media without the prior written consent and approval of the appraiser.
13. It is a condition of this appraisal that the subject property, including any proposed improvement, meets all governmental regulations and restrictions including but not limited to zoning requirements, building and development codes, drainage requirements and all fire safety laws.
14. It is a condition of this report that the property is subject to typical easements such as right of way for electrical power lines, sewer easements, natural gas lines, as well as telephone lines and water lines.
15. It is a condition of the report that no soil boring test has been made and the stated value would be subject to such a test.
16. It is a condition of this report that any marketing of the subject property would expressly require effective and aggressive sales methods and techniques, reasonable pricing, market exposure and coverage, and unless stated any suggested improvements or repairs must be completed in order to market the property.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

17. The subject is specifically conditioned on present market conditions, any change may affect the market value stated.
18. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, leaking underground storage tanks, contaminated areas, hazardous wastes, dangerous substances, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

QUALIFICATIONS

Bruce R. Penn

SPECIAL QUALIFICATIONS (PRESENT & HISTORICAL)

- State of Georgia, Certified General Real Estate Appraiser No. CG- 000228
- South Carolina, Certified General Real Estate Appraiser No. CG-3575 (retired)
- Senior Member, National Association of Real Estate Appraisers, Designated as Certified Commercial Real Estate Appraiser (#38173) retired
- Appraisal Institute - MAI Candidate (#M86-3542) (retired)
- State of Georgia, Department of Transportation; Approved Appraiser; retired
- Hartsfield Airport Noise Abatement Program Approved Appraiser
- Fulton County, Approved Appraiser
- Dekalb County Approved Appraiser
- Cobb County Department of Transportation, Approved Appraiser
- Cobb County Water Department, Approved Appraiser
- Floyd County Approved Appraiser
- Chatham County Approved Appraiser
- Rockdale County Approved Appraiser
- Cherokee County Approved Appraiser
- City of Atlanta Approved Appraiser
- Jasper County Approved Appraiser

SPECIALIZED REAL ESTATE TRAINING

- Atlanta Institute of Real Estate
 - Principles and Practices of Real Estate; Sales I, Sales II, Sales III
- Appraisal Institute (FKA American Institute of Real Estate Appraisers)
 - Course 1A1, Basic Appraisal Principles, Methods and Techniques
 - Course 1A2, Basic Valuation Procedures
 - Course 023, Standards of Professional Practice
 - Course 1BA, Capitalization Theory and Techniques (Part A)
 - Course 1BB, Capitalization Theory and Techniques (Part B)
 - Business Valuation
 - Valuation in Litigation
- Columbia Institute
 - Condemnation Appraising
- Society of Real Estate Appraisers
 - Course 101, An Introduction to Appraising Real Property
 - Course 102, Applied Residential Property Valuation
- Georgia State University
 - RE 410, Real Estate Valuation
 - RE 310, Real Estate Principles and Practices
 - RE 460, Income Property Valuation

GENERAL EDUCATION

- Georgia State University: Bachelor of Business Administration (1987)
- South Georgia College; Associate of Science in Business Administration (1979)

EXPERIENCE

- 1989- Present Penn, Hastings & Associates, Partner, Commercial/ Condemnation Appraiser.
Responsibilities include project manager for all acquisition projects as well appraisals of condemnation properties and commercial properties in the southern United States.
- 1988-1989 Acquisition Consultants, Chief Appraiser.
Responsibilities include appraising for various condemnation properties and commercial properties in the southern United States.
- 1986-1988 Scott Appraisal Service, Commercial Appraiser.
Responsible for appraising all types of commercial appraisals in the Atlanta area and the southern United States. Also specialized training in appraising of special purpose properties.
- 1984-1986 Certified Commercial Investments, Inc., Research & income property analyst.
Responsibilities included analyzing cash flow from commercial properties in the southeastern United States. Also responsible for researching neighborhoods in the Atlanta area for large scale buy-outs for commercial developments.

REPRESENTATIVE CLIENT LIST: LENDING INSTITUTIONS

- | | |
|-----------------------------------|-----------------------------------|
| - Wachovia Bank | -RBC Centura |
| - Bartow County Bank | -Home Bank |
| - West Georgia National Bank | -Century Bank |
| - United Community Bank; | -Community Bank of Pickens County |
| - First National Bank of Cherokee | |

REPRESENTATIVE CLIENT LIST: LITIGATION ATTORNEYS

- | | |
|--|-----------------------------------|
| - Charles Pursley | - Donald Evans |
| - Richard Hubert | - George Butler |
| - Warren Coppedge | - Walter Hotz |
| - Jenkins & Bowen | - Christian Torggrimson |
| - Jack Wilson, Webb, Tanner & Powell | - Luther Beck, Chandler & Britt |
| - James SS Howell III, | -Weiner, Yancey, Dimpsey & Diggs, |
| - Moore, Ingram Johnson & Steele | - Sams, Larkin & Huff |
| - Flint, Conolly & Walker | - Banks, Stubbs, Neville & Cunat |
| - Paul Kesmodel, Duluth | - James Ledbetter, Calhoun |
| - Michael D. McRae | - Sal Serio |
| - Michael Sumner | - John C. Whiting |
| - Tom Bowman, Maddox Nix Bowman & Zoeckler | |

REPRESENTATIVE GENERAL WORK EXPERIENCE

- | | |
|---|------------------------------------|
| - Vacant Land | - Vacant Land Leases |
| - Remnant Properties | - Residential Properties |
| - Small Income Residential Properties | - Multi-family Properties |
| - Commercial Properties | - Income Producing Properties |
| - Industrial and Build to Suit Properties | - Shopping Centers |
| - Rural Properties | - Residential Subdivision Analysis |
| - Farm Properties | - Business Valuation |
| - Specialty Studies for Evaluation of Economic Obsolescence in Residential Properties | |
| - Specialty Studies for Evaluation of Economic Obsolescence in Commercial Properties | |

REPRESENTATIVE SPECIALIZED PROPERTIES EXPERIENCE

- | | |
|---|---------------------------------------|
| - C&D Landfill | - Billboards |
| - Mixed Use Developments | - Mass Appraisals for Tax Assessments |
| - Regional Hospital | - Mineral Rights |
| - Wetlands Valuation | - Adult Entertainment Establishment |
| - Motel/Hotel | - Historic Properties |
| - Historic Loft Buildings | - Elementary Schools |
| - Commercial Property in a Watershed District | - Conservation Subdivisions |
| - Greenspace Valuations | - Radio Stations |
| - Land Under A Lake | - Golf Course |
| - Log Homes | - Fire Station |
| - Car Dealership | - Manufactured Housing Plant |
| - Contaminated Properties | - Solid Waste Facility |
| - Family Farm Valuation (2032) for IRS | - Steel Plant |
| - Chicken Farms | - Churches |
| - Nudist Colonies | - Regional Malls |
| - DeKalb County Courthouse | - Parking Lots |
| - Library | - Airport |
| - Leasehold Valuations | - Leased Fee Valuations |
| - Geodetic Dome Homes | - Telecom Facility |
| - Air Rights | - Water Rights |
| - Mobile Home Parks | - R/V Park |
| - Equestrian Properties | - Skating Ring |
| - Retirement Facility | - Recording Studio |
| - Railroad Right of Way | - |

REPRESENTATIVE MUNICIPALITY WORK: APPRAISAL

TRANSPORTATION PROJECTS

Georgia Department of Transportation Projects Under Federal Guidelines (Partial Listing)

- Outer Perimeter, Gwinnett County & Forsyth County
- Riverside Parkway, Floyd County
- Georgia Highway 42, Clayton County
- Georgia Highway 314, Fayette County
- Highway 138 Extension, Fulton County
- Georgia Highway 316, Barrow County & Oconee County
- Watkinsville By-Pass (advanced acquisitions)
- Dawsonville Highway, Hall County
- Fairburn Industrial Boulevard, Fulton County
- Thornton Road By-Pass, Douglas County
- Cedartown By-Pass, Polk County
- Macland Road, Cobb County
- Reinhardt College Parkway; Cherokee County
- State Route 124; Scenic Highway, Gwinnett County
- U.S. 80; Talbot-Muscogee Counties
- U.S. 278; DeKalb County
- State Route 20; Rockdale County
- State Route; 29; Rockdale County
- Pumpkinvine Creek Bridge; Bartow County
- State Route 120; Gwinnett County

Virginia Department of Transportation Projects Under Federal Guidelines:

- Virginia Beach Boulevard, Virginia Beach
- Haycock Road, Fairfax County

Airport Projects Per Federal (Funding) Guidelines:

- Aerial Easements of Commercial Property Inside Flight Impacted Areas in the vicinity of Atlanta-Hartsfield Airport
- Residential appraisals for Expansion of DeKalb Peachtree Airport
- Aviation Easements, Hartsfield-Atlanta Airport
- Relocation Appeals Program, Hartsfield-Atlanta Airport

Department of Housing and Urban Development Grant Projects

- Thompson Street, Alpharetta, Fulton County
- Scottdale Mill Road, Dekalb County
- Canton Street, Cherokee County

Local Government Transportation Projects (Partial Listing)

- Presidential Parkway, City of Atlanta
- Roxboro Road, Dekalb County & Fulton County
- Skidaway Road, Savannah, Chatham County
- Jones Shaw Road, Cobb County
- Lawrenceville-Suwannee Road, Phases I & II, Gwinnett County
- Sandy Plains Road, Cobb County
- Johnson Ferry Road Phase I & Phase III, Cobb County
- Holly Springs Road, Cobb County
- Gordon Road, Floyd County
- Blackburn Road Extension, Cobb County
- Chastain Road; Cobb County
- Milford Church Road; Cobb County

NON-TRANSPORTATION PROJECTS

Utility Projects (Client List)

- Oglethorpe Power Corporation
- Georgia Power Company
- Cobb Electrical Municipal Corporation
- Municipal Electric Association of Georgia (MEAG)
- Atlanta Gas Light Company
- Southern Bell

Reservoir Appraisals

- Bear Creek Reservoir, Newton County
- Yellow Creek Reservoir, Cherokee County

Municipal Appraisals

- East Point Development Authority, Fulton County; downtown redevelopment
- State Properties Commission; Improved Property; Georgia Dome Stadium, Atlanta.
- Paulding County Board of Education; Land for new school complex
- Spalding County Board of Education: East Griffin Elementary School
- Spalding County Board of Education: Third Ward Elementary School
- Spalding County Board of Education: Fourth Ward Elementary School
- Solid Waste Management Authority of Crisp County; Solid Waste Processing Facility, Crisp County
- Solid Waste Management Authority of Crisp County; Transfer Station, Coffee County
- Solid Waste Management Authority of Crisp County; Transfer Station, Houston County
- Solid Waste Management Authority of Crisp County; Transfer Station, Sumter County
- Solid Waste Management Authority of Crisp County; Transfer Station, Terrell County
- Waste Management; Landfill, Doraville, Georgia
- Cobb County Water Authority; Land for Expansion; R.L. Sutton Treatment Facility

Water & Sewer Authorities (Client List)

- | | |
|-------------------|-------------------|
| - Gwinnett County | - Rockdale County |
| - Paulding County | - Cobb County |
| - City of Atlanta | - Fulton County |
| - City of Buford | - City of Roswell |

Impact Studies for Court Testimony (Partial Listing)

- Study on the Proximity of Interstate Highways to Residential Property; Georgia Highway 400 extension, Fulton County and City of Atlanta.
- Study on the Impact to Residential Property Values from Increased Road Proximity
- Study on the Impact to Residential Property Values from the Elimination of a Wooded Buffer
- Study on the Impact to Residential Property Values from Increased Slopes
- Study on the Impact to Commercial Property Values from Increased Slopes and Installation of Guardrails.
- Study on the Impact to Residential Property Values from Floodplain
- Study of the Impact to Residential Property Values from Loss of Access
- Study of the Impact to Commercial Property Values from Loss of Access
- Various Parking Studies to Show Loss of Value to Commercial Properties from Loss of Parking
- Study of the Impact to Residential Property Values from Proximity to a Sewage Treatment Plant
- Study of the Impact to Residential Property Values from Particulate Contamination
- Study of the Impact to Residential Property Values from Proximity to Large Manufacturing Facilities
- Study of the Impact to Residential Property Values from Proximity to an Airport

APPRAISAL/TESTIMONY EXPERIENCE/REFERENCES
(Partial Listing)
Bruce R. Penn

Initial Training: James S.S. Howell III (deceased)
Dana Jackel, Cobb County
Fred Bently Sr. & Jr./Cobb County

Regional Court Work Experience (For Municipalities):

Dalton:	Warren Coppedge; private case against developer
Pickens County:	Wills Picket for Pickens County & City of Jasper
Cherokee County:	Jonathan Pope, for Georgia Power Mark Mahler, County Attorney for Cherokee DOT
Bartow County:	Boyd Petit, County Attorney, for Georgia Power Rick Wells, for Georgia Power
Paulding County:	Mason Roundtree (against Paulding County/Reservoir)
Fayette County:	Tom Camp for Georgia Power Jack Parks for Georgia DOT
Clayton County:	Steve Fincher for Clayton Water Authority
Fulton County:	Numerous Attorneys, for Fulton County Land Department Robert Diggs, for Georgia DOT & against Hartsfield Airport Barrell Weiner, for Georgia DOT Anne Sapp, against Georgia DOT
Cobb County:	Linda Brunt (retired); County Attorney/DOT Dana Jackel for Cobb DOT John Moore; against Cobb DOT Kevin Moore; against Cobb DOT Parks Huff; zoning cases and against Cobb DOT Garvis Sams Jr.; zoning cases and against Cobb DOT
Rockdale County:	Tom Bowman, County Attorney for Tax Assessor, State DOT, Rockdale Water Authority
Newton County:	William Thomas Craig for Bear Creek Reservoir Scott Cole for Bear Creek Reservoir

Benchmark Cases: Swanson v. DOT
Ga. Power v. Mosteller Mill
DOT v. Bowles
City of Marietta v. Sumerour
Duron Davis v. Toyo Tire

COMMUNITY DEVELOPMENT EXPERIENCE

- Chairperson of Community Council, District 1, DeKalb County.
Community Council is an approval board with board members appointed by County Commissioner of that District. Board members are representative of the communities of that Commission District and charged with representing the interests of the community and oversight of community goals in the zoning and land use and development process. Community Council is the 1st in the zoning approval process.
- Member, Downtown Development Authority of the City of Tucker
- Member, Transportation Committee; Tucker Northlake Community Improvement District (Tucker Northlake CID)
- Member (former chairperson) of the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association.
- Served as member of the Mainstreet Tucker Alliance in the LCI approval process and ARC grants for redevelopment of downtown Tucker.
- Testified as a value witness in zoning and land use matters in DeKalb County, Cobb County, Cherokee County, Gilmer County and Pickens County.

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

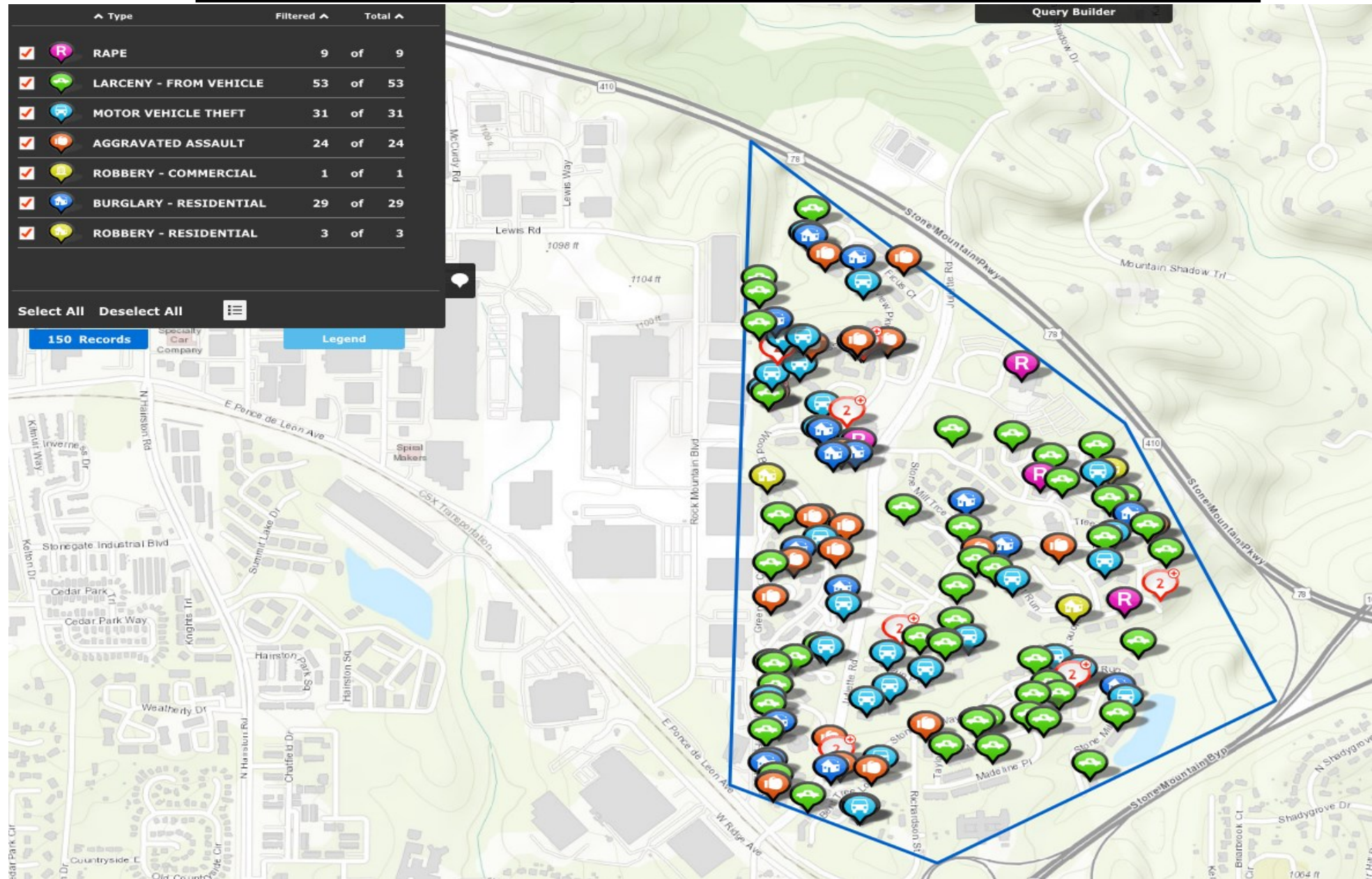
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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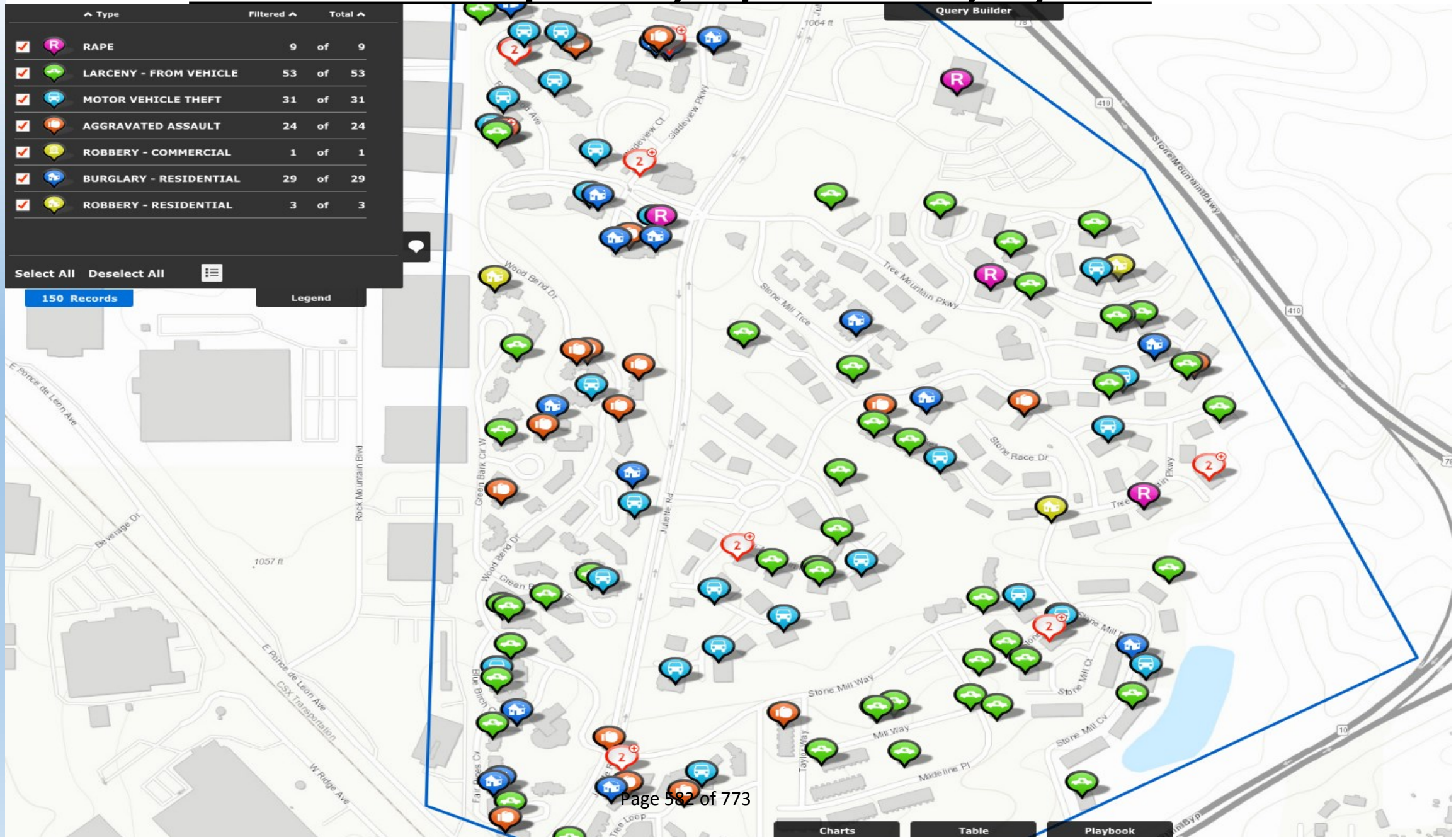
Part 1 Crimes Map for 11/01/2020 to 11/01/2021

Type	Filtered	Total
<input checked="" type="checkbox"/> RAPE	9 of 9	
<input checked="" type="checkbox"/> LARCENY - FROM VEHICLE	53 of 53	
<input checked="" type="checkbox"/> MOTOR VEHICLE THEFT	31 of 31	
<input checked="" type="checkbox"/> AGGRAVATED ASSAULT	24 of 24	
<input checked="" type="checkbox"/> ROBBERY - COMMERCIAL	1 of 1	
<input checked="" type="checkbox"/> BURGLARY - RESIDENTIAL	29 of 29	
<input checked="" type="checkbox"/> ROBBERY - RESIDENTIAL	3 of 3	

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150 Records

Legend



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning RZ-21-0009 1249 Richardson Street

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1249 Richardson Street has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area. The 1.11-acre site is located on the eastern side of Richardson Street, south of its intersection with Spring View Avenue and north of its intersection with E Ponce de Leon Avenue. A wireless telecommunications facility is located on the subject property, but the parcel is otherwise undeveloped.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of

4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval of RZ-21-0009.

Planning Commission recommended approval of RZ-21-0009 at their Oct. 21, 2021 meeting.

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



Land Use Petition: RZ-21-0009

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1249 Richardson Street
APPLICATION NUMBER	RZ-21-0009
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	1.11 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	RSM (Small Lot Residential Mix)
EXISTING LAND USE	Undeveloped
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Amanarh and Henrietta Kisseih
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

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1249 Richardson Street has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area. The 1.11-acre site is located on the eastern side of Richardson Street, south of its intersection with Spring View Avenue and north of its intersection with E Ponce de Leon Avenue. A wireless telecommunications facility is located on the subject property, but the parcel is otherwise undeveloped.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that

the city could study the area and draft the proposed zoning amendments. The moratorium is in effect until December 14, 2021. A certified letter was sent to the property owner, Henrietta and Amanarh Kisseih, regarding the justification for, and timeline of the rezoning process. City staff has met with the owners to discuss the rezoning process and options for the property. Staff will continue to communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the ‘Preserve and Improve Neighborhoods’ goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	MR-1	Stone Mill Townhomes
Adjacent: East	M	Nursing Home
Adjacent: South	M	Undeveloped
Adjacent: West	M	Undeveloped; Former Landscape Company

Rezoning (RZ-21-0009)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, near parcels zoned MR-1 (Medium Density Residential – 1) that are developed as multifamily and single-family attached residential uses. If 1249 Richardson Street is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby. The property abuts M (light industrial) zoned properties to the south and east, however those parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

If the property was developed under RSM (Small Lot Residential Mix), it would align with the nearby and adjacent zonings. Rezoning this parcel from M (light industrial) to RSM (Small Lot Residential Mix) would allow for the possibility of future medium-density growth, compatible with existing nearby developments.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole. Rezoning from M (light industrial) to RSM (Small Lot Residential Mix) also provides each landowner with more developable area, as transitional buffers would no longer be required.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. However, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

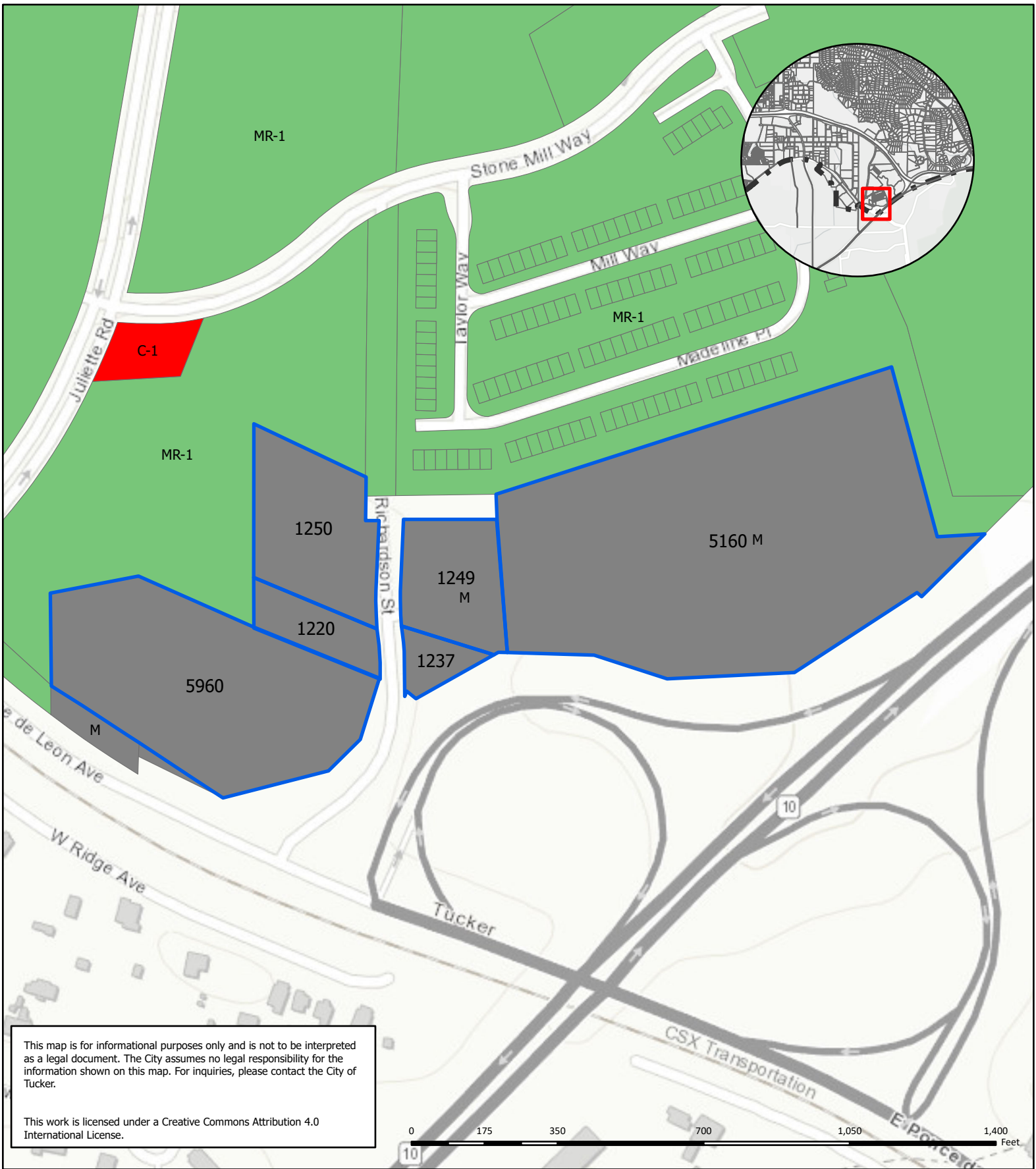
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0009**.

Planning Commission Recommendation

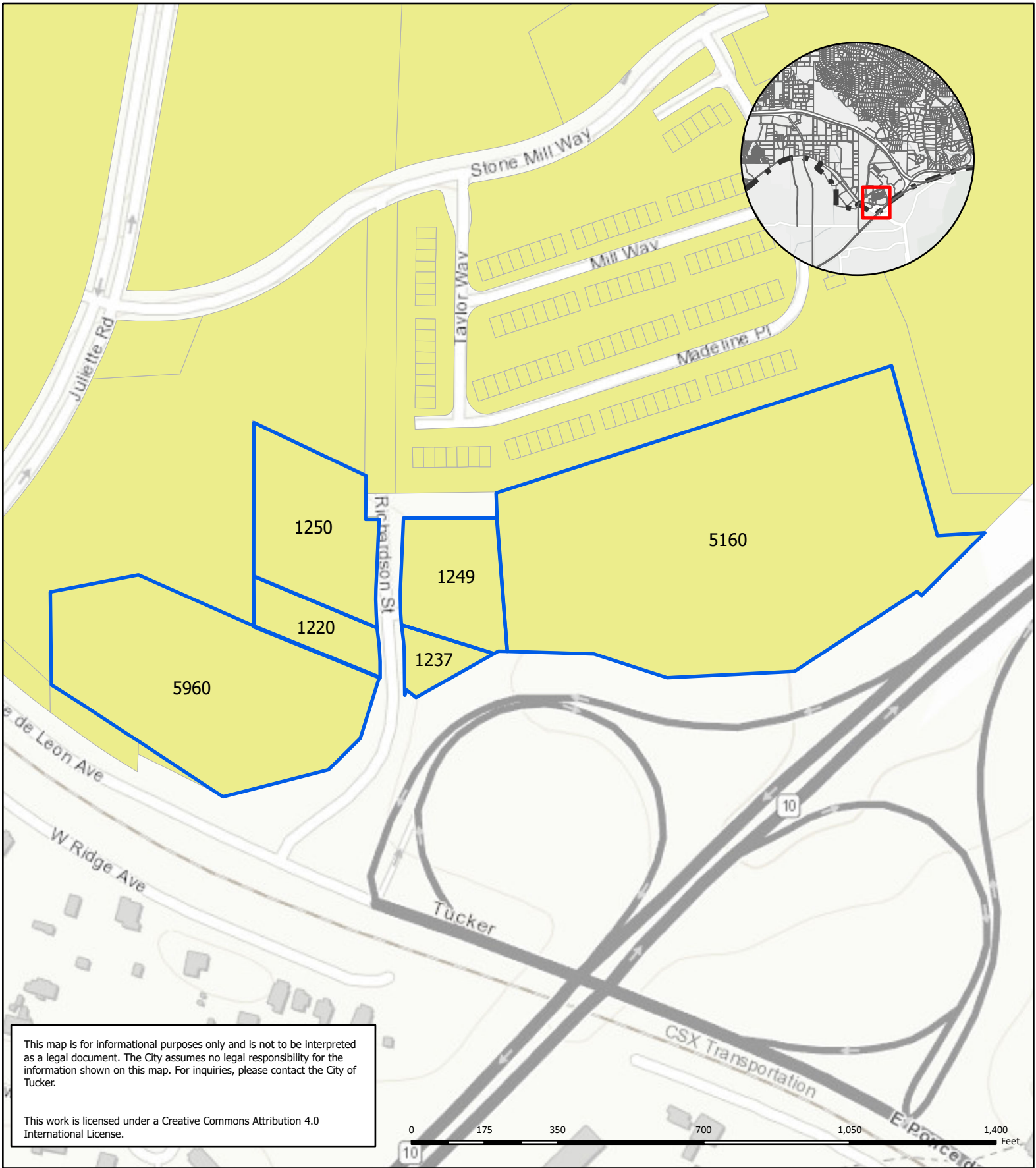
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0009**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)





5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

Suburban



Apr 30, 2021 at 10:22:16 AM
1249 Richardson St
Stone Mountain GA 30083
United States



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/15/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0009
1249 Richardson Street, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-007
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 1.179 acre tract of land (per recorded survey) located on the east side of Richardson Street at its intersection the south side of Spring View Avenue.

The subject is somewhat rectangular in shape and has 216.05 feet of frontage along Richardson Street and 213.95 feet of road frontage along Spring View Avenue. It also has approximately 16.90 feet along the Stone Mountain By Pass at its back corner. The property is level to gently rolling.

The property is improved with a large telecommunications tower (cell tower) with an ancillary mechanical box. The area of the cell tower measures 80 feet by 80 feet and is fenced.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The minimum lot size for properties in the Light Industrial category is 30,000 square feet or 0.6887 acre. The subject conforms with the lot size requirements of the Light Industrial District.

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to RSM; Small Lot Residential Mix. This zoning category allows for development of up to 6 single family units per acre. The minimum lot size in the RSM district is 1,000 square feet for an attached townhome and 6,000 square feet for a detached residential home. The subject property could accommodate 7 residential units.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 1.179 acres (not including any revenue from the cell tower) of \$100,000 (\$100,215 rounded) to \$125,000 (\$124,974 rounded)

Value of Low Density Multi-family or Single Family Residential Land The following chart demonstrates the relative values of multi-family or higher density single family detached residential sales in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Unit</i>
1. Behind Rehoboth Baptist Church	5/2019	12.187ac	\$2,579,800	\$34,397
2. 1409 Ashbrooke Trace	2/2019	22.49 acres	\$2,895,755	\$36,168*
3 Midvale @ LaVista Roads	10/2020	22.49 acres	\$4,261,705	\$67,650

* represents unit value of the attached residential portion

These sales demonstrate a relative value of around \$35,000 to \$60,000 per unit. The subject could accommodate seven residential structures, resulting in a likely land value of \$245,000 to \$420,000.

Conclusions Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce R. Penn", with a long horizontal flourish extending to the right.

Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

APPENDIX A: SUBJECT PROPERTY

**Subject Photographs
Subject Location Map
Subject Tax Plat Map
Subject Survey
Flood Plain Map
Zoning Map
Zoning Excerpts from City of Tucker
Most Recent Transfer Documents**

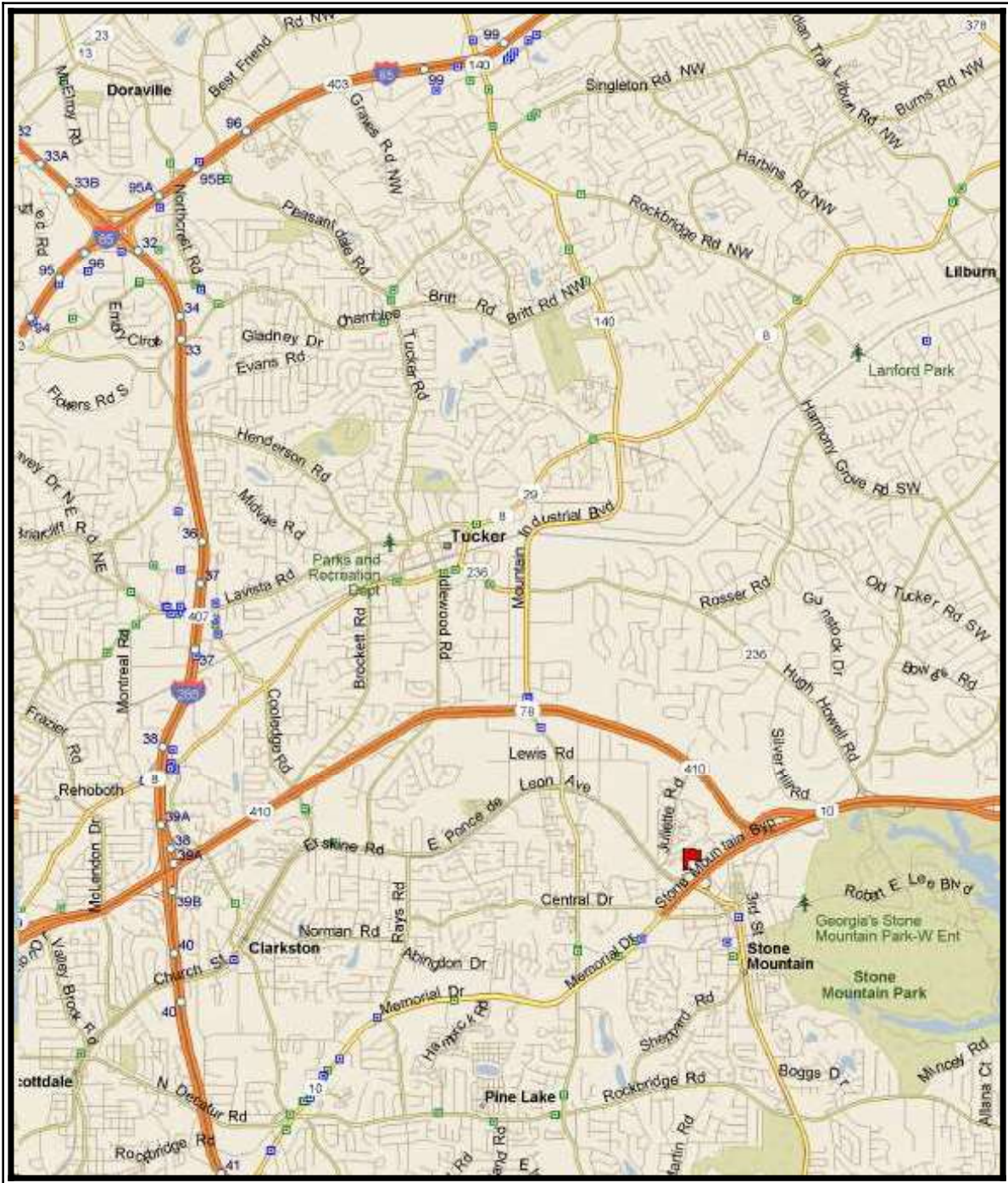
SUBJECT PHOTOGRAPHS



SUBJECT PHOTOGRAPHS



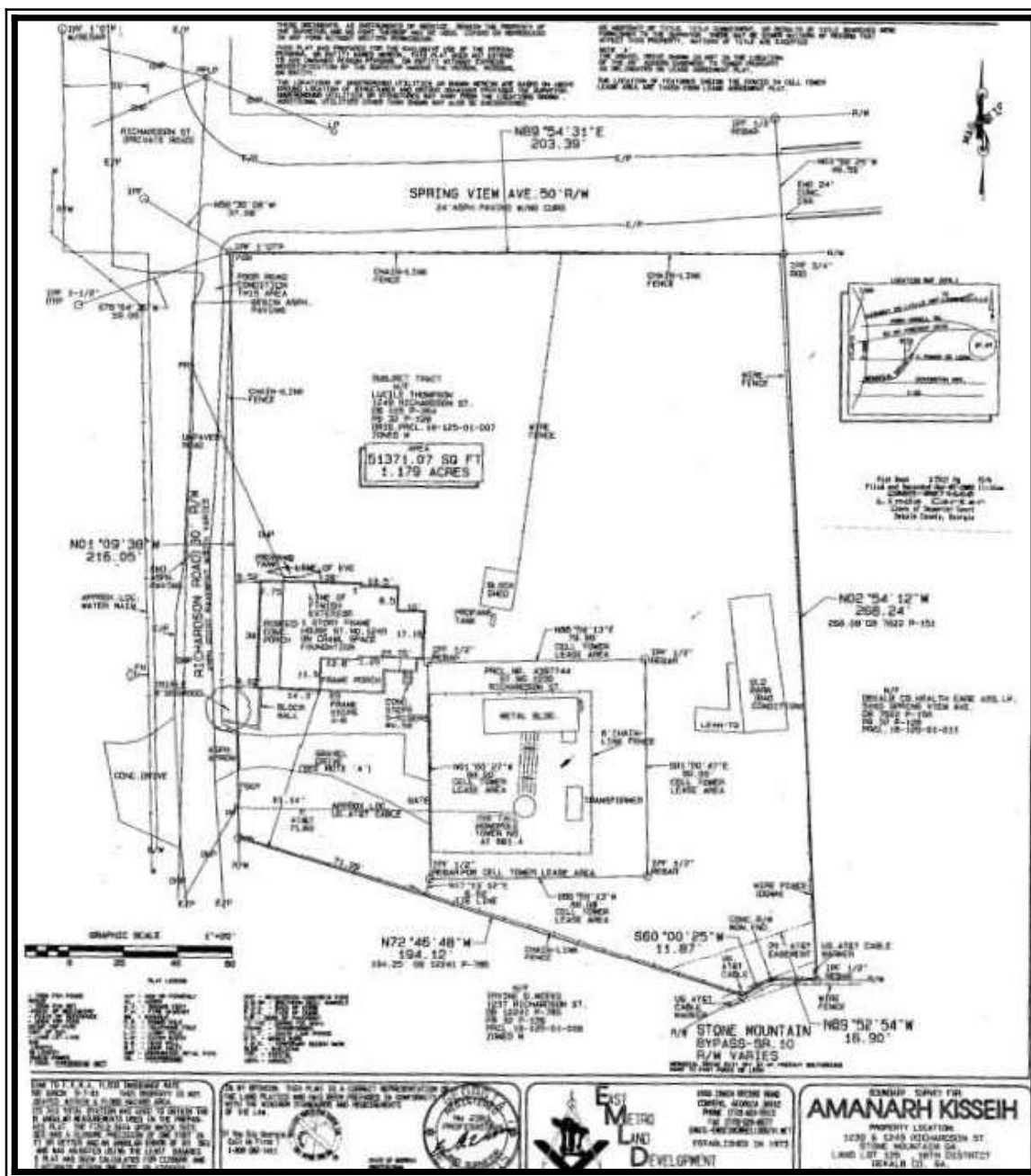
SUBJECT LOCATION MAP



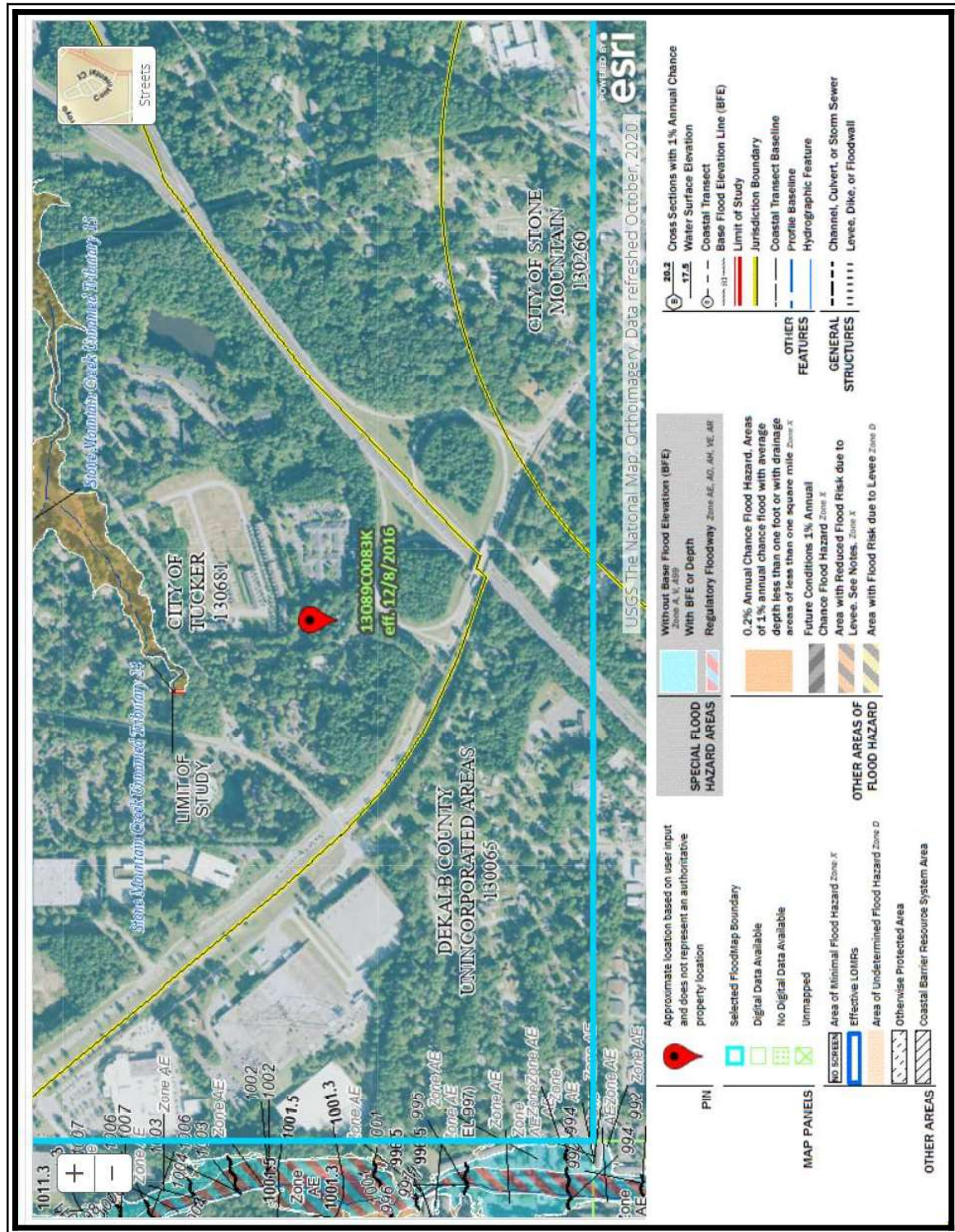
AERIAL TAX PLAT MAP



SUBJECT SURVEY



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front— Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only— min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non- res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

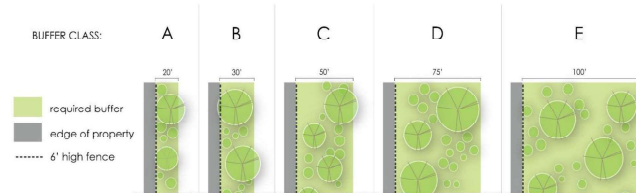
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

..... [ABOVE SPACE RESEF

Real Estate Transfer Tax \$0.00

Return to: Thomas Walters, PLLC
2275 Oak Road, Suite C
Snellville, Georgia 30078
ATTN: James Oren Ross

PREPARED WITHOUT TITLE OPINION

STATE OF GEORGIA
COUNTY OF GWINNETT

QUITCLAIM DEED

This instrument made and entered into on this the 15th day of December 2017, by and between AMANARH KISSEIH and HENRIETTA AKUYE KISSEIH, hereinafter referred to as GRANTOR, and AMANARH KISSEIH and HENRIETTA AKUYE KISSEIH, appearing as Trustee(s) of the Amanarh Kisseih and Henrietta Kisseih Living Trust, hereinafter referred to as GRANTEE.

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby remise, convey and quitclaim unto the said Grantee forever all the right, title, interest, claim and demand which the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in DeKalb County, Georgia, to-wit: IN WITNESS WHEREOF, Grantor has hereunto set a hand and seal the day and year first written above.

All that tract or parcel of land lying and being in Land Lot 125 of the 18th District, DeKalb County, Georgia, being more particularly described according to a plat of survey entitled "Boundary Survey for Amanrh Kisseih", dated March 28, 2005, by East Metro Land Development Consultants, Inc., certified by E. G. Davis, Georgia Registered Land Sureyor No. 2363, recorded in Plat Book 152, page 54, DeKalb County Records, which plat and the record thereof are incorporated herein and made a part hereof by reference.

This property is known as 1249 Richardson Road according to the present system of numbering properties in DeKalb County, Georgia.

This conveyance is made subject to the 20-foot access easement in favor of American Telephone and Telegraph Company granted ni that certain Communications System Easement recorded at Deed Book 6179, Page 285, DeKalb County, Georgia records.

LESS AND EXCEPT:

All that tract of land lying and being in Land Lot 125, 18th District, DeKalb County, Georgia, being designated as "Cell Tower Lease Area" as shown on that plat of survey

prepared for Amanarh Kisseih by East Metro Land Development Consultants, Inc., and certified to by E.G. Davis, Ga. R.L.S. No. 2363, dated March 28 2005, and recorded in Plat Book 152, page 54, DeKalb. This parcel is subject to that Cell Tower Lease entered into with AT&T Wireless PCS, LLC.

Provided, further, in the een Grantor herein, her heirs, successors and/or assigns, cease to lease the property set out hereinabove as the "less and excepted area" to AT&T Wireless PCS, LLC or its successors and/or assigns, the property set out as the "less and except area" shall be immediately trasferred and conveyed to Grantees herein for consideration of \$1.00.

Tax Parcel No: 18 125 01 007

IN WITNESS WHEREOF, Grantors have hereunto set their signatures, this 15th day of December 2017.

A. Kisseih
AMANARH KISSEIH
Henrietta
HENRIETTA AKUYE KISSEIH

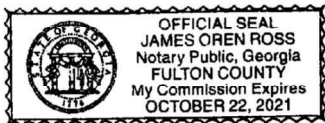
Signed, sealed, and delivered in our presence:

Sidney Long
WITNESS

STATE OF GEORGIA)
COUNTY OF GWINNETT)ss.

Personally appeared before me, AMANARH KISSEIH and HENRIETTA KISSEIH, as Grantors above, known to be the persons described in and who executed the foregoing instrument, and acknowledged that such person executed the same as such person's free act and deed.

Witness the hand, at the office this 15th day of December 2017.



James Oren Ross
NOTARY PUBLIC, James Oren Ross
My Commission Expires: 10/22/2021

COMMUNICATIONS SYSTEM EASEMENT

FILED & RECORDED
DEKALB CO. GA.

Jul 7 1 05 PM '88

\$400.00

Received of the AMERICAN TELEPHONE AND TELEGRAPH COMPANY, a New York Corp.
FOUR HUNDRED AND 40/100 Dollars,

in consideration of which the undersigned hereby grant and convey unto said company, its associated and allied companies, its and their respective successors, assigns, lessees and agents, an exclusive right-of-way and easement to construct, operate, maintain, inspect, test, replace and remove communications systems as the grantees may from time to time require, consisting of by way of example but not limited to underground lightwave fiber optics systems, cables, and wires, surface testing-terminals, manholes, markers and other appurtenances, upon, over and under a strip of land twenty feet (20') wide across the land which the undersigned own or in which the undersigned have any interest, situated in Dekalb County, Georgia, and more particularly described as follows:

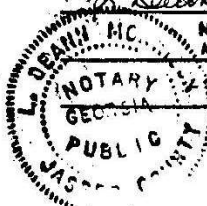
All that tract or parcel of land lying and being in the 18th District, Land Lot 125 and being further described in Deed Book 1607, page 83, Clerk of the Superior Court, Dekalb County records, Dekalb County, Georgia.

together with the following rights; of ingress and egress over and across the lands of the undersigned to and from said strip for the purpose of exercising the rights herein granted; to clear and keep cleared all trees, roots, brush and other obstructions for the surface, subsurface and above said strip. GRANTEE shall have the right to use such lands of the GRANTOR adjacent to either side of the right of way as may reasonably be required in connection with the construction, reconstruction, maintain, replace or removal of the communications systems and other appurtenances, and to install gates in any fences crossing said strip. The west boundary of said strip shall be parallel to and five feet (5') westerly of the first cable laid, which cable shall have its location indicated upon surface markers set at intervals along said strip or in the vicinity thereof. The undersigned for her self her heirs, executors, administrators, successors, and assigns, hereby covenant that no physical structure or obstruction shall be erected or permitted on said strip and that no change will be made by grading or otherwise to the surface or subsurface of the ground immediately adjacent to said strip. The grantees agree to pay for damage to fences and growing crops arising from the construction and maintenance of the aforesaid system.

SIGNED AND SEALED this 5TH day of JULY, 19 88,
at Stone Mountain, Ga.

WITNESS:

Bobby F. Cooper
L. Debra Maurer
Notary Public, Jasper County, Georgia
My Commission Expires Oct. 15, 1990



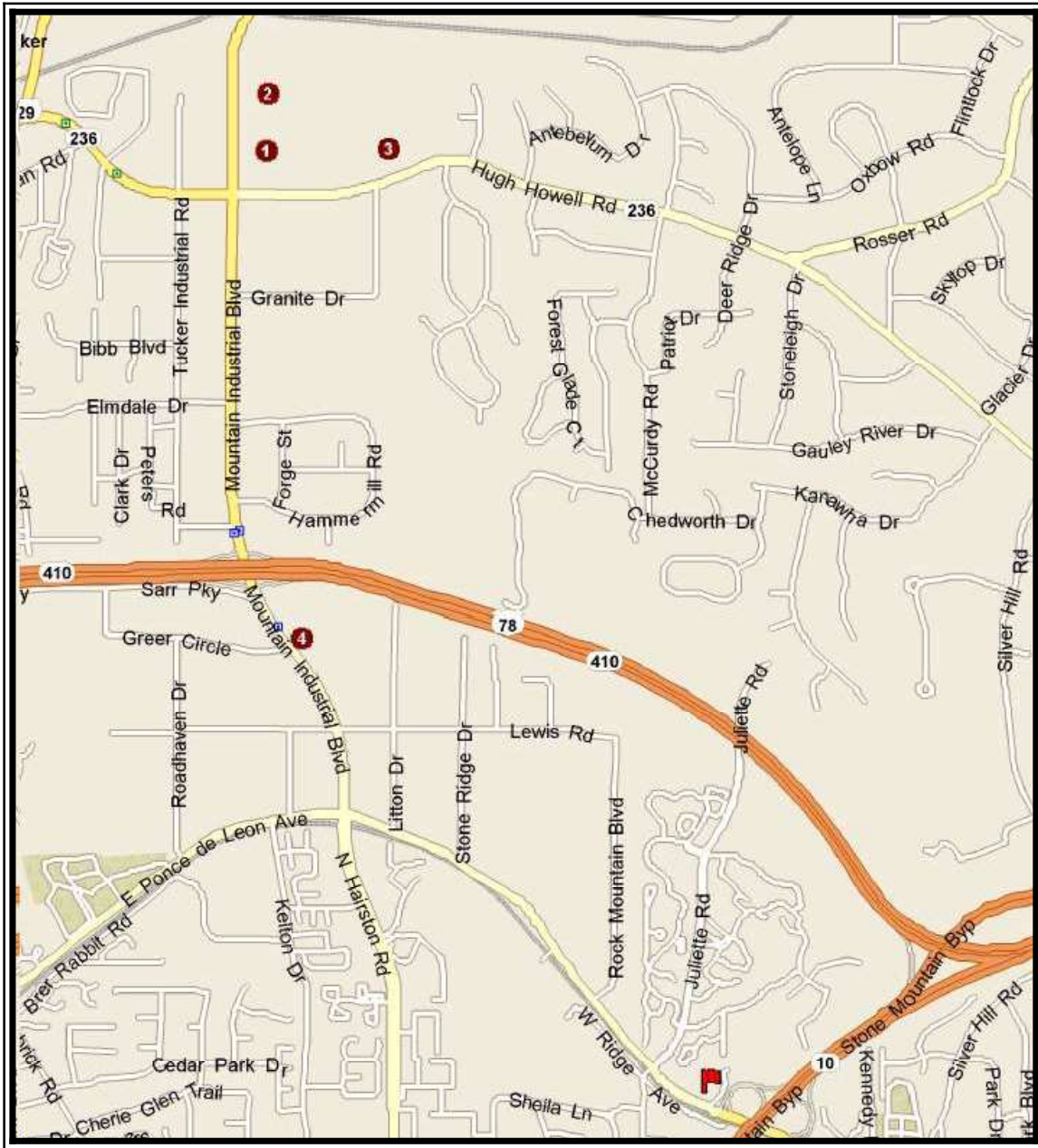
Luella Thompson (SEAL)
Charles Thompson (SEAL)
____ (SEAL)
____ (SEAL)

BOOK 6179 PAGE 285

APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access
Frontage: Frontage along Private Drive
Utilities: All utilities available
Drainage: Adequate
Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

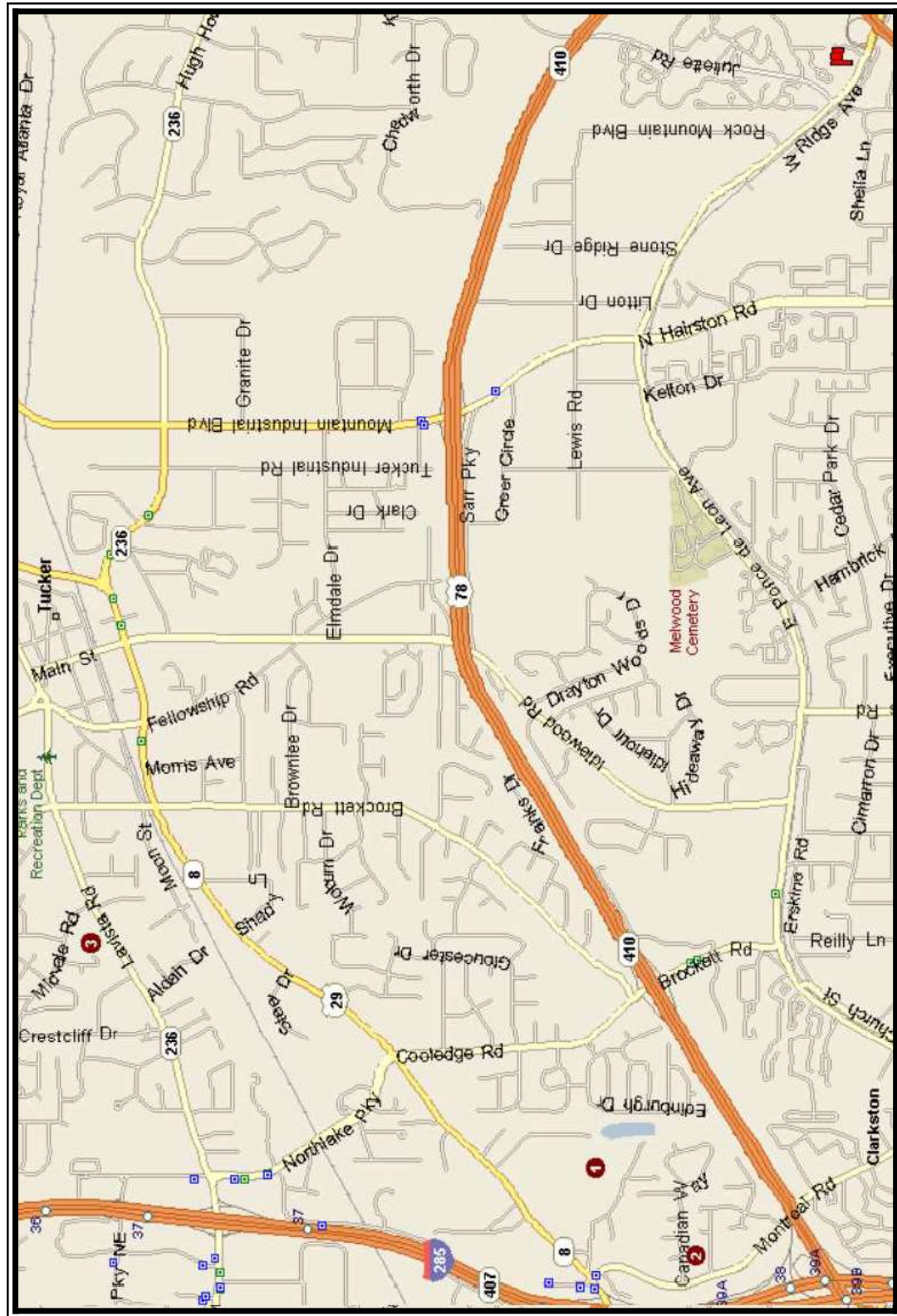
Topography: Level to gently rolling



APPENDIX C: MULTI-FAMILY LAND SALES

Multi-Family Land Sales Map **Multi-Family Land Sales**

COMPARABLE MULTI-FAMILY LAND SALES LOCATION MAP



COMPARABLE NO. 1 MULTI-FAMILY LAND SALE

GRANTOR: Rehoboth Baptist Church, Inc.

GRANTEE: MH Settlement, LLC

RECORDED: **BOOK:** 27558 **PAGE:** 244 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/17/2019

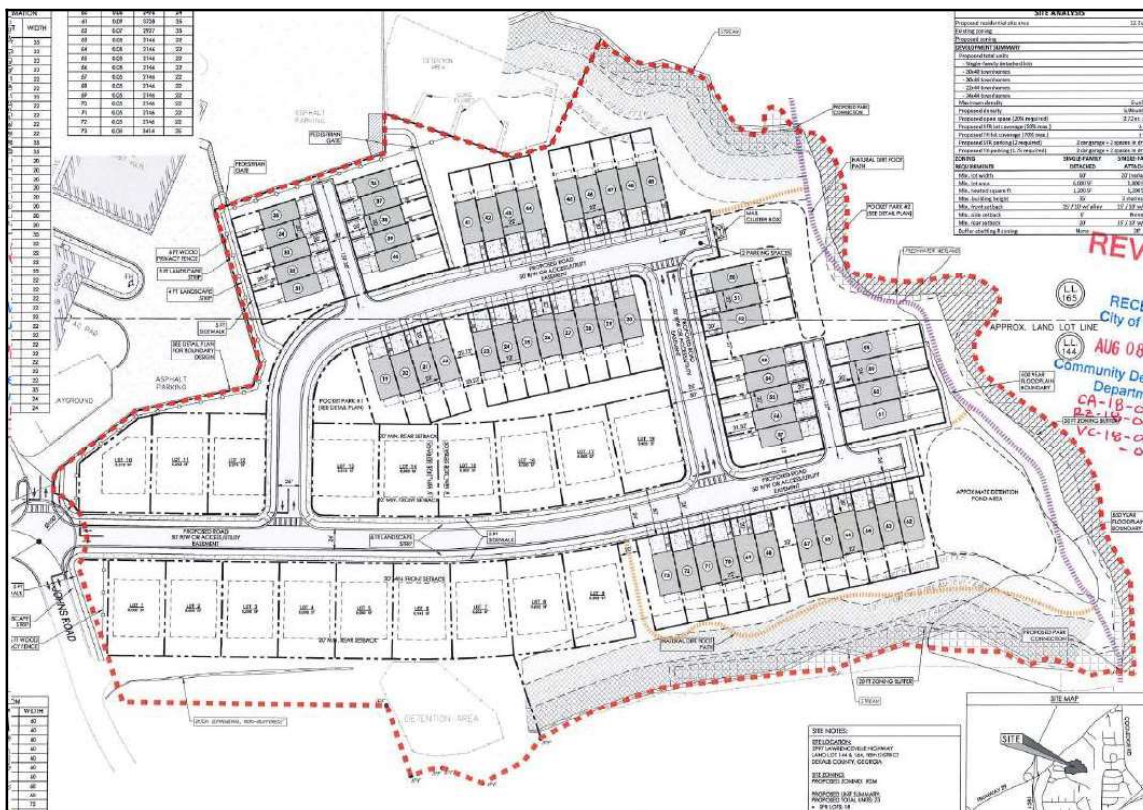
CONSIDERATION: \$2,579,800 **PRICE PER UNIT:** \$34,397

LOCATION: Behind Rehoboth Baptist Church at 2997 Lawrenceville Hwy.

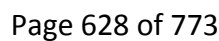
PARCEL ID: 18 144 03 233

ZONING: RSM; Small Lot Residential Mix

TOTAL AREA: 12.187 acres per survey



GRANTOR:	Ashbrooke Towns, LLC
GRANTEE:	Ashbrooke Home Builders, Inc.
RECORDED:	BOOK: 27725 PAGE: 52 COUNTY: Dekalb
DATE OF TRANSACTION:	2/11/2019
CONSIDERATION:	\$2,895,755 PRICE PER UNIT: \$36,168
LOCATION:	1409 Ashbrooke Trace
PARCEL ID:	18 140 01 226
ZONING:	MR-1 Medium Density Residential; This tract was modified for townhome development.
TOTAL AREA:	22.49 acres per survey



**COMPARABLE NO. 3
SINGLE FAMILY LAND SALE**

GRANTOR: Charles A Orth, Trustee, etal.

GRANTEE: JWC Lavista, LLC

RECORDED: **BOOK:** 28788 **PAGE:** 210 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/30/2020

CONSIDERATION: \$4,261,705 **PRICE PER UNIT:** \$67,650

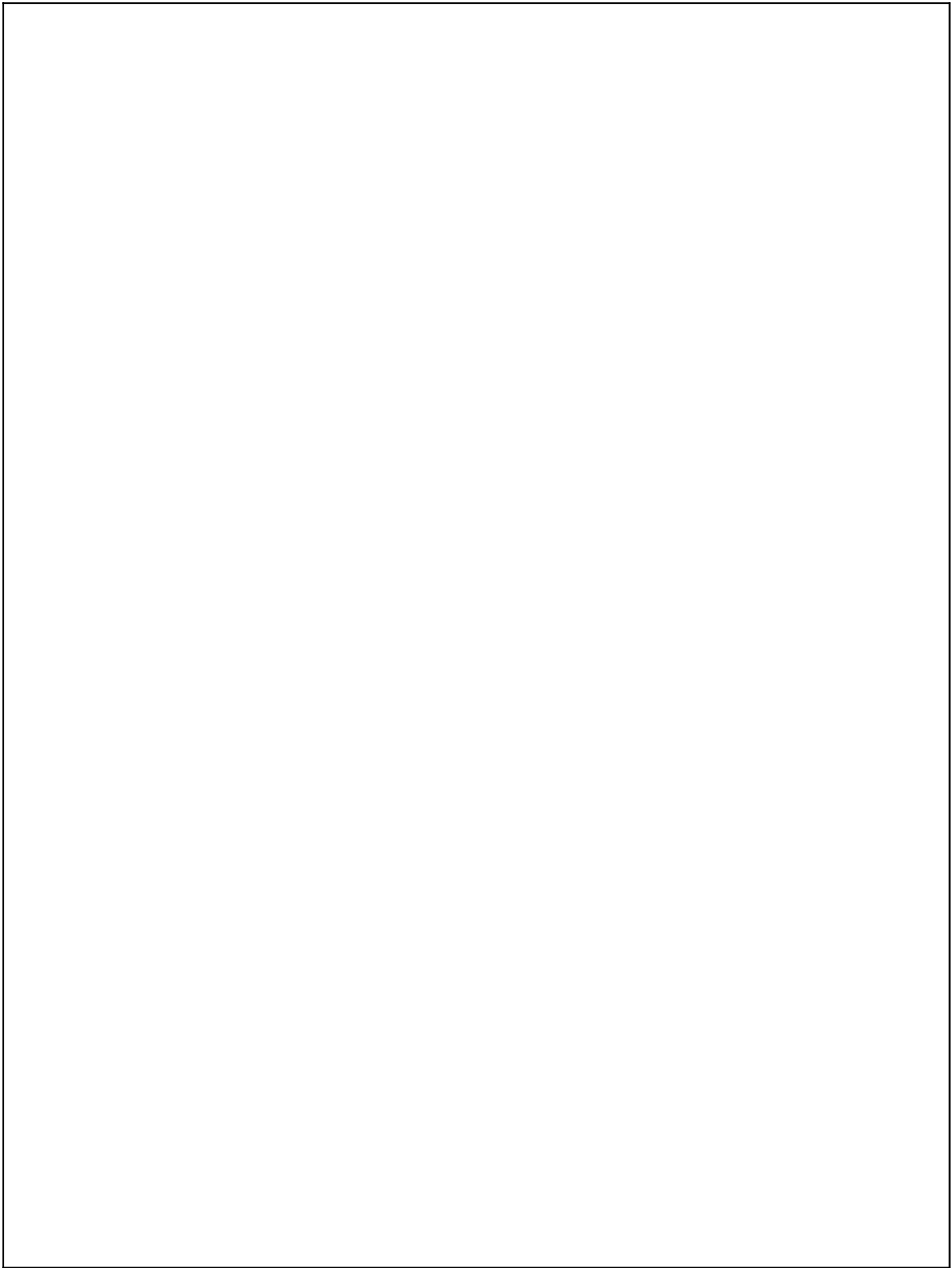
LOCATION: Intersection of Midvale Road at Lavista Road

PARCEL ID: 18 212-01-002, 006, 018, 019, 042

ZONING: MZ Multiple Zoning.

TOTAL AREA: 22.49 acres per survey





APPENDIX D

Certification Assumptions & Limiting Conditions Qualifications of the Appraiser

CERTIFICATE OF APPRAISER

I certify that to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The report analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of this report.
5. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
6. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice, the Georgia Real Estate Appraiser Classification and Regulation Act and the rules and regulations of the Georgia Appraisers Board.
7. I have made a personal inspection of the property that is the subject of this report.
8. I certify that I have not performed any service on the subject property as an appraiser or any other capacity in the past three years.
9. I acknowledge that I serve on the Tucker Downtown Development Authority



Bruce R. Penn

Georgia Certified General Real Property Appraiser #000228

ASSUMPTIONS AND LIMITING CONDITIONS

This report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property and subsoil that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the report.
9. It is assumed that all required licences, consents or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

10. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety. Therefore, the liability of the appraiser shall be expressly limited to the person for whom the report was addressed and any reliance thereon by any third party shall not be justifiable and therefore shall be at the peril of such third party.
11. The appraiser is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless such arrangements have been previously made.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relation, news sales, or other media without the prior written consent and approval of the appraiser.
13. It is a condition of this appraisal that the subject property, including any proposed improvement, meets all governmental regulations and restrictions including but not limited to zoning requirements, building and development codes, drainage requirements and all fire safety laws.
14. It is a condition of this report that the property is subject to typical easements such as right of way for electrical power lines, sewer easements, natural gas lines, as well as telephone lines and water lines.
15. It is a condition of the report that no soil boring test has been made and the stated value would be subject to such a test.
16. It is a condition of this report that any marketing of the subject property would expressly require effective and aggressive sales methods and techniques, reasonable pricing, market exposure and coverage, and unless stated any suggested improvements or repairs must be completed in order to market the property.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

17. The subject is specifically conditioned on present market conditions, any change may affect the market value stated.
18. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, leaking underground storage tanks, contaminated areas, hazardous wastes, dangerous substances, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

QUALIFICATIONS

Bruce R. Penn

SPECIAL QUALIFICATIONS (PRESENT & HISTORICAL)

- State of Georgia, Certified General Real Estate Appraiser No. CG- 000228
- South Carolina, Certified General Real Estate Appraiser No. CG-3575 (retired)
- Senior Member, National Association of Real Estate Appraisers, Designated as Certified Commercial Real Estate Appraiser (#38173) retired
- Appraisal Institute - MAI Candidate (#M86-3542) (retired)
- State of Georgia, Department of Transportation; Approved Appraiser; retired
- Hartsfield Airport Noise Abatement Program Approved Appraiser
- Fulton County, Approved Appraiser
- Dekalb County Approved Appraiser
- Cobb County Department of Transportation, Approved Appraiser
- Cobb County Water Department, Approved Appraiser
- Floyd County Approved Appraiser
- Chatham County Approved Appraiser
- Rockdale County Approved Appraiser
- Cherokee County Approved Appraiser
- City of Atlanta Approved Appraiser
- Jasper County Approved Appraiser

SPECIALIZED REAL ESTATE TRAINING

- Atlanta Institute of Real Estate
 - Principles and Practices of Real Estate; Sales I, Sales II, Sales III
- Appraisal Institute (FKA American Institute of Real Estate Appraisers)
 - Course 1A1, Basic Appraisal Principles, Methods and Techniques
 - Course 1A2, Basic Valuation Procedures
 - Course 023, Standards of Professional Practice
 - Course 1BA, Capitalization Theory and Techniques (Part A)
 - Course 1BB, Capitalization Theory and Techniques (Part B)
 - Business Valuation
 - Valuation in Litigation
- Columbia Institute
 - Condemnation Appraising
- Society of Real Estate Appraisers
 - Course 101, An Introduction to Appraising Real Property
 - Course 102, Applied Residential Property Valuation
- Georgia State University
 - RE 410, Real Estate Valuation
 - RE 310, Real Estate Principles and Practices
 - RE 460, Income Property Valuation

GENERAL EDUCATION

- Georgia State University: Bachelor of Business Administration (1987)
- South Georgia College; Associate of Science in Business Administration (1979)

EXPERIENCE

- 1989- Present Penn, Hastings & Associates, Partner, Commercial/ Condemnation Appraiser.
Responsibilities include project manager for all acquisition projects as well appraisals of condemnation properties and commercial properties in the southern United States.
- 1988-1989 Acquisition Consultants, Chief Appraiser.
Responsibilities include appraising for various condemnation properties and commercial properties in the southern United States.
- 1986-1988 Scott Appraisal Service, Commercial Appraiser.
Responsible for appraising all types of commercial appraisals in the Atlanta area and the southern United States. Also specialized training in appraising of special purpose properties.
- 1984-1986 Certified Commercial Investments, Inc., Research & income property analyst.
Responsibilities included analyzing cash flow from commercial properties in the southeastern United States. Also responsible for researching neighborhoods in the Atlanta area for large scale buy-outs for commercial developments.

REPRESENTATIVE CLIENT LIST: LENDING INSTITUTIONS

- | | |
|-----------------------------------|-----------------------------------|
| - Wachovia Bank | -RBC Centura |
| - Bartow County Bank | -Home Bank |
| - West Georgia National Bank | -Century Bank |
| - United Community Bank; | -Community Bank of Pickens County |
| - First National Bank of Cherokee | |

REPRESENTATIVE CLIENT LIST: LITIGATION ATTORNEYS

- | | |
|--|-----------------------------------|
| - Charles Pursley | - Donald Evans |
| - Richard Hubert | - George Butler |
| - Warren Coppedge | - Walter Hotz |
| - Jenkins & Bowen | - Christian Torggrimson |
| - Jack Wilson, Webb, Tanner & Powell | - Luther Beck, Chandler & Britt |
| - James SS Howell III, | -Weiner, Yancey, Dimpsey & Diggs, |
| - Moore, Ingram Johnson & Steele | - Sams, Larkin & Huff |
| - Flint, Conolly & Walker | - Banks, Stubbs, Neville & Cunat |
| - Paul Kesmodel, Duluth | - James Ledbetter, Calhoun |
| - Michael D. McRae | - Sal Serio |
| - Michael Sumner | - John C. Whiting |
| - Tom Bowman, Maddox Nix Bowman & Zoeckler | |

REPRESENTATIVE GENERAL WORK EXPERIENCE

- | | |
|---|------------------------------------|
| - Vacant Land | - Vacant Land Leases |
| - Remnant Properties | - Residential Properties |
| - Small Income Residential Properties | - Multi-family Properties |
| - Commercial Properties | - Income Producing Properties |
| - Industrial and Build to Suit Properties | - Shopping Centers |
| - Rural Properties | - Residential Subdivision Analysis |
| - Farm Properties | - Business Valuation |
| - Specialty Studies for Evaluation of Economic Obsolescence in Residential Properties | |
| - Specialty Studies for Evaluation of Economic Obsolescence in Commercial Properties | |

REPRESENTATIVE SPECIALIZED PROPERTIES EXPERIENCE

- | | |
|---|---------------------------------------|
| - C&D Landfill | - Billboards |
| - Mixed Use Developments | - Mass Appraisals for Tax Assessments |
| - Regional Hospital | - Mineral Rights |
| - Wetlands Valuation | - Adult Entertainment Establishment |
| - Motel/Hotel | - Historic Properties |
| - Historic Loft Buildings | - Elementary Schools |
| - Commercial Property in a Watershed District | - Conservation Subdivisions |
| - Greenspace Valuations | - Radio Stations |
| - Land Under A Lake | - Golf Course |
| - Log Homes | - Fire Station |
| - Car Dealership | - Manufactured Housing Plant |
| - Contaminated Properties | - Solid Waste Facility |
| - Family Farm Valuation (2032) for IRS | - Steel Plant |
| - Chicken Farms | - Churches |
| - Nudist Colonies | - Regional Malls |
| - DeKalb County Courthouse | - Parking Lots |
| - Library | - Airport |
| - Leasehold Valuations | - Leased Fee Valuations |
| - Geodetic Dome Homes | - Telecom Facility |
| - Air Rights | - Water Rights |
| - Mobile Home Parks | - R/V Park |
| - Equestrian Properties | - Skating Ring |
| - Retirement Facility | - Recording Studio |
| - Railroad Right of Way | - |

REPRESENTATIVE MUNICIPALITY WORK: APPRAISAL

TRANSPORTATION PROJECTS

Georgia Department of Transportation Projects Under Federal Guidelines (Partial Listing)

- Outer Perimeter, Gwinnett County & Forsyth County
- Riverside Parkway, Floyd County
- Georgia Highway 42, Clayton County
- Georgia Highway 314, Fayette County
- Highway 138 Extension, Fulton County
- Georgia Highway 316, Barrow County & Oconee County
- Watkinsville By-Pass (advanced acquisitions)
- Dawsonville Highway, Hall County
- Fairburn Industrial Boulevard, Fulton County
- Thornton Road By-Pass, Douglas County
- Cedartown By-Pass, Polk County
- Macland Road, Cobb County
- Reinhardt College Parkway; Cherokee County
- State Route 124; Scenic Highway, Gwinnett County
- U.S. 80; Talbot-Muscogee Counties
- U.S. 278; DeKalb County
- State Route 20; Rockdale County
- State Route; 29; Rockdale County
- Pumpkinvine Creek Bridge; Bartow County
- State Route 120; Gwinnett County

Virginia Department of Transportation Projects Under Federal Guidelines:

- Virginia Beach Boulevard, Virginia Beach
- Haycock Road, Fairfax County

Airport Projects Per Federal (Funding) Guidelines:

- Aerial Easements of Commercial Property Inside Flight Impacted Areas in the vicinity of Atlanta-Hartsfield Airport
- Residential appraisals for Expansion of DeKalb Peachtree Airport
- Aviation Easements, Hartsfield-Atlanta Airport
- Relocation Appeals Program, Hartsfield-Atlanta Airport

Department of Housing and Urban Development Grant Projects

- Thompson Street, Alpharetta, Fulton County
- Scottdale Mill Road, Dekalb County
- Canton Street, Cherokee County

Local Government Transportation Projects (Partial Listing)

- Presidential Parkway, City of Atlanta
- Roxboro Road, Dekalb County & Fulton County
- Skidaway Road, Savannah, Chatham County
- Jones Shaw Road, Cobb County
- Lawrenceville-Suwannee Road, Phases I & II, Gwinnett County
- Sandy Plains Road, Cobb County
- Johnson Ferry Road Phase I & Phase III, Cobb County
- Holly Springs Road, Cobb County
- Gordon Road, Floyd County
- Blackburn Road Extension, Cobb County
- Chastain Road; Cobb County
- Milford Church Road; Cobb County

NON-TRANSPORTATION PROJECTS

Utility Projects (Client List)

- Oglethorpe Power Corporation
- Georgia Power Company
- Cobb Electrical Municipal Corporation
- Municipal Electric Association of Georgia (MEAG)
- Atlanta Gas Light Company
- Southern Bell

Reservoir Appraisals

- Bear Creek Reservoir, Newton County
- Yellow Creek Reservoir, Cherokee County

Municipal Appraisals

- East Point Development Authority, Fulton County; downtown redevelopment
- State Properties Commission; Improved Property; Georgia Dome Stadium, Atlanta.
- Paulding County Board of Education; Land for new school complex
- Spalding County Board of Education: East Griffin Elementary School
- Spalding County Board of Education: Third Ward Elementary School
- Spalding County Board of Education: Fourth Ward Elementary School
- Solid Waste Management Authority of Crisp County; Solid Waste Processing Facility, Crisp County
- Solid Waste Management Authority of Crisp County; Transfer Station, Coffee County
- Solid Waste Management Authority of Crisp County; Transfer Station, Houston County
- Solid Waste Management Authority of Crisp County; Transfer Station, Sumter County
- Solid Waste Management Authority of Crisp County; Transfer Station, Terrell County
- Waste Management; Landfill, Doraville, Georgia
- Cobb County Water Authority; Land for Expansion; R.L. Sutton Treatment Facility

Water & Sewer Authorities (Client List)

- | | |
|-------------------|-------------------|
| - Gwinnett County | - Rockdale County |
| - Paulding County | - Cobb County |
| - City of Atlanta | - Fulton County |
| - City of Buford | - City of Roswell |

Impact Studies for Court Testimony (Partial Listing)

- Study on the Proximity of Interstate Highways to Residential Property; Georgia Highway 400 extension, Fulton County and City of Atlanta.
- Study on the Impact to Residential Property Values from Increased Road Proximity
- Study on the Impact to Residential Property Values from the Elimination of a Wooded Buffer
- Study on the Impact to Residential Property Values from Increased Slopes
- Study on the Impact to Commercial Property Values from Increased Slopes and Installation of Guardrails.
- Study on the Impact to Residential Property Values from Floodplain
- Study of the Impact to Residential Property Values from Loss of Access
- Study of the Impact to Commercial Property Values from Loss of Access
- Various Parking Studies to Show Loss of Value to Commercial Properties from Loss of Parking
- Study of the Impact to Residential Property Values from Proximity to a Sewage Treatment Plant
- Study of the Impact to Residential Property Values from Particulate Contamination
- Study of the Impact to Residential Property Values from Proximity to Large Manufacturing Facilities
- Study of the Impact to Residential Property Values from Proximity to an Airport

APPRAISAL/TESTIMONY EXPERIENCE/REFERENCES
(Partial Listing)
Bruce R. Penn

Initial Training: James S.S. Howell III (deceased)
Dana Jackel, Cobb County
Fred Bently Sr. & Jr./Cobb County

Regional Court Work Experience (For Municipalities):

Dalton:	Warren Coppedge; private case against developer
Pickens County:	Wills Picket for Pickens County & City of Jasper
Cherokee County:	Jonathan Pope, for Georgia Power Mark Mahler, County Attorney for Cherokee DOT
Bartow County:	Boyd Petit, County Attorney, for Georgia Power Rick Wells, for Georgia Power
Paulding County:	Mason Roundtree (against Paulding County/Reservoir)
Fayette County:	Tom Camp for Georgia Power Jack Parks for Georgia DOT
Clayton County:	Steve Fincher for Clayton Water Authority
Fulton County:	Numerous Attorneys, for Fulton County Land Department Robert Diggs, for Georgia DOT & against Hartsfield Airport Barrell Weiner, for Georgia DOT Anne Sapp, against Georgia DOT
Cobb County:	Linda Brunt (retired); County Attorney/DOT Dana Jackel for Cobb DOT John Moore; against Cobb DOT Kevin Moore; against Cobb DOT Parks Huff; zoning cases and against Cobb DOT Garvis Sams Jr.; zoning cases and against Cobb DOT
Rockdale County:	Tom Bowman, County Attorney for Tax Assessor, State DOT, Rockdale Water Authority
Newton County:	William Thomas Craig for Bear Creek Reservoir Scott Cole for Bear Creek Reservoir

Benchmark Cases: Swanson v. DOT
Ga. Power v. Mosteller Mill
DOT v. Bowles
City of Marietta v. Sumerour
Duron Davis v. Toyo Tire

COMMUNITY DEVELOPMENT EXPERIENCE

- Chairperson of Community Council, District 1, DeKalb County.
Community Council is an approval board with board members appointed by County Commissioner of that District. Board members are representative of the communities of that Commission District and charged with representing the interests of the community and oversight of community goals in the zoning and land use and development process. Community Council is the 1st in the zoning approval process.
- Member, Downtown Development Authority of the City of Tucker
- Member, Transportation Committee; Tucker Northlake Community Improvement District (Tucker Northlake CID)
- Member (former chairperson) of the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association.
- Served as member of the Mainstreet Tucker Alliance in the LCI approval process and ARC grants for redevelopment of downtown Tucker.
- Testified as a value witness in zoning and land use matters in DeKalb County, Cobb County, Cherokee County, Gilmer County and Pickens County.

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

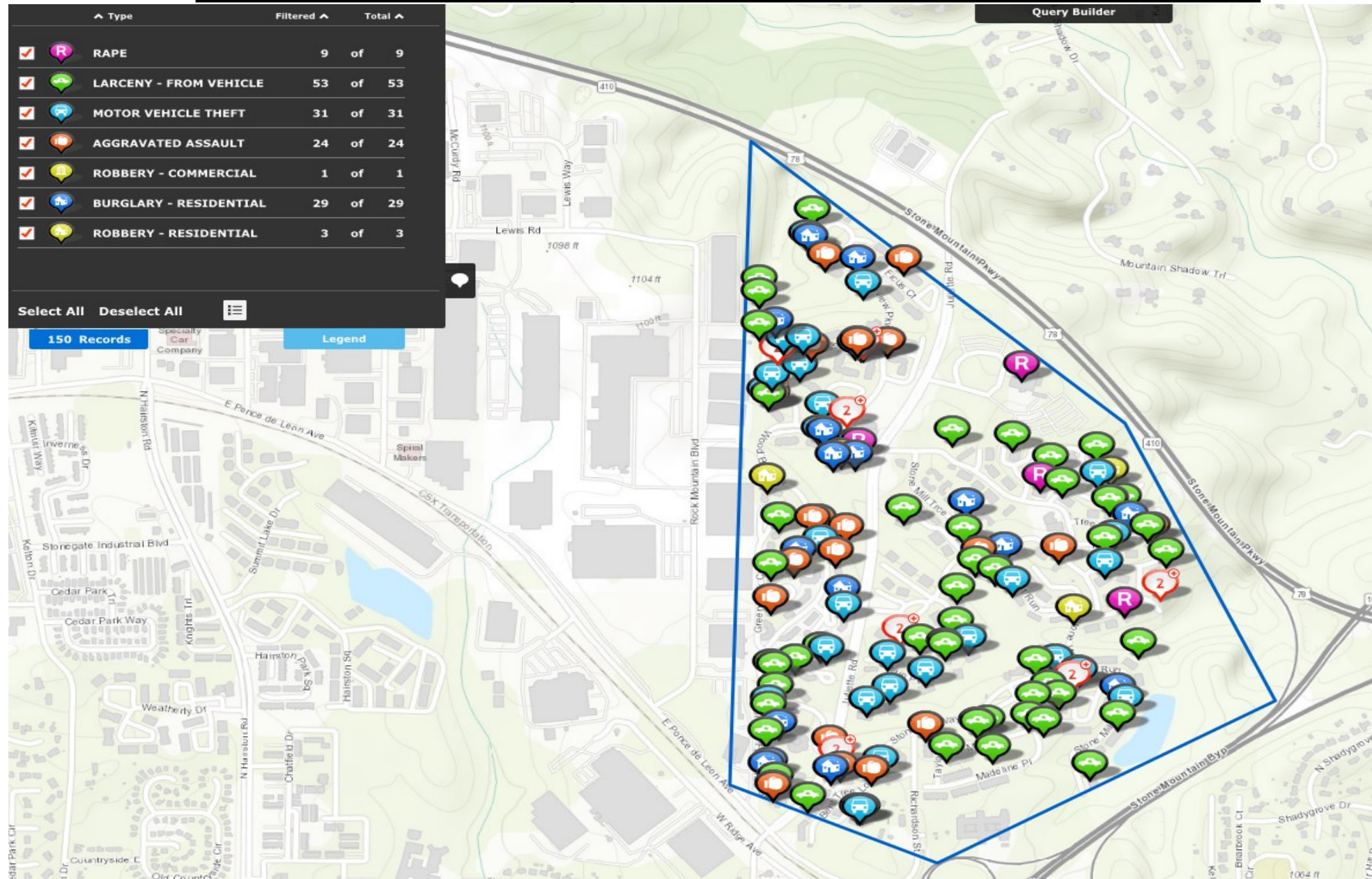
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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150 Records Legend



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:		105%	



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning Director
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning RZ-21-0010 1237 Richardson Street

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

1237 Richardson Street has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The .31-acre parcel is located on the eastern side of Richardson Street, off of East Ponce de Leon Avenue. It is triangular in shape and has a dilapidated building and gravel on the site.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the

neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval of RZ-21-0010.

Planning Commission recommended approval of RZ-21-0010 at their Oct. 21, 2021 meeting.

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



Land Use Petition: RZ-21-0010

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	1237 Richardson Street
APPLICATION NUMBER	RZ-21-0010
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	.31 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	RSM (Small Lot Residential Mix)
EXISTING LAND USE	Undeveloped
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Diana Hernandez and Enzo Gutierrez
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

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1237 Richardson Street has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The .31-acre parcel is located on the eastern side of Richardson Street, off of East Ponce de Leon Avenue. It is triangular in shape and has a dilapidated building and gravel on the site.

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The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that the city could study the area and draft the proposed zoning amendments. The moratorium is in effect

until December 14, 2021. A certified letter was sent to the property owner regarding the justification for, and timeline of the rezoning process. City staff has met with Diana Hernandez to discuss the rezoning process and options for the property. Staff will continue to communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the 'Preserve and Improve Neighborhoods' goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	M	Undeveloped
Adjacent: East	M	Nursing Home
Adjacent: South	NA	NA
Adjacent: West	M	Undeveloped

Rezoning (RZ-21-0010)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, near parcels zoned MR-1 (Medium Density Residential – 1) that are developed as multifamily and single-family attached residential uses. If 1237 Richardson Street is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible development to that which is existing nearby. The property abuts M (light industrial) zoned properties to the north and west, however those parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

If the property was developed under RSM (Small Lot Residential Mix), it would align with the nearby and adjacent zonings. Rezoning this parcel from M (light industrial) to RSM (Small Lot Residential Mix) would allow for the possibility of future medium-density growth, compatible with existing nearby developments.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole. Rezoning from M (light industrial) to RSM (Small Lot Residential Mix) also provides each landowner with more developable area, as transitional buffers would no longer be required.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of industrially zoned properties.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. However, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

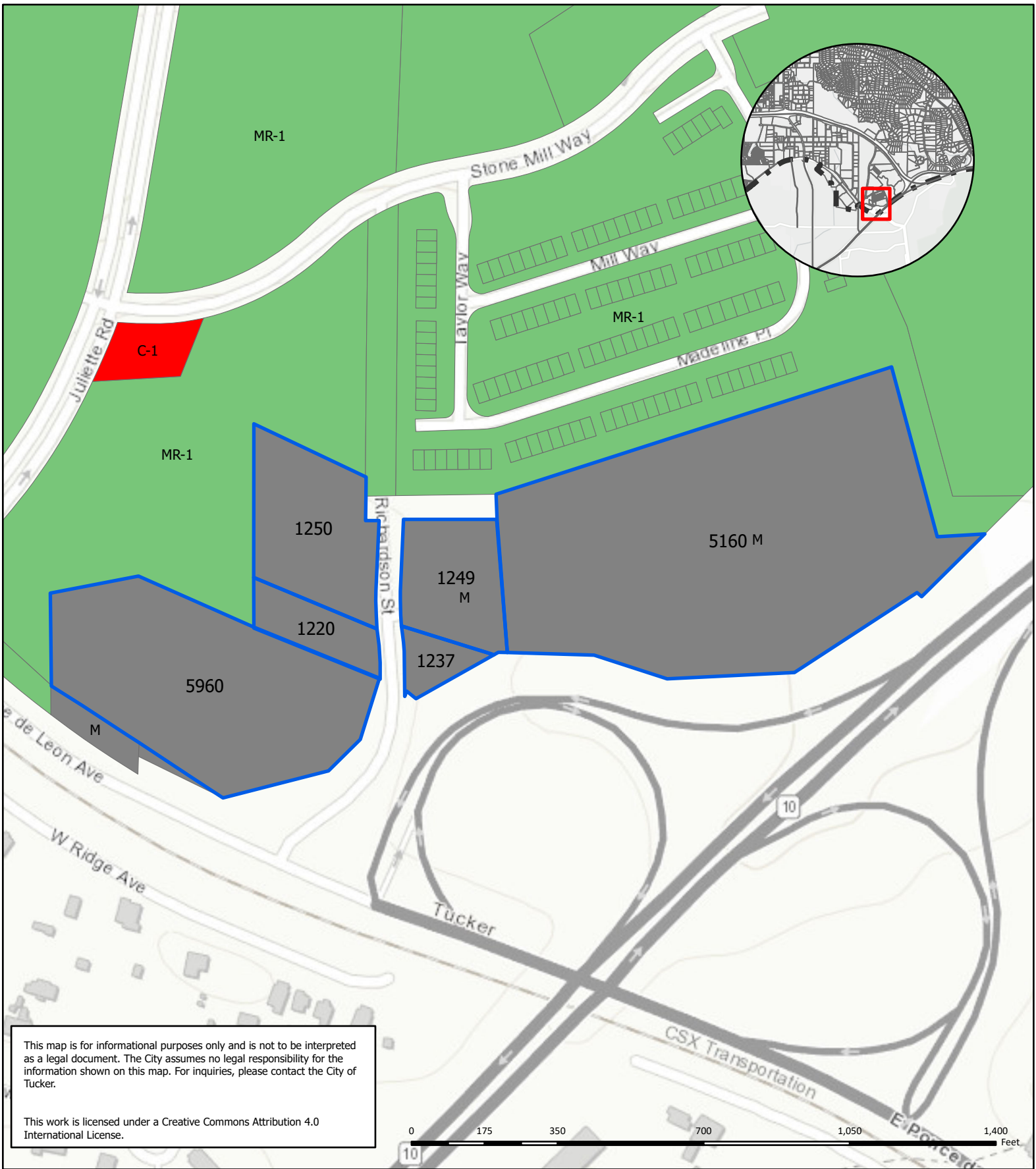
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0010**.

Planning Commission Recommendation

Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0010**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)



Apr 30, 2021 at 10:15:03 AM
1220 Richardson St
Stone Mountain GA 30083
United States



Aug 20, 2021 at 9:24:42 AM
1220 Richardson St
Stone Mountain GA 30083
United States



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/15/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0010
1237 Richardson Street, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-008
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 0.31 acre tract of land (per tax records) located on the east side of Richardson Street at its intersection with the north side of East Ponce DeLeon Avenue. Generally speaking, it is located at the intersection of Richardson Street, and East Ponce De Leon Avenue at the circular ramp to access US 78/Stone Mountain Freeway (aka Stone Mountain By Pass).

The subject is triangular in shape and has 140.59 feet of frontage along Richardson Street and 215 feet of road frontage along the Stone Mountain By Pass. The property slopes downward from road grades to become gently rolling. The property is improved with a small, legally non-conforming structure which contributes no value to the subject.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The minimum lot size for properties in the Light Industrial category is 30,000 square feet or 0.6887 acre. The subject is considered a legal non-conforming lot of record.

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to RSM; Small Lot Residential Mix. This zoning category allows for development of up to 6 single family units per acre. The minimum lot size in the RSM district is 1,000 square feet for an attached townhome and 6,000 square feet for a detached residential home. The subject property would no longer be a legally non-conforming lot in the RSM zoning category. However, due to the subject's small size, only two homes would be allowed on the property.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 0.315 acres of \$26,350 to \$32,860.

However, these sales are legally conforming. For these reasons, it is reasonable to assume that the subject would have a value lower than the range of values provided by these sales.

Value of Low Density Multi-family or Single Family Residential Land The following chart demonstrates the relative values of multi-family or higher density single family detached residential sales in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Unit</i>
1. Behind Rehoboth Baptist Church	5/2019	12.187ac	\$2,579,800	\$34,397
2. 1409 Ashbrooke Trace	2/2019	22.49 acres	\$2,895,755	\$36,168*
3 Midvale @ LaVista Roads	10/2020	22.49 acres	\$4,261,705	\$67,650

* represents unit value of the attached residential portion

These sales demonstrate a relative value of around \$35,000 to \$60,000 per unit. The subject could accommodate two residential structures, resulting in a likely land value of \$70,000 to \$120,000.

Conclusions Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce R. Penn", with a long, sweeping horizontal line extending to the right.

Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

APPENDIX A: SUBJECT PROPERTY

Subject Photographs

Subject Location Map

Subject Tax Plat Map

Flood Plain Map

Zoning Map

Zoning Excerpts from City of Tucker

Most Recent Transfer Documents

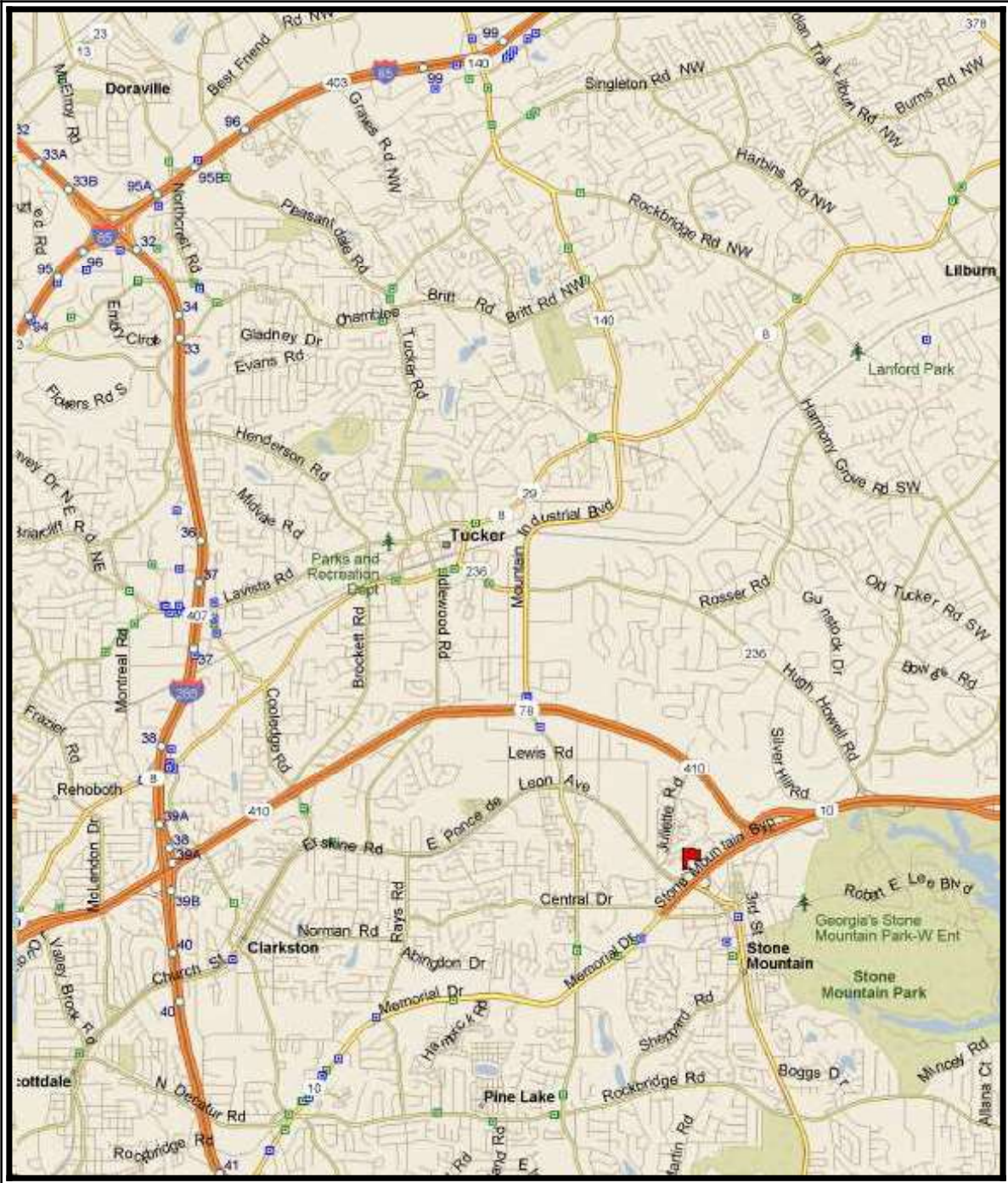
SUBJECT PHOTOGRAPHS



SUBJECT PHOTOGRAPHS



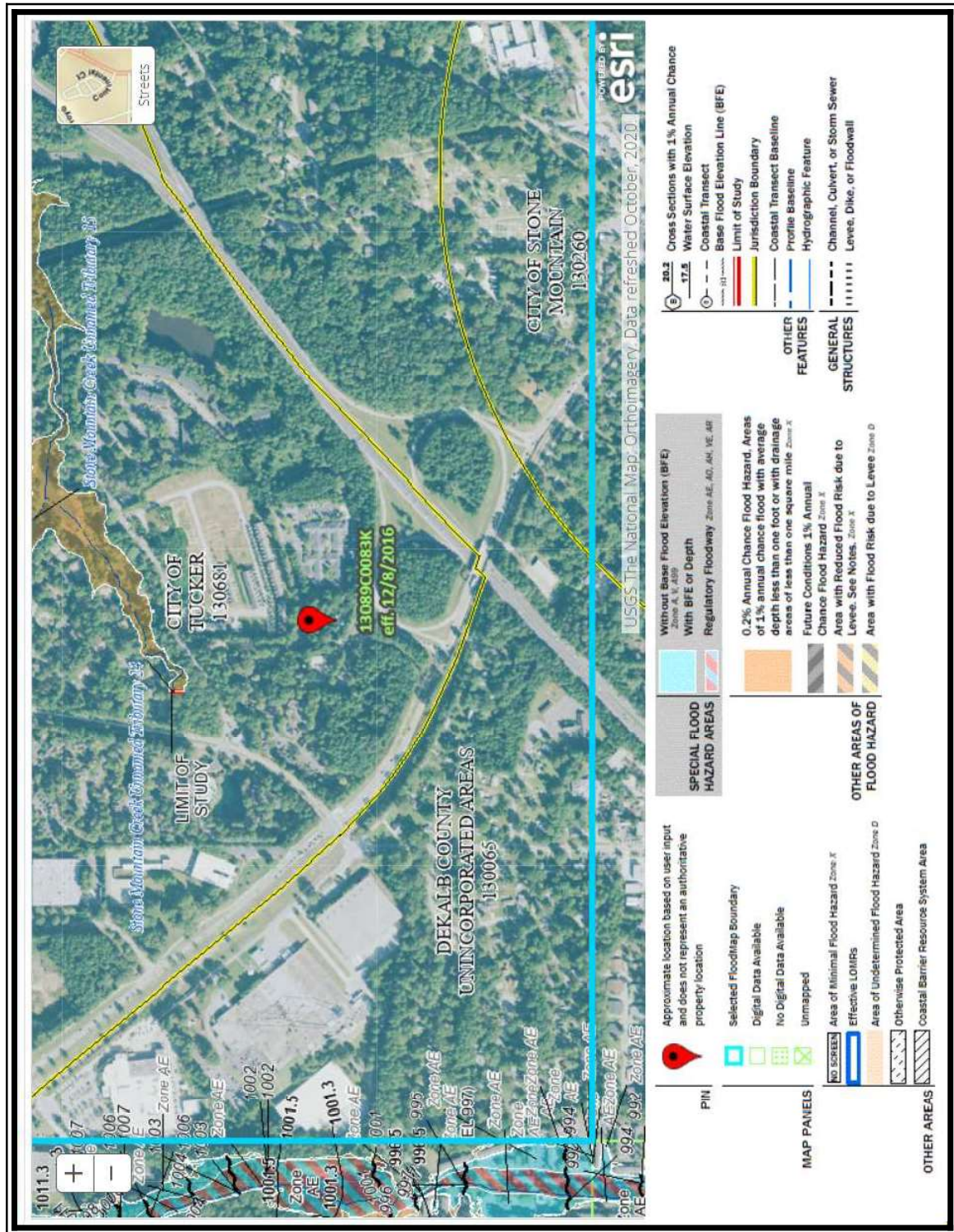
SUBJECT LOCATION MAP



AERIAL TAX PLAT MAP



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front— Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only— min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non- res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

****Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.**

*****Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.**

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

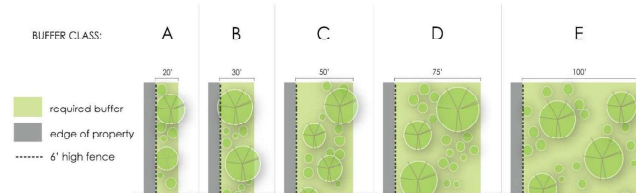
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

After Recording please return to:
Payne Firm LLC
1325 Satellite Boulevard, N.W.
Suite 1003, Building 1000
Suwanee, GA 30024
RE: 1906-0003; Hernandez
1237 Richardson Street

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF GWINNETT

THIS INDENTURE is made this 12th day of June, 2019 between

Irvine D. Weekes

Party(ies) of the First Part (Grantor),
and

Diana Araceli Gutierrez Hernandez

Party(ies) of the Second Part (Grantee),

(the words "Grantor" and "Grantee" to include the masculine and feminine gender, the singular and the plural, and the respective heirs, legal representatives, successors and assigns of the parties where the context requires or permits);

WITNESSETH

FOR AND IN CONSIDERATION of the sum of Ten Dollars and other good and valuable consideration in hand paid to Grantor by Grantee at and before the execution, sealing and delivery hereof, the receipt whereof is hereby acknowledged, Grantor has and hereby does grant, bargain, sell, alien, convey and confirm unto Grantee:

All that lot or parcel of land lying and being in Land Lot 125 of the 18th District of Dekalb County, Georgia, and being more particularly described as follows:
BEGINNING at an iron pin at the intersection formed by the Easterly side of Richardson Street and the Northwestern side of Stone Mountain By-pass; thence Northerly along the Easterly side of Richardson Street a distance of 140.59 feet to an iron pin; thence Southeasterly a distance of 194.25 feet to an iron pin on the Northwestern side of Stone Mountain By-pass; thence Southwesterly along the Northwestern side of Stone Mountain By-pass a distance of 178.80 feet to a point; thence Northwesterly along the Northeasterly side of Stone Mountain By-pass a distance of 24.89 feet to a point on the Northwestern side of said By-pass; thence Southwesterly along the Northwestern side of said By-Pass a distance of 11.30 feet to an iron pin and the POINT OF BEGINNING. Being described in accordance with plat of survey made by Milton Robert Lemon, Registered Land Surveyor, dated April 11, 1972.
Said property being commonly known as 1237 Richardson Street, Stone Mountain, GA 30088 according to the present system of numbering in Dekalb County, Georgia. Parcel ID: 18 125 01 008

RE: 1906-0003;Hernandez
1237 Richardson Street

SUBJECT TO ALL covenants, restrictions, reservations, easements, conditions and rights of appearing of record; and SUBJECT to any state of facts an accurate survey would show.

TO HAVE AND TO HOLD said tract or parcel of land, together with any and all of the rights, members and appurtenances thereof to the same being, belonging or in anywise appertaining to the only proper use, benefit and behoove of the Grantee forever, in fee simple; and

GRANTOR SHALL WARRANT and forever defend the right and title to the above described property unto the Grantee against the lawful claims of all persons owning, holding or claiming by, through or under Grantor, but not otherwise; except for claims arising under or by virtue of any permitted exceptions.


IN WITNESS WHEREOF, the Grantor has signed and sealed this deed.

Sworn to and subscribed before me
the 12th day of June, 2019

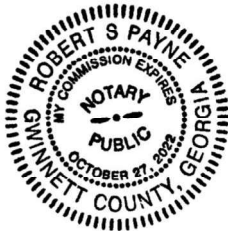
GRANTOR(S):


Witness


Irvine D. Weekes


Notary Public
Commission Expires: 10-27-2022

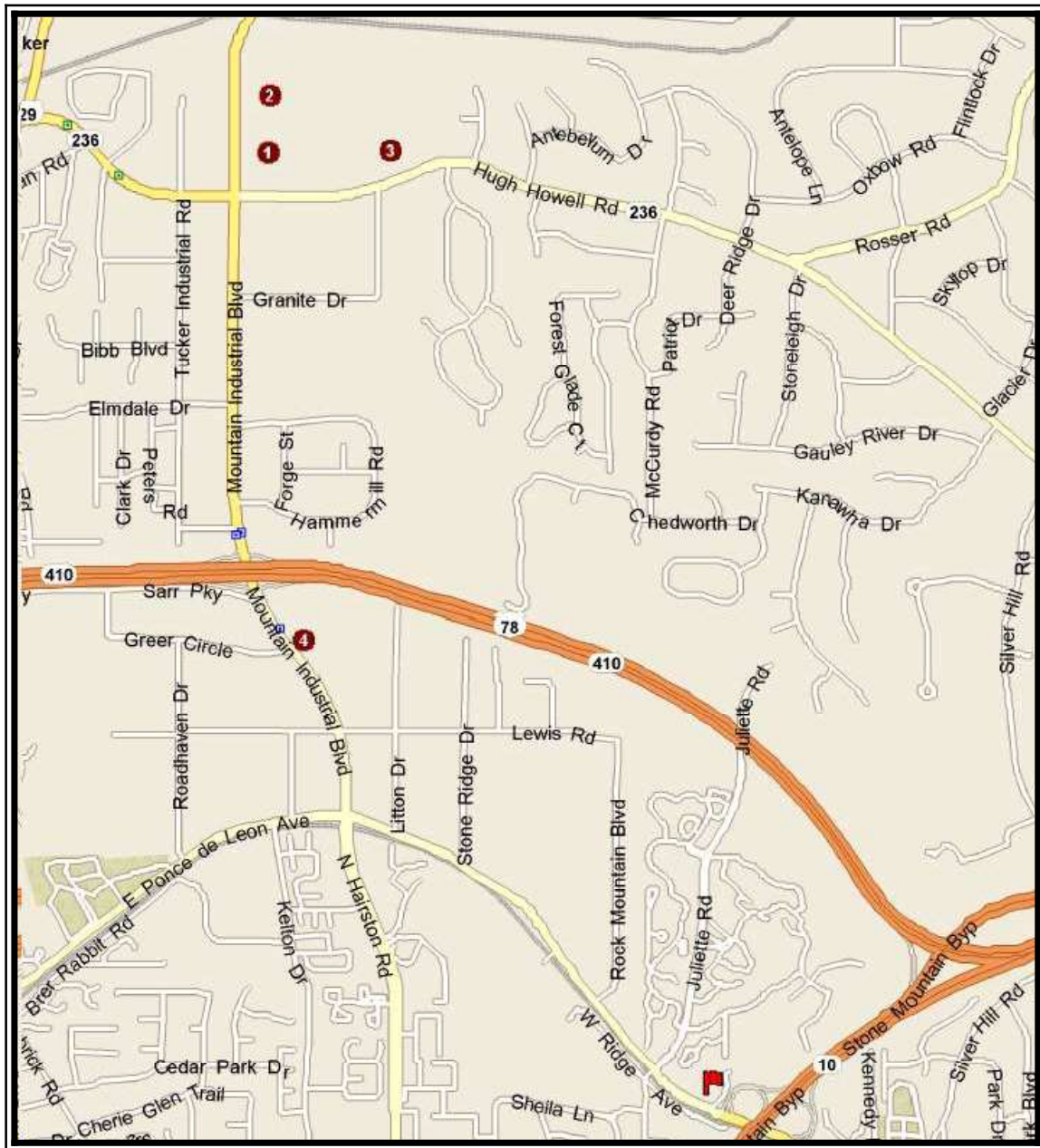
NOTARY SEAL:



APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: Frontage along Private Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

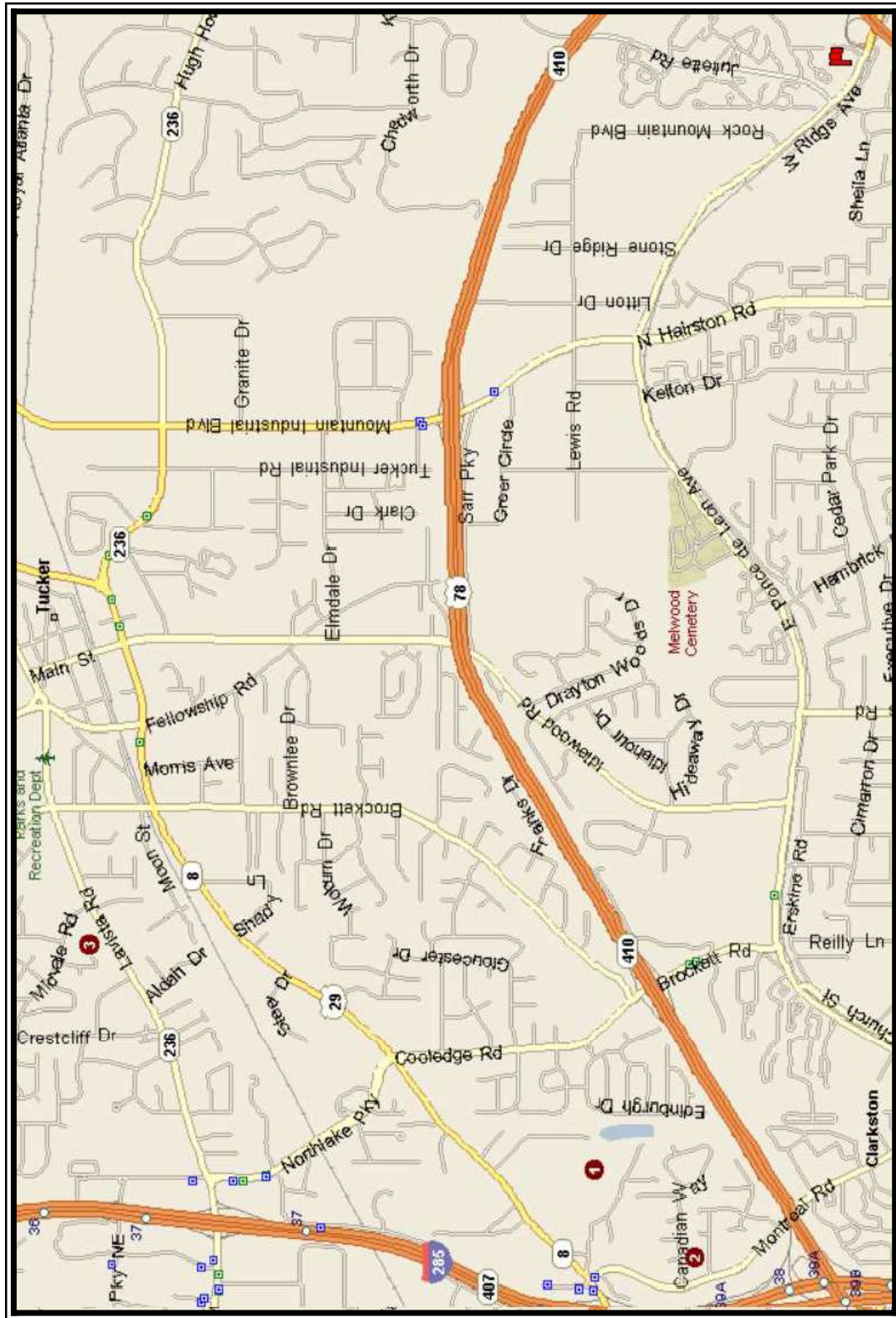
Topography: Level to gently rolling



APPENDIX C: MULTI-FAMILY LAND SALES

Multi-Family Land Sales Map **Multi-Family Land Sales**

COMPARABLE MULTI-FAMILY LAND SALES LOCATION MAP



COMPARABLE NO. 1 MULTI-FAMILY LAND SALE

GRANTOR: Rehoboth Baptist Church, Inc.

GRANTEE: MH Settlement, LLC

RECORDED: **BOOK:** 27558 **PAGE:** 244 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/17/2019

CONSIDERATION: \$2,579,800 **PRICE PER UNIT:** \$34,397

LOCATION: Behind Rehoboth Baptist Church at 2997 Lawrenceville Hwy.

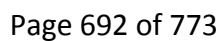
PARCEL ID: 18 144 03 233

ZONING: RSM; Small Lot Residential Mix

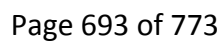
TOTAL AREA: 12.187 acres per survey

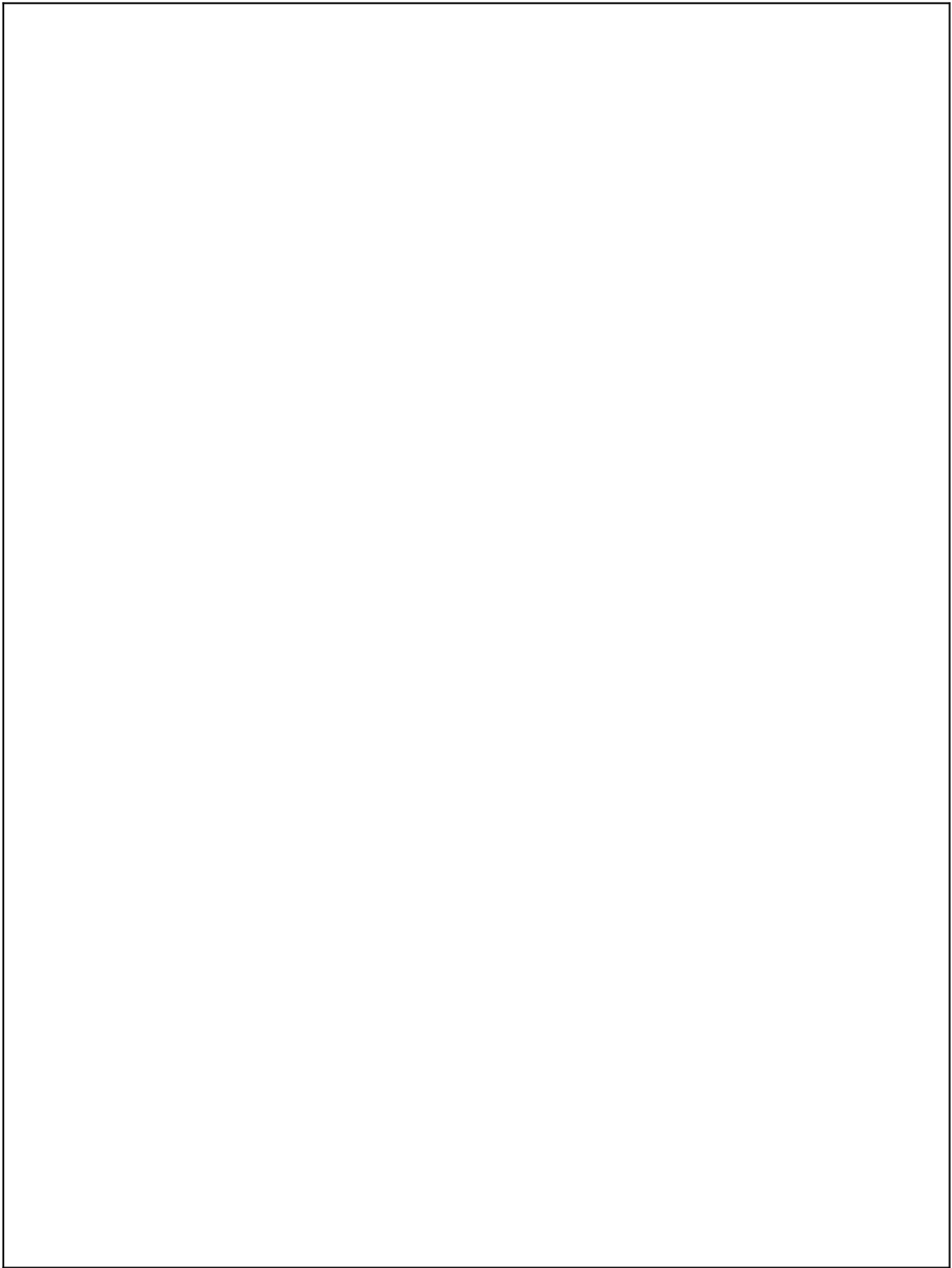


GRANTOR:	Ashbrooke Towns, LLC
GRANTEE:	Ashbrooke Home Builders, Inc.
RECORDED:	BOOK: 27725 PAGE: 52 COUNTY: Dekalb
DATE OF TRANSACTION:	2/11/2019
CONSIDERATION:	\$2,895,755 PRICE PER UNIT: \$36,168
LOCATION:	1409 Ashbrooke Trace
PARCEL ID:	18 140 01 226
ZONING:	MR-1 Medium Density Residential; This tract was modified for townhome development.
TOTAL AREA:	22.49 acres per survey



GRANTOR:	Charles A Orth, Trustee, etal.
GRANTEE:	JWC Lavista, LLC
RECORDED:	BOOK: 28788 PAGE: 210 COUNTY: Dekalb
DATE OF TRANSACTION:	10/30/2020
CONSIDERATION:	\$4,261,705 PRICE PER UNIT: \$67,650
LOCATION:	Intersection of Midvale Road at Lavista Road
PARCEL ID:	18 212-01-002, 006, 018, 019, 042
ZONING:	MZ Multiple Zoning.
TOTAL AREA:	22.49 acres per survey





APPENDIX D

Certification Assumptions & Limiting Conditions Qualifications of the Appraiser

CERTIFICATE OF APPRAISER

I certify that to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The report analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of this report.
5. My analyses, opinions and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
6. The reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice, the Georgia Real Estate Appraiser Classification and Regulation Act and the rules and regulations of the Georgia Appraisers Board.
7. I have made a personal inspection of the property that is the subject of this report.
8. I certify that I have not performed any service on the subject property as an appraiser or any other capacity in the past three years.
9. I acknowledge that I serve on the Tucker Downtown Development Authority



Bruce R. Penn

Georgia Certified General Real Property Appraiser #000228

ASSUMPTIONS AND LIMITING CONDITIONS

This report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property and subsoil that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the report.
9. It is assumed that all required licences, consents or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

10. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety. Therefore, the liability of the appraiser shall be expressly limited to the person for whom the report was addressed and any reliance thereon by any third party shall not be justifiable and therefore shall be at the peril of such third party.
11. The appraiser is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless such arrangements have been previously made.
12. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relation, news sales, or other media without the prior written consent and approval of the appraiser.
13. It is a condition of this appraisal that the subject property, including any proposed improvement, meets all governmental regulations and restrictions including but not limited to zoning requirements, building and development codes, drainage requirements and all fire safety laws.
14. It is a condition of this report that the property is subject to typical easements such as right of way for electrical power lines, sewer easements, natural gas lines, as well as telephone lines and water lines.
15. It is a condition of the report that no soil boring test has been made and the stated value would be subject to such a test.
16. It is a condition of this report that any marketing of the subject property would expressly require effective and aggressive sales methods and techniques, reasonable pricing, market exposure and coverage, and unless stated any suggested improvements or repairs must be completed in order to market the property.

ASSUMPTIONS AND LIMITING CONDITIONS

Continued

17. The subject is specifically conditioned on present market conditions, any change may affect the market value stated.
18. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, leaking underground storage tanks, contaminated areas, hazardous wastes, dangerous substances, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

QUALIFICATIONS

Bruce R. Penn

SPECIAL QUALIFICATIONS (PRESENT & HISTORICAL)

- State of Georgia, Certified General Real Estate Appraiser No. CG- 000228
- South Carolina, Certified General Real Estate Appraiser No. CG-3575 (retired)
- Senior Member, National Association of Real Estate Appraisers, Designated as Certified Commercial Real Estate Appraiser (#38173) retired
- Appraisal Institute - MAI Candidate (#M86-3542) (retired)
- State of Georgia, Department of Transportation; Approved Appraiser; retired
- Hartsfield Airport Noise Abatement Program Approved Appraiser
- Fulton County, Approved Appraiser
- Dekalb County Approved Appraiser
- Cobb County Department of Transportation, Approved Appraiser
- Cobb County Water Department, Approved Appraiser
- Floyd County Approved Appraiser
- Chatham County Approved Appraiser
- Rockdale County Approved Appraiser
- Cherokee County Approved Appraiser
- City of Atlanta Approved Appraiser
- Jasper County Approved Appraiser

SPECIALIZED REAL ESTATE TRAINING

- Atlanta Institute of Real Estate
 - Principles and Practices of Real Estate; Sales I, Sales II, Sales III
- Appraisal Institute (FKA American Institute of Real Estate Appraisers)
 - Course 1A1, Basic Appraisal Principles, Methods and Techniques
 - Course 1A2, Basic Valuation Procedures
 - Course 023, Standards of Professional Practice
 - Course 1BA, Capitalization Theory and Techniques (Part A)
 - Course 1BB, Capitalization Theory and Techniques (Part B)
 - Business Valuation
 - Valuation in Litigation
- Columbia Institute
 - Condemnation Appraising
- Society of Real Estate Appraisers
 - Course 101, An Introduction to Appraising Real Property
 - Course 102, Applied Residential Property Valuation
- Georgia State University
 - RE 410, Real Estate Valuation
 - RE 310, Real Estate Principles and Practices
 - RE 460, Income Property Valuation

GENERAL EDUCATION

- Georgia State University: Bachelor of Business Administration (1987)
- South Georgia College; Associate of Science in Business Administration (1979)

EXPERIENCE

- 1989- Present Penn, Hastings & Associates, Partner, Commercial/ Condemnation Appraiser.
Responsibilities include project manager for all acquisition projects as well appraisals of condemnation properties and commercial properties in the southern United States.
- 1988-1989 Acquisition Consultants, Chief Appraiser.
Responsibilities include appraising for various condemnation properties and commercial properties in the southern United States.
- 1986-1988 Scott Appraisal Service, Commercial Appraiser.
Responsible for appraising all types of commercial appraisals in the Atlanta area and the southern United States. Also specialized training in appraising of special purpose properties.
- 1984-1986 Certified Commercial Investments, Inc., Research & income property analyst.
Responsibilities included analyzing cash flow from commercial properties in the southeastern United States. Also responsible for researching neighborhoods in the Atlanta area for large scale buy-outs for commercial developments.

REPRESENTATIVE CLIENT LIST: LENDING INSTITUTIONS

- | | |
|-----------------------------------|-----------------------------------|
| - Wachovia Bank | -RBC Centura |
| - Bartow County Bank | -Home Bank |
| - West Georgia National Bank | -Century Bank |
| - United Community Bank; | -Community Bank of Pickens County |
| - First National Bank of Cherokee | |

REPRESENTATIVE CLIENT LIST: LITIGATION ATTORNEYS

- | | |
|--|-----------------------------------|
| - Charles Pursley | - Donald Evans |
| - Richard Hubert | - George Butler |
| - Warren Coppedge | - Walter Hotz |
| - Jenkins & Bowen | - Christian Torggrimson |
| - Jack Wilson, Webb, Tanner & Powell | - Luther Beck, Chandler & Britt |
| - James SS Howell III, | -Weiner, Yancey, Dimpsey & Diggs, |
| - Moore, Ingram Johnson & Steele | - Sams, Larkin & Huff |
| - Flint, Conolly & Walker | - Banks, Stubbs, Neville & Cunat |
| - Paul Kesmodel, Duluth | - James Ledbetter, Calhoun |
| - Michael D. McRae | - Sal Serio |
| - Michael Sumner | - John C. Whiting |
| - Tom Bowman, Maddox Nix Bowman & Zoeckler | |

REPRESENTATIVE GENERAL WORK EXPERIENCE

- | | |
|---|------------------------------------|
| - Vacant Land | - Vacant Land Leases |
| - Remnant Properties | - Residential Properties |
| - Small Income Residential Properties | - Multi-family Properties |
| - Commercial Properties | - Income Producing Properties |
| - Industrial and Build to Suit Properties | - Shopping Centers |
| - Rural Properties | - Residential Subdivision Analysis |
| - Farm Properties | - Business Valuation |
| - Specialty Studies for Evaluation of Economic Obsolescence in Residential Properties | |
| - Specialty Studies for Evaluation of Economic Obsolescence in Commercial Properties | |

REPRESENTATIVE SPECIALIZED PROPERTIES EXPERIENCE

- | | |
|---|---------------------------------------|
| - C&D Landfill | - Billboards |
| - Mixed Use Developments | - Mass Appraisals for Tax Assessments |
| - Regional Hospital | - Mineral Rights |
| - Wetlands Valuation | - Adult Entertainment Establishment |
| - Motel/Hotel | - Historic Properties |
| - Historic Loft Buildings | - Elementary Schools |
| - Commercial Property in a Watershed District | - Conservation Subdivisions |
| - Greenspace Valuations | - Radio Stations |
| - Land Under A Lake | - Golf Course |
| - Log Homes | - Fire Station |
| - Car Dealership | - Manufactured Housing Plant |
| - Contaminated Properties | - Solid Waste Facility |
| - Family Farm Valuation (2032) for IRS | - Steel Plant |
| - Chicken Farms | - Churches |
| - Nudist Colonies | - Regional Malls |
| - DeKalb County Courthouse | - Parking Lots |
| - Library | - Airport |
| - Leasehold Valuations | - Leased Fee Valuations |
| - Geodetic Dome Homes | - Telecom Facility |
| - Air Rights | - Water Rights |
| - Mobile Home Parks | - R/V Park |
| - Equestrian Properties | - Skating Ring |
| - Retirement Facility | - Recording Studio |
| - Railroad Right of Way | - |

REPRESENTATIVE MUNICIPALITY WORK: APPRAISAL

TRANSPORTATION PROJECTS

Georgia Department of Transportation Projects Under Federal Guidelines (Partial Listing)

- Outer Perimeter, Gwinnett County & Forsyth County
- Riverside Parkway, Floyd County
- Georgia Highway 42, Clayton County
- Georgia Highway 314, Fayette County
- Highway 138 Extension, Fulton County
- Georgia Highway 316, Barrow County & Oconee County
- Watkinsville By-Pass (advanced acquisitions)
- Dawsonville Highway, Hall County
- Fairburn Industrial Boulevard, Fulton County
- Thornton Road By-Pass, Douglas County
- Cedartown By-Pass, Polk County
- Macland Road, Cobb County
- Reinhardt College Parkway; Cherokee County
- State Route 124; Scenic Highway, Gwinnett County
- U.S. 80; Talbot-Muscogee Counties
- U.S. 278; DeKalb County
- State Route 20; Rockdale County
- State Route; 29; Rockdale County
- Pumpkinvine Creek Bridge; Bartow County
- State Route 120; Gwinnett County

Virginia Department of Transportation Projects Under Federal Guidelines:

- Virginia Beach Boulevard, Virginia Beach
- Haycock Road, Fairfax County

Airport Projects Per Federal (Funding) Guidelines:

- Aerial Easements of Commercial Property Inside Flight Impacted Areas in the vicinity of Atlanta-Hartsfield Airport
- Residential appraisals for Expansion of DeKalb Peachtree Airport
- Aviation Easements, Hartsfield-Atlanta Airport
- Relocation Appeals Program, Hartsfield-Atlanta Airport

Department of Housing and Urban Development Grant Projects

- Thompson Street, Alpharetta, Fulton County
- Scottdale Mill Road, Dekalb County
- Canton Street, Cherokee County

Local Government Transportation Projects (Partial Listing)

- Presidential Parkway, City of Atlanta
- Roxboro Road, Dekalb County & Fulton County
- Skidaway Road, Savannah, Chatham County
- Jones Shaw Road, Cobb County
- Lawrenceville-Suwannee Road, Phases I & II, Gwinnett County
- Sandy Plains Road, Cobb County
- Johnson Ferry Road Phase I & Phase III, Cobb County
- Holly Springs Road, Cobb County
- Gordon Road, Floyd County
- Blackburn Road Extension, Cobb County
- Chastain Road; Cobb County
- Milford Church Road; Cobb County

NON-TRANSPORTATION PROJECTS

Utility Projects (Client List)

- Oglethorpe Power Corporation
- Georgia Power Company
- Cobb Electrical Municipal Corporation
- Municipal Electric Association of Georgia (MEAG)
- Atlanta Gas Light Company
- Southern Bell

Reservoir Appraisals

- Bear Creek Reservoir, Newton County
- Yellow Creek Reservoir, Cherokee County

Municipal Appraisals

- East Point Development Authority, Fulton County; downtown redevelopment
- State Properties Commission; Improved Property; Georgia Dome Stadium, Atlanta.
- Paulding County Board of Education; Land for new school complex
- Spalding County Board of Education: East Griffin Elementary School
- Spalding County Board of Education: Third Ward Elementary School
- Spalding County Board of Education: Fourth Ward Elementary School
- Solid Waste Management Authority of Crisp County; Solid Waste Processing Facility, Crisp County
- Solid Waste Management Authority of Crisp County; Transfer Station, Coffee County
- Solid Waste Management Authority of Crisp County; Transfer Station, Houston County
- Solid Waste Management Authority of Crisp County; Transfer Station, Sumter County
- Solid Waste Management Authority of Crisp County; Transfer Station, Terrell County
- Waste Management; Landfill, Doraville, Georgia
- Cobb County Water Authority; Land for Expansion; R.L. Sutton Treatment Facility

Water & Sewer Authorities (Client List)

- | | |
|-------------------|-------------------|
| - Gwinnett County | - Rockdale County |
| - Paulding County | - Cobb County |
| - City of Atlanta | - Fulton County |
| - City of Buford | - City of Roswell |

Impact Studies for Court Testimony (Partial Listing)

- Study on the Proximity of Interstate Highways to Residential Property; Georgia Highway 400 extension, Fulton County and City of Atlanta.
- Study on the Impact to Residential Property Values from Increased Road Proximity
- Study on the Impact to Residential Property Values from the Elimination of a Wooded Buffer
- Study on the Impact to Residential Property Values from Increased Slopes
- Study on the Impact to Commercial Property Values from Increased Slopes and Installation of Guardrails.
- Study on the Impact to Residential Property Values from Floodplain
- Study of the Impact to Residential Property Values from Loss of Access
- Study of the Impact to Commercial Property Values from Loss of Access
- Various Parking Studies to Show Loss of Value to Commercial Properties from Loss of Parking
- Study of the Impact to Residential Property Values from Proximity to a Sewage Treatment Plant
- Study of the Impact to Residential Property Values from Particulate Contamination
- Study of the Impact to Residential Property Values from Proximity to Large Manufacturing Facilities
- Study of the Impact to Residential Property Values from Proximity to an Airport

APPRAISAL/TESTIMONY EXPERIENCE/REFERENCES
(Partial Listing)
Bruce R. Penn

Initial Training: James S.S. Howell III (deceased)
Dana Jackel, Cobb County
Fred Bently Sr. & Jr./Cobb County

Regional Court Work Experience (For Municipalities):

Dalton:	Warren Coppedge; private case against developer
Pickens County:	Wills Picket for Pickens County & City of Jasper
Cherokee County:	Jonathan Pope, for Georgia Power Mark Mahler, County Attorney for Cherokee DOT
Bartow County:	Boyd Petit, County Attorney, for Georgia Power Rick Wells, for Georgia Power
Paulding County:	Mason Roundtree (against Paulding County/Reservoir)
Fayette County:	Tom Camp for Georgia Power Jack Parks for Georgia DOT
Clayton County:	Steve Fincher for Clayton Water Authority
Fulton County:	Numerous Attorneys, for Fulton County Land Department Robert Diggs, for Georgia DOT & against Hartsfield Airport Barrell Weiner, for Georgia DOT Anne Sapp, against Georgia DOT
Cobb County:	Linda Brunt (retired); County Attorney/DOT Dana Jackel for Cobb DOT John Moore; against Cobb DOT Kevin Moore; against Cobb DOT Parks Huff; zoning cases and against Cobb DOT Garvis Sams Jr.; zoning cases and against Cobb DOT
Rockdale County:	Tom Bowman, County Attorney for Tax Assessor, State DOT, Rockdale Water Authority
Newton County:	William Thomas Craig for Bear Creek Reservoir Scott Cole for Bear Creek Reservoir

Benchmark Cases: Swanson v. DOT
Ga. Power v. Mosteller Mill
DOT v. Bowles
City of Marietta v. Sumerour
Duron Davis v. Toyo Tire

COMMUNITY DEVELOPMENT EXPERIENCE

- Chairperson of Community Council, District 1, DeKalb County.
Community Council is an approval board with board members appointed by County Commissioner of that District. Board members are representative of the communities of that Commission District and charged with representing the interests of the community and oversight of community goals in the zoning and land use and development process. Community Council is the 1st in the zoning approval process.
- Member, Downtown Development Authority of the City of Tucker
- Member, Transportation Committee; Tucker Northlake Community Improvement District (Tucker Northlake CID)
- Member (former chairperson) of the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association.
- Served as member of the Mainstreet Tucker Alliance in the LCI approval process and ARC grants for redevelopment of downtown Tucker.
- Testified as a value witness in zoning and land use matters in DeKalb County, Cobb County, Cherokee County, Gilmer County and Pickens County.

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

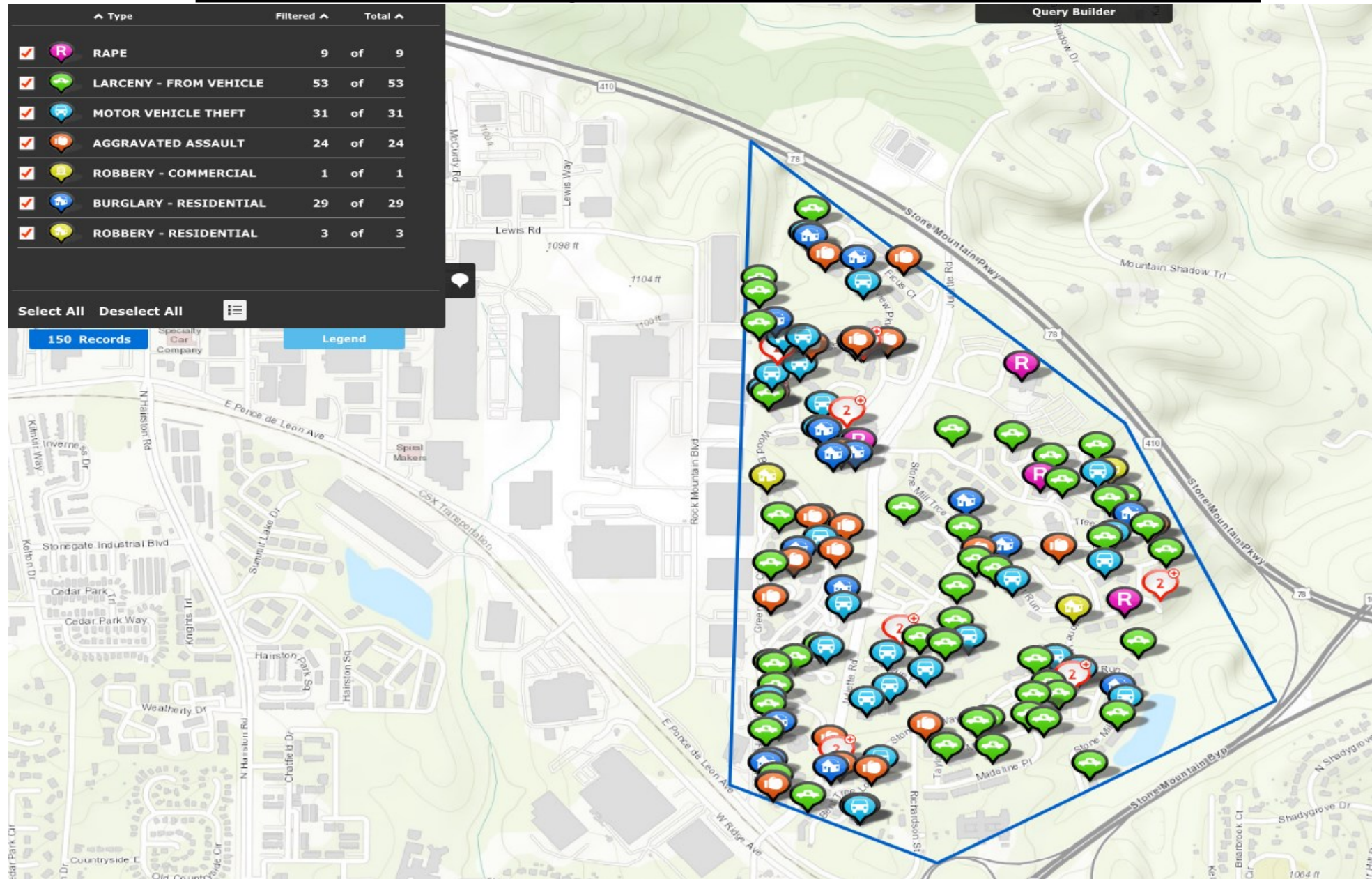
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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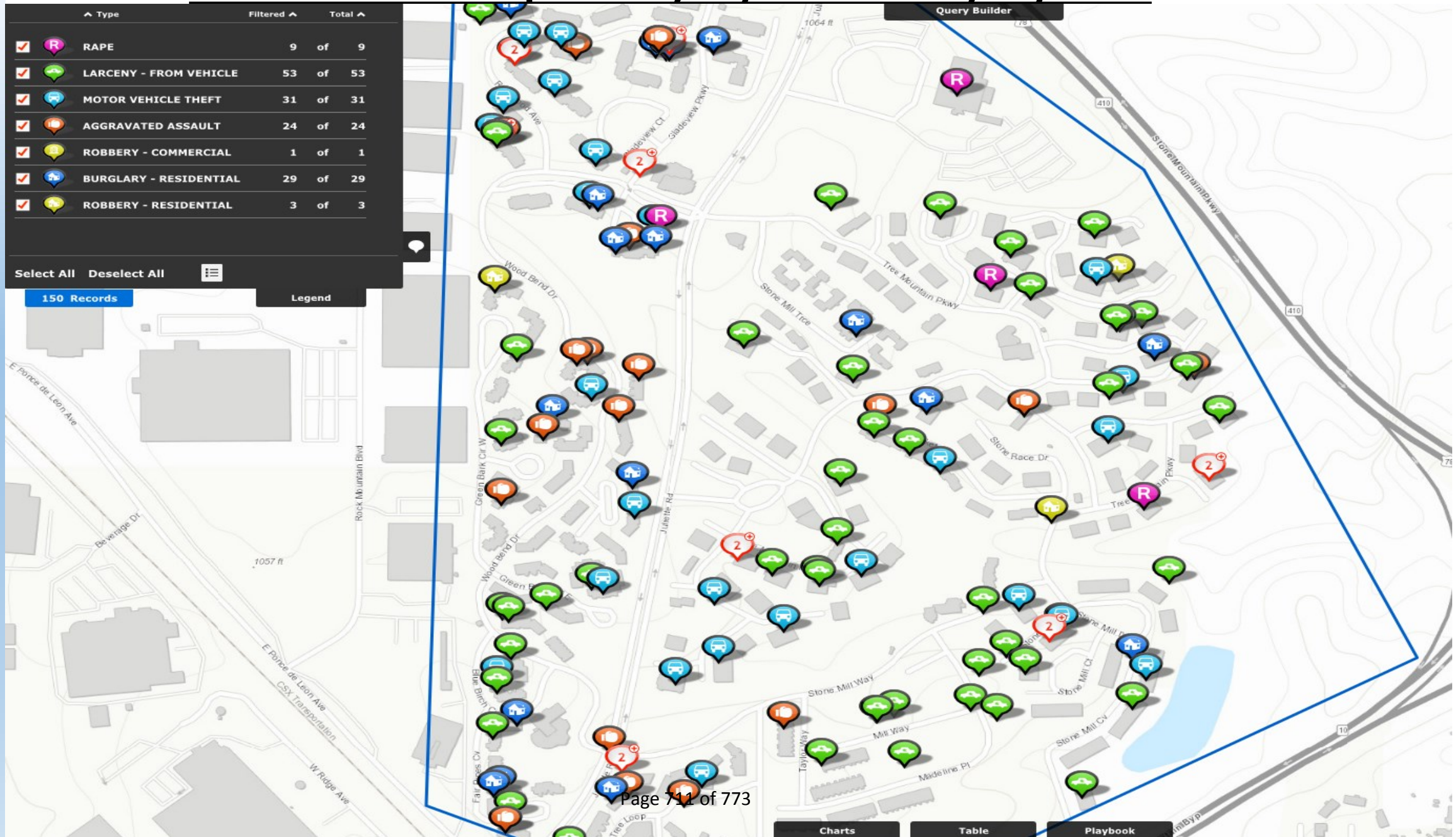
Part 1 Crimes Map for 11/01/2020 to 11/01/2021

Type	Filtered	Total
<input checked="" type="checkbox"/> RAPE	9 of 9	
<input checked="" type="checkbox"/> LARCENY - FROM VEHICLE	53 of 53	
<input checked="" type="checkbox"/> MOTOR VEHICLE THEFT	31 of 31	
<input checked="" type="checkbox"/> AGGRAVATED ASSAULT	24 of 24	
<input checked="" type="checkbox"/> ROBBERY - COMMERCIAL	1 of 1	
<input checked="" type="checkbox"/> BURGLARY - RESIDENTIAL	29 of 29	
<input checked="" type="checkbox"/> ROBBERY - RESIDENTIAL	3 of 3	

Select All Deselect All

150 Records

Legend



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:	105%		



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Planning and Zoning
CC: Tami Hanlin, City Manager
Date: November 3, 2021
RE: City rezoning for RZ-21-0011 5160 Spring View Avenue

Issue and Background:

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

5160 Spring View Avenue has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 8.86-acre parcel is located off of Spring View Avenue, which is accessed from the northern portion of Richardson Street. It is rectangular in shape and developed as a nursing home.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor. A nursing home is also not a permitted use in the M (light industrial) zoning district so the site is considered legal non-conforming.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would

allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

Recommendation:

Staff recommends approval RZ-21-0011.

Planning Commission recommended approval of RZ-21-0011 at their Oct. 21, 2021.

Summary:

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.



Land Use Petition: RZ-21-0011

Date of Staff Recommendation Preparation: October 7, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	5160 Spring View Avenue
APPLICATION NUMBER	RZ-21-0011
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	8.86 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING	RSM (Small Lot Residential Mix)
EXISTING LAND USE	Rosemont at Stone Mountain Nursing Home
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	City of Tucker
OWNER:	Gastone Mountain SNF Holdings, LLC
PROPOSED DEVELOPMENT:	None
STAFF RECOMMENDATION:	Approval

Project Data and Background

The City of Tucker strives to follow the goals and policies of the Tucker Tomorrow Comprehensive Plan, which include bolstering the economic base, improving transportation connections, and preserving and improving neighborhoods. This includes enhancing zoning to preserve existing neighborhoods; guiding future development to the most appropriate places; and implementing other measures to enhance neighborhoods such as improving external and internal connections.

In the City of Tucker's Zoning Ordinance Article 7 (*Administration*), Division 3 outlines Zoning and Comprehensive Plan Amendments and Procedures. Section 46-1556 states that in addition to property owners of a subject property having the opportunity to initiate rezoning, a proposed amendment to the text of this chapter, the official zoning map, or the comprehensive plan may be introduced by the planning and zoning director. City initiated rezoning's can occur for various reasons including resolving discrepancies between zoning districts and the comprehensive plan character areas, changing conditions, or the implementation of new zoning districts.

5160 Spring View Avenue has been identified for potential rezoning as it is currently zoned M (Light Industrial) and is located in the Suburban Character Area of the Comprehensive Plan. The 8.86-acre parcel is located off of Spring View Avenue, which is accessed from the northern portion of Richardson Street. It is rectangular in shape and developed as a nursing home.

Article 1 of the City of Tucker zoning ordinance outlines the relationship between the Comprehensive Plan and zoning districts. Table 1.2 Character Areas and Permitted Zoning Districts states that the following zoning districts are appropriate in the Suburban Character Area: RE, RLG, R-100, R-85, R-75, R-60, RNC, MHP, and RSM. M (light industrial) zoning is neither a permitted zoning district or an appropriate designation given the surrounding residential development in the Juliette Road/Richardson Street corridor. A nursing home is also not a permitted use in the M (light industrial) zoning district so the site is considered legal non-conforming.

The City of Tucker has been working to improve crime and resolve property issues in the Juliette Road/Richardson Street corridor, including trying to provide better access to the community along Richardson Street and ensuring development is compatible with the goals of the Comprehensive Plan. This city-initiated rezoning is one step in the process to improve the neighborhood and protect its residents by ensuring the use and zoning of the parcel is compatible with the Comprehensive Plan and the surrounding area.

Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. The Suburban Character Area allows residential development of 4-6 units per acre, and on this parcel, up to 6 units per acre would be appropriate given its location and densities of the neighboring properties.

Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

A moratorium (R2021-09-16) for all M (light industrial) properties in the area bounded by E. Ponce De Leon Avenue, Juliette Road, US. 78 and Georgia 10 was put into effect on September 13, 2021 so that

the city could study the area and draft the proposed zoning amendments. The moratorium is in effect until December 14, 2021. A certified letter was sent to the property owner, Gastone Mountain SNF Holdings, LLC, regarding the justification for, and timeline of the rezoning process. City staff has made several attempts to get in touch with the nursing home and its owners over the last year but have been unsuccessful. Staff will continue to reach out and try and communicate with the owner of the property throughout the public hearing process.

CHARACTER AREA (Future Land Use)

The subject parcel is in the Suburban Character Area on the Future Land Use Map. Primary Land Uses in the Suburban Character Area include single-family residential, townhomes, lower density multi-family uses, and institutional uses, such as places of worship and schools. Development strategies include:

- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- Enhancing the quality of residential neighborhoods by adding traffic calming improvements, sidewalks, and increased street interconnections to improve walkability within existing neighborhoods.

The Suburban Character Area aligns with the 'Preserve and Improve Neighborhoods' goal of the comprehensive plan.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	MR-1	Stone Mill Townhomes
Adjacent: East	MR-1	Tucker Square Apartment Homes
Adjacent: South	NA	NA
Adjacent: West	M	Undeveloped

Rezoning (RZ-21-0011)

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed zoning classification meets the policy and intent of the Tucker Tomorrow comprehensive plan. Rezoning this parcel to RSM (Small Lot Residential Mix) would align the parcel with surrounding zoning districts and would allow it to be consistent with the Suburban Character Area. It would also meet the goal of preserving and improving neighborhoods.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject property is located within a pocket of industrially zoned properties, near parcels zoned MR-1 (Medium Density Residential – 1) that are developed as multifamily and single-family attached residential uses. If 5160 Spring View Avenue is rezoned to RSM (Small Lot Residential Mix), it would permit similar, compatible redevelopment to that which is existing nearby. The property abuts M (light industrial) zoned properties to the west, however those parcels are also being proposed for rezoning as part of this city-initiated process. M (light industrial) zoning does not align with the Suburban Character Area, the adjacent zoning districts, or the surrounding residential uses.

The existing use of a nursing home is not incompatible in terms of surrounding land uses; however, M (light industrial) zoning would allow future redevelopment that would not be consistent with the surrounding area.

If the property was ever to be redeveloped under RSM (Small Lot Residential Mix), it would further align with the nearby and adjacent zonings. Rezoning this parcel from M (light industrial) to RSM (Small Lot Residential Mix) would allow for the possibility of future medium-density growth, compatible with existing nearby developments.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property would have a reasonable economic use under both the M (light industrial) and RSM (Small Lot Residential Mix) zoning designations. Staff believes that rezoning the property will allow for the highest and best use of the property and would improve the neighborhood as a whole.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning will not adversely affect the existing use or usability of adjacent or nearby properties. Rezoning this parcel to RSM (Small Lot Residential Mix) will help to protect the nearby residential developments from possible negative impacts of future industrial redevelopment.

5. 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 zoning proposal.

The City of Tucker's initiative to try and improve crime and resolve property issues in the Juliette Road/Richardson Street corridor is a condition that supports approving the zoning proposal.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning will not result in excessive or burdensome use of existing street, transportation facilities, utilizes, or schools as no development is proposed. However, the city has recently acquired the northern portion of Richardson Street, which was privately owned, and is studying potential road improvement/connection projects.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment or surrounding natural resources. Residential uses typically have less impact than a majority of industrial uses.

CONCLUSION

Staff finds that the proposed zoning district, RSM (Small Lot Residential Mix), aligns with the surrounding zoning districts, residential uses, and the Suburban Character Area. In order to be mindful of the surrounding neighbors and maintain zoning that matches the Suburban character area, this parcel should be compatibly zoned with those around it – RSM (Small Lot Residential Mix). This ensures the surrounding residents will not be negatively impacted by an encroaching industrial development.

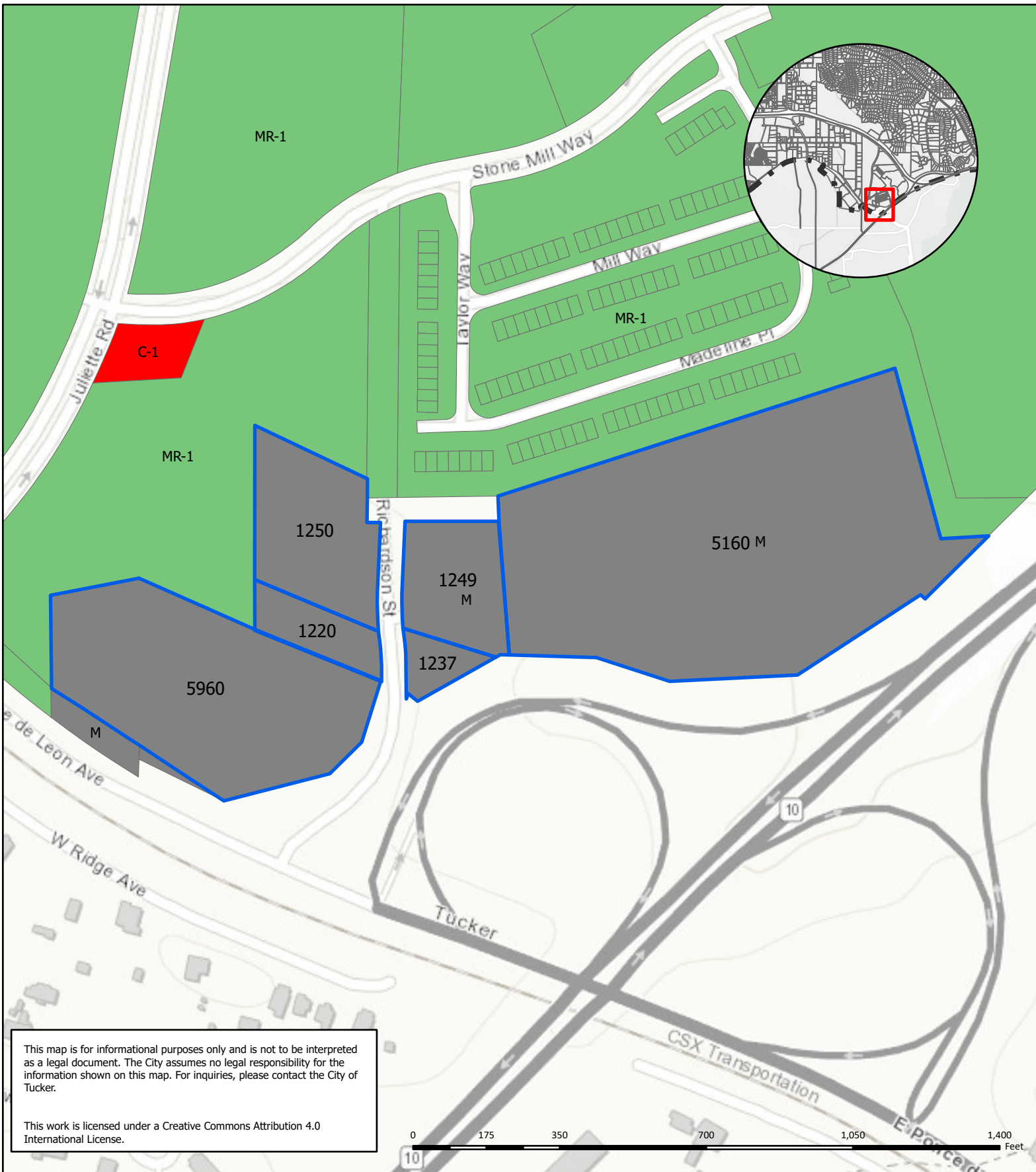
Therefore, Staff recommends **APPROVAL** of the requested rezoning.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-21-0011**.

Planning Commission Recommendation

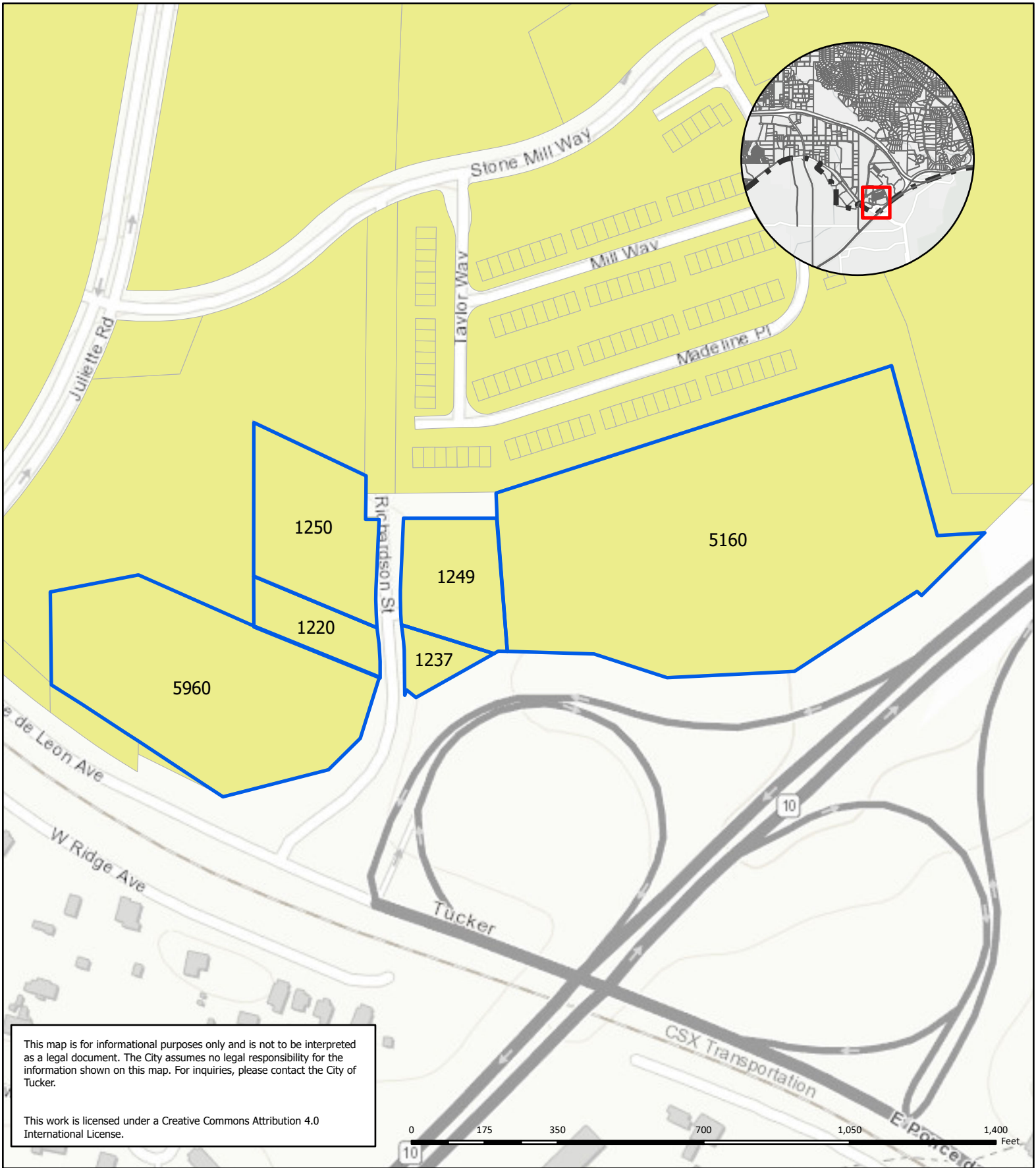
Based upon the findings and conclusions herein, at its October 21, 2021 public hearing, the Planning Commission recommends **APPROVAL** of **RZ-21-0011**.



5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

- MR-1 (Medium Density Residential-1)
- C-1 (Local Commercial)
- M (Light Industrial)





5960 E Ponce De Leon Avenue
 1220 Richardson Street
 1250 Richardson Street
 1237 Richardson Street
 1249 Richardson Street
 5160 Spring View Avenue

Suburban



Penn, Hastings & Associates
Real Estate Appraisers and Consultants

4228 First Avenue; Suite 7
Tucker, GA 30084

404-547-8842
770-939-6781 fax

September 23, 2021

Mr. Brandon L. Bowen
Jenkins, Bowen & Walker, PC.
15 South Public Square
Cartersville, Georgia 30120

RECEIVED
CITY OF TUCKER

10/25/2021

PLANNING & ZONING
DEPARTMENT

Re: Feasibility Analysis of City of Tucker Zoning Case RZ-21-0011
5160 Spring View Avenue, Stone Mountain, Georgia
DeKalb County Tax Parcel No. 18-125-01-011
Land Lot 125, 18th Land District, City of Tucker, DeKalb County

Dear Mr. Bowen;

As you requested, I have inspected the above referenced property and evaluated any economic impact resulting from the proposed change in zoning by the City of Tucker of the subject property. I have estimated a reasonable range of market value of the unencumbered fee simple interest in the subject property as currently zoned as well as a reasonable range of value of the subject considering the change in zoning by the City of Tucker. The comparison of these values will represent any increase or decrease, if any, to the value of these property as a result of the proposed change in zoning. The difference will indicate any economic impacts to the subject by the change in zoning contemplated by the City of Tucker.

Intended Client(s) and User(s) This analysis is intended for use only by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., his representatives and assignees, representing the City of Tucker. Use of this analysis by others is not intended by the appraiser.

Intended Use of the Analysis This appraisal report is intended only for use by the client, Mr. Brandon L. Bowen of Jenkins, Bowen & Walker, PC., representing the City of Tucker in anticipation of a potential rezoning of the subject properties. This analysis is not intended for any other use.

The term "**market value**", as utilized within this report, is defined by the Office of the Comptroller of the Currency, 12CFR, part 34 and utilized in accordance with Federal and State law as the most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and both are acting in what they consider to be their own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States Dollars or in financial arrangements comparable hereto.
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The basis of this analysis is the highest and best use of the property as currently zoned and as proposed. Highest and Best Use is defined as “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.” Alternatively, the probable use of land or improved property—specific with respect to the user and timing of the use—that is adequately supported and results in the highest present value. A streamlined definition was developed more recently for the Appraisal Institute course General Appraiser Market Analysis and Highest & Best Use, reducing the ambiguous language while eliminating direct reference to the four traditional tests of highest and best use: highest and best use “The reasonably probable use that produces the most benefits and highest land value at any given time.”¹

General Location and Description of the Subject Property The property that is the subject of this analysis is described as a 8.857 acre tract of land (per legal description) located at the terminus of Spring View Avenue and the north side of the Stone Mountain By-Pass.

The subject is a somewhat rectangular tract of land with an estimated 80 feet of frontage at the end of Spring View Avenue and 1,061.10 feet of road frontage along the north side of the Stone Mountain By Pass. The property is level for the area of the improvements with the remaining surplus land being wooded and gently rolling.

The property is improved with an assisted living and senior living development containing 60,310 square feet constructed in 1993. The facility advertises 149 residential units or 18.625 units per acre.

¹The Appraisal of Real Estate. -- Fourteenth edition; 2013; page 333.

Zoning The subject is currently zoned M; Light Industrial Use by the City of Tucker. The subject is a legal non-conforming use in the M: Light Industrial zoning category.

Proposed Zoning The City of Tucker is contemplating zoning the subject property to RSM; Small Lot Residential Mix. This zoning category allows for development of up to 6 single family units per acre. Under the RSM zoning category, the subject would be a non-conforming use due to the number of units per acre on the subject property. The contiguous property is zoned MR-1 which allows for 8 units per acre. The subject will continue to be a legal non-conforming use if rezoned, however, the use of high(er) density residential would be consistent with the RSM zoning category.

Predominate Values of Industrial Land The following chart demonstrates the relative values of industrial zoned land in the Tucker Summit Industrial Area. The chart provides the most recent sales of industrial land in the area.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Acre</i>
1. 1731 Mountain Industrial Blvd	10/2020	0.95 acre	\$100,000	\$105,263
2. 4561 Greer Circle	11/2017	14.42 acres	\$1,200,000	\$83,218
3. 2460 Mountain Industrial Blvd	12/2015	6.96 acres	\$730,695	\$104,985

The Tucker Summit Industrial area is almost completely built out with very little land available for purchase or development. The sales selected represent the most recent sales of industrial oriented land in the subject's area. Based on these sales, the value of the industrial land in the Tucker Summit Industrial area ranges from \$85,000 per acre to \$106,000 per acre. This would provide a range of value for the subject's 8.857 acres of \$750,850 (\$752,845 rounded) to \$939,000 (\$938,842 rounded).

Value of Low Density Multi-family or Single Family Residential Land The following chart demonstrates the relative values of multi-family or higher density single family detached residential sales in the City of Tucker.

<i>No. & Location</i>	<i>Sale Date</i>	<i>Size</i>	<i>Sale Price</i>	<i>Price/Unit</i>
1. Behind Rehoboth Baptist Church	5/2019	12.187ac	\$2,579,800	\$34,397
2. 1409 Ashbrooke Trace	2/2019	22.49 acres	\$2,895,755	\$36,168*
3 Midvale @ LaVista Roads	10/2020	22.49 acres	\$4,261,705	\$67,650

* represents unit value of the attached residential portion

These sales demonstrate a relative value of around \$35,000 to \$60,000 per unit. The subject could accommodate 53 residential structures, resulting in a likely land value of \$1,855,000 to \$3,180,000.

Conclusions The change in zoning will not alter the subject's legal non-conformance under the Tucker Development Code. However, the use of the subject would be more consistent with the RSM zoning category. The subject can continue to operate as a legal non-conforming use. Therefore, the rezoning of the property will not impact its current and ongoing use. However, the underlying land of the subject will have a dramatic increase in overall value. Based on this analysis, the change in zoning contemplated by the City of Tucker will not have any economic detriment to the subject property.

I hope this information is satisfactory and serves your purposes. This appraisal business is certainly appreciated and I trust that if you have any questions, or if I can be of any additional help to you on this project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce R. Penn", with a long, sweeping horizontal line extending to the right.

Bruce R. Penn
Ga. Certified Appraiser No. 228

EXHIBITS & ADDENDA

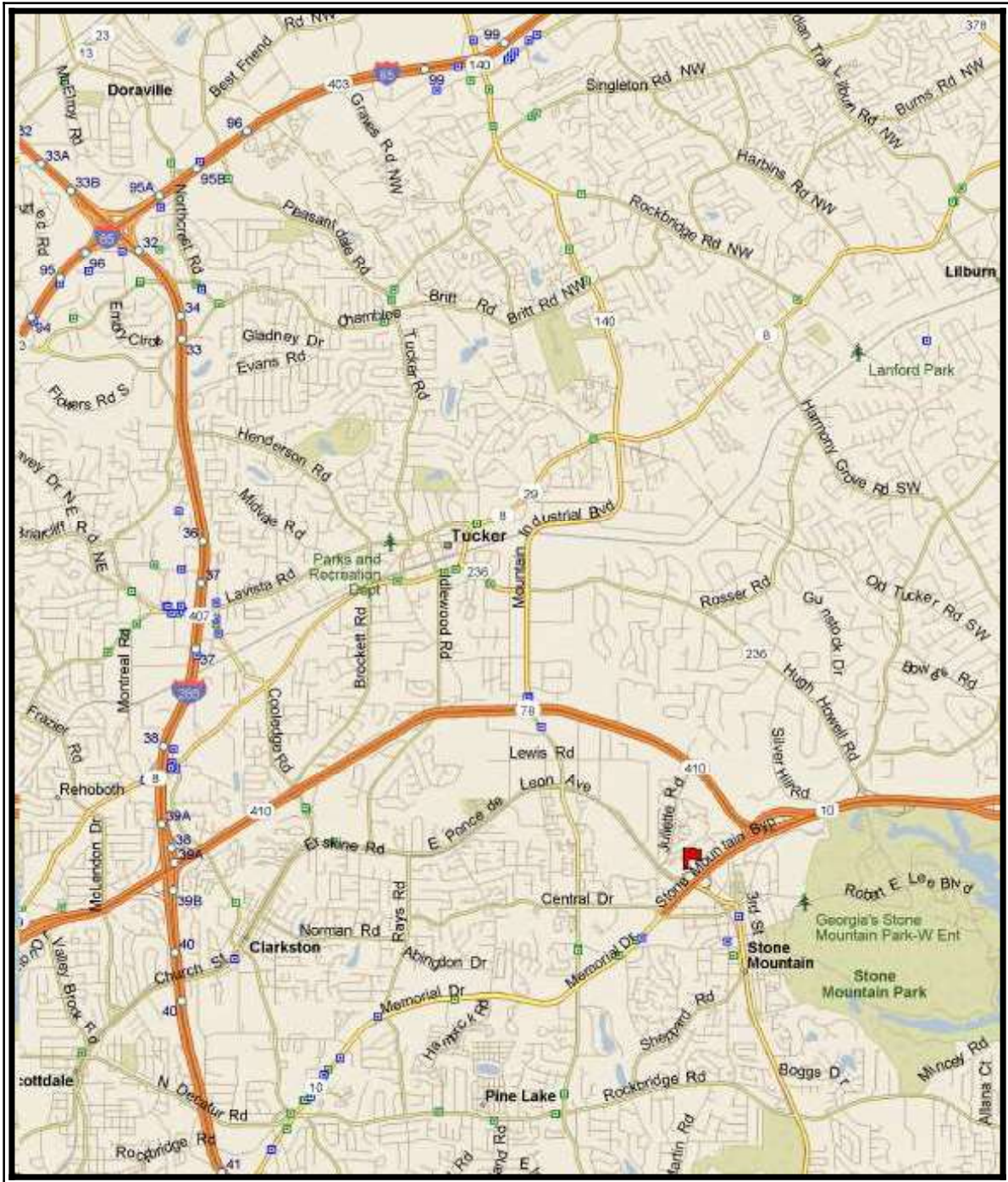
APPENDIX A: SUBJECT PROPERTY

**Subject Photographs
Subject Location Map
Subject Tax Plat Map
Flood Plain Map
Zoning Map
Zoning Excerpts from City of Tucker
Most Recent Transfer Documents**

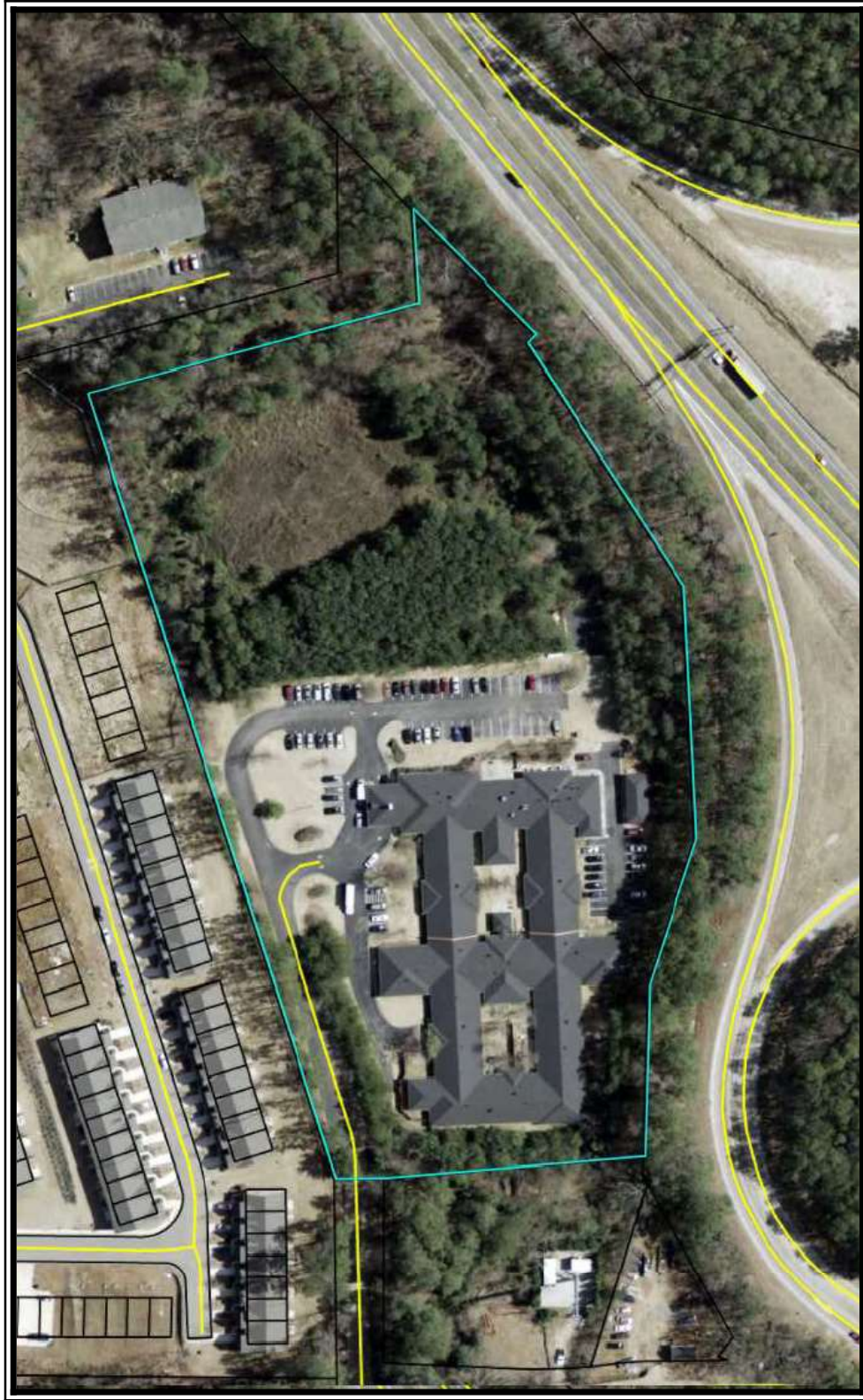
SUBJECT PHOTOGRAPHS



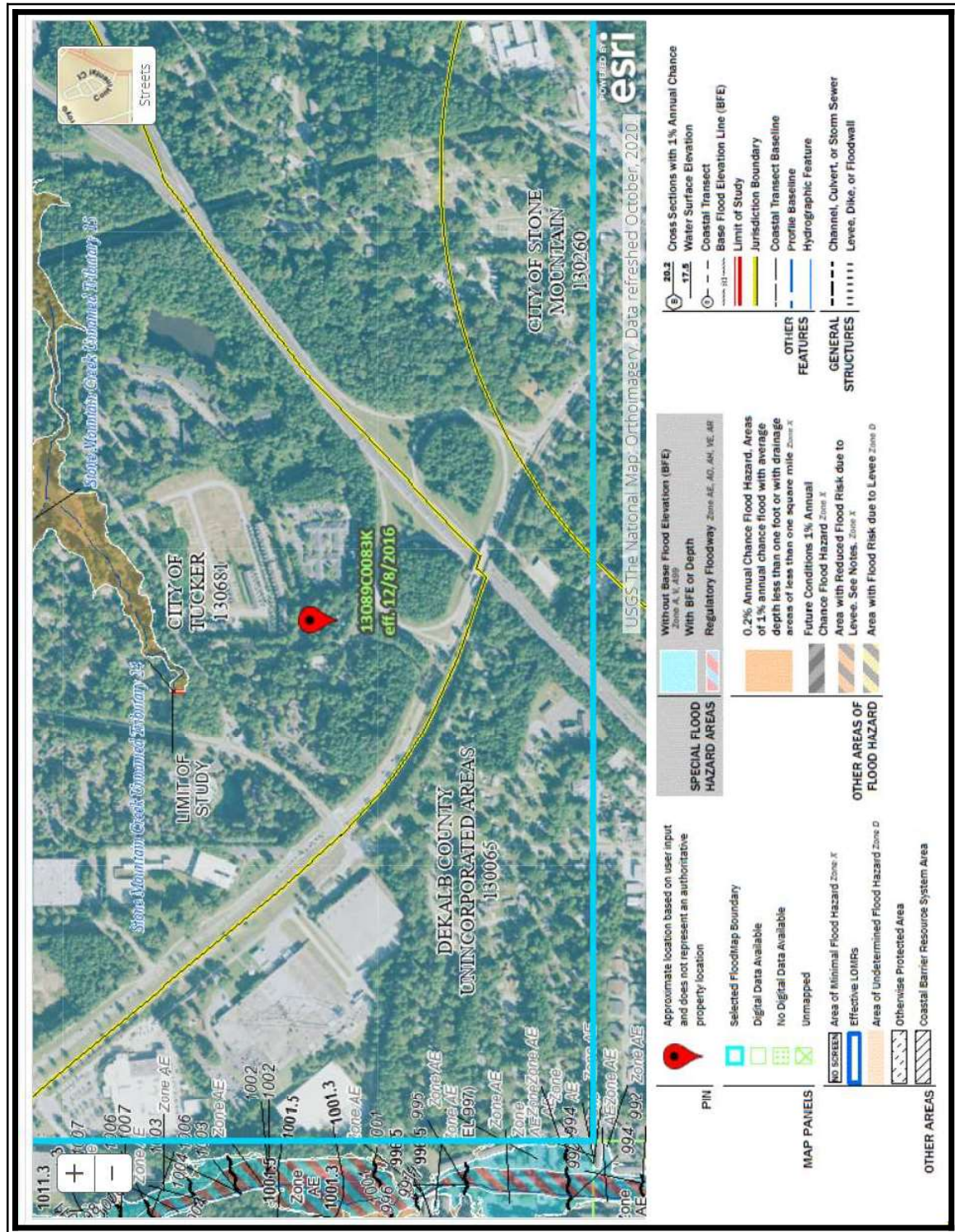
SUBJECT LOCATION MAP



AERIAL TAX PLAT MAP



FLOOD PLAIN MAP



ZONING MAP



DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front— Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only— min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non- res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

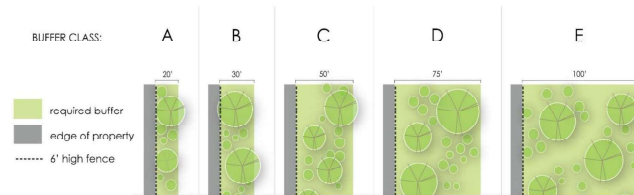
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

2019004822 DEED BOOK 27340 Pg 212



Real Estate Transfer Tax \$17,311.00

Filed and Recorded:
1/10/2019 2:09:17 PM
Debra DeBerry
Clerk of Superior Court
DeKalb County, Georgia

AFTER RECORDING PLEASE RETURN TO:
INSUREPROPS, LLC
4200 NORTHSIDE PKWY NW, BLDG 4 - SUITE 300
ATLANTA, GA 30327

Record and Return to:
Madison Title Agency, LLC
1125 Ocean Avenue
Lakewood, NJ 08701
MTA 130-911, B2186

~~After Recording Return to:~~
Gutnicki LLP
Attn: Stacy Flanigan, Esq.
4711 Golf Road, Suite 200
Skokie, IL 60076

STATE OF

COUNTY OF

LIMITED WARRANTY DEED

THIS INDENTURE, made the 31st day of December 2018, between **CARE SNF STONE MOUNTAIN PROPCO LP**, a Delaware limited partnership, as party or parties of the first part, hereinafter called Grantor, and **GASTONE MOUNTAIN SNF HOLDINGS LLC**, a Delaware limited liability company, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH: That Grantor for and in consideration of the sum of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATIONS in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alien, convey and confirm unto the said Grantee, all that tract or parcel of land described as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference
and all improvements located thereon (hereinafter referred to as the "Property").

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise

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appertaining, to the only proper use, benefit, and behoof of the said Grantee forever, in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the Property, unto the said Grantee against the claims of all persons owning, holding, or claiming by, through or under Grantor herein, subject only to those matters as more particularly described on **Exhibit "B"** attached hereto and by this reference made a part hereof.

[EXECUTED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered
in the presence of:

Deigh Ann Conway
Unofficial Witness

GRANTOR:

CARE SNF STONE MOUNTAIN
PROPCO, LP, a Delaware limited
partnership

By: CARE SNF PROPCO GP LLC, a
Delaware limited liability company

By: Azin Lotfi (SEAL)
Name: Azin Lotfi
Title: Secretary

Julie Anne Michael
Notary Public

My Commission Expires: October 27, 2023

(affix stamp and seal)



**Exhibit "A" to Limited Warranty Deed
Legal Description**

All that tract or parcel of land lying and being in Land Lot 125, 18th District of DeKalb County, Georgia, and being more particularly described as follows:

To find the point of beginning, commence at the intersection of the western right-of-way line of Richardson Street (60-foot right-of-way) with the northern right-of-way line of Springview Avenue (50-foot right-of-way); run thence along the northern right-of-way line of Springview Avenue North 88 degrees 28 minutes 54 seconds West, a distance of 259.06 feet to a one-half inch rebar found, said point being the POINT OF BEGINNING; from the point of beginning, as thus established, running thence North 71 degrees 53 minutes 08 seconds East, a distance of 825.79 feet to a one-inch rebar found; run thence South 15 degrees 11 minutes 17 seconds East, a distance of 349.58 feet to a one-half inch rebar found; run thence South 89 degrees 19 minutes 49 seconds East, a distance of 95.28 feet to a one-half inch rebar found on the northwesterly right-of-way line of State Route 10 (right-of-way varies); run thence, continuing along said right-of-way line, South 44 degrees 28 minutes 11 seconds West, a distance of 175.16 feet to a right-of-way marker found; run thence North 40 degrees 17 minutes 52 seconds West, a distance of 14.60 feet to a right-of-way marker found; run thence South 58 degrees 32 minutes 37 seconds West, a distance of 290.57 feet to a right-of-way marker found; run thence, continuing along the right-of-way line of State Route 10, South 86 degrees 51 minutes 06 seconds West, a distance of 255.01 feet to a right-of-way marker found; run thence North 74 degrees 09 minutes 09 seconds West, a distance of 153.39 feet to a right-of-way marker found; run thence North 89 degrees 19 minutes 57 seconds West, a distance of 172.37 feet to a one-half inch rebar found (said one-inch rebar being located South 89 degrees 39 minutes 42 seconds East 16.90 feet from a right-of-way marker); run thence, leaving the right-of-way line of State Route 10, North 02 degrees 54 minutes 12 seconds West, a distance of 268.08 feet to a three-fourths inch rod found; run thence North 04 degrees 07 minutes 53 seconds West, a distance of 49.73 feet to a one-half inch rebar found, said point being the POINT OF BEGINNING.

Said parcel contains 8.857 acres (385,824 square feet) as shown on Boundary Line Survey for DeKalb County Health Care Associates, L.P., dated March 4, 1993, prepared by Patterson & Dewar Engineers, Inc., George E. Ingram, G.R.L.S. No. 1980.

TOGETHER WITH appurtenant easement rights contained in (a) that certain Declaration of Easements by Woodstream Real Estate Corporation, dated October 6, 1975, recorded in Deed Book 3403, page 40 of the DeKalb County, Georgia Records; (b) that certain Sewer Easement from Carlyle Real Estate Limited Partnership 72 to Shoney's South, Inc., recorded in Deed Book 3444, page 358 of the aforesaid records; and (c) that certain Drainage Easement by and between FPI Atlanta, Inc., and DeKalb County Health Care Associates, L.P., dated March 11, 1993, recorded in Deed Book 7587, page 494 of the aforesaid records.

**Exhibit "B" to Limited Warranty Deed
Permitted Exceptions**

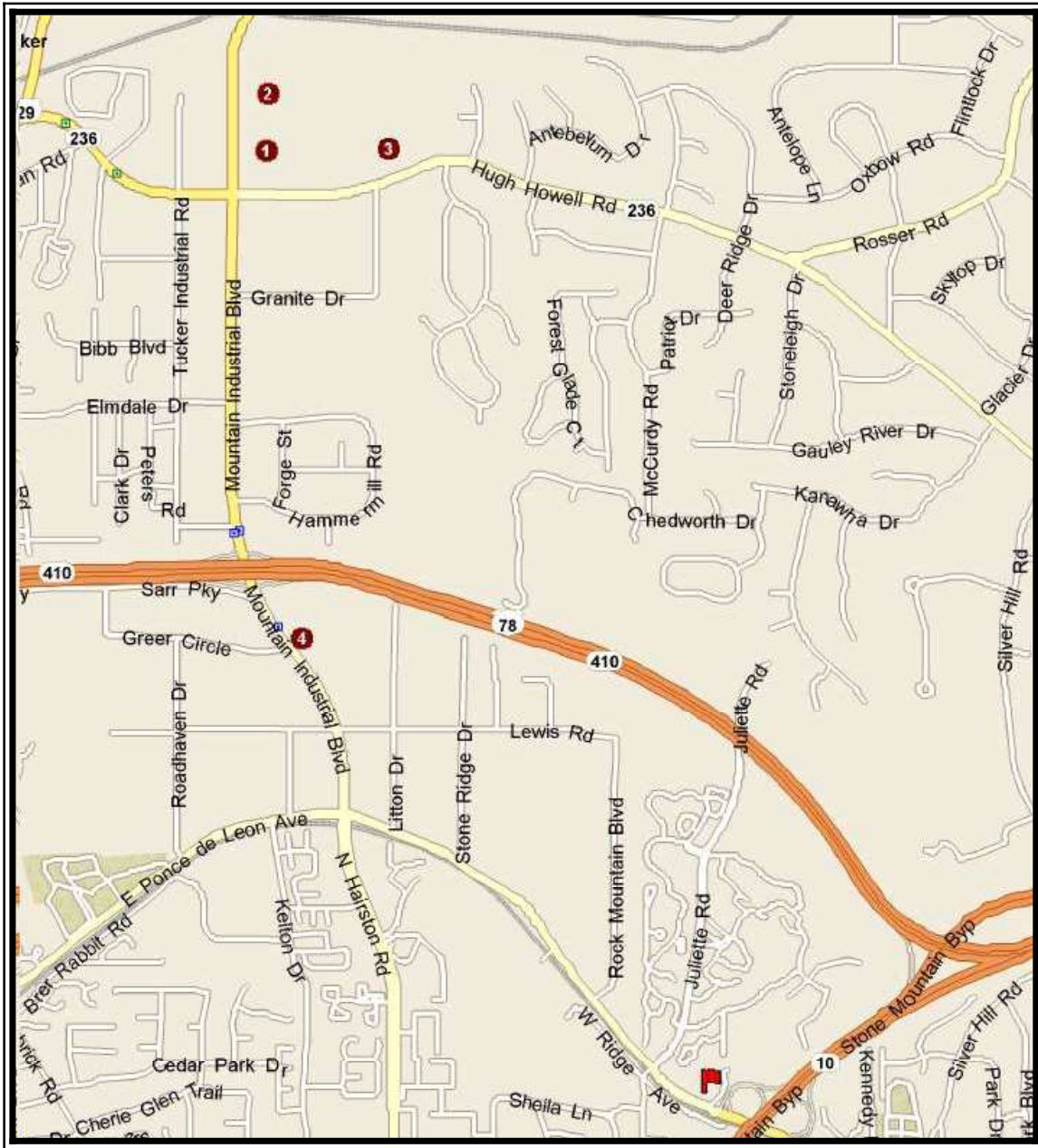
1. All easements, restrictions and other matters of record.
2. Taxes and assessments for the current year not yet due and payable.
3. Matters which would be disclosed by an accurate and current survey and a physical inspection of the Property.

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APPENDIX B: INDUSTRIAL LAND SALES

Industrial Land Sales Map Industrial Land Sales

COMPARABLE INDUSTRIAL LAND SALES LOCATION MAP



**COMPARABLE NO. 1
INDUSTRIAL LAND SALE**

GRANTOR: VRE Stone Mountain, LLC

GRANTEE: LVL Investments, Inc.

RECORDED: **BOOK:** 28692 **PAGE:** 197 **COUNTY:** Dekalb

DATE OF TRANSACTION: 10/1/2020

CONSIDERATION: \$100,000 **PRICE PER ACRE:** \$105,263

LOCATION: 1731 Mountain Industrial Boulevard, Stone Mountain, GA

PARCEL ID: 18 170 01 011

ZONING: C1 - Local Commercial District

TOTAL AREA: 0.95 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access
Frontage: Frontage along Private Drive
Utilities: All utilities available
Drainage: Adequate
Topography: Basically Level



**COMPARABLE NO. 2
INDUSTRIAL LAND SALE**

GRANTOR: GA Power Company

GRANTEE: HPC Seefreid Tucker, LLC

RECORDED: **BOOK:** 26623 **PAGE:** 260 **COUNTY:** Dekalb

DATE OF TRANSACTION: 11/28/2017

CONSIDERATION: \$1,200,000 **PRICE PER ACRE:** \$83,218

LOCATION: 4561 Greer Circle, Stone Mountain, GA

PARCEL ID: 18 170 02 024

ZONING: M - Light Industrial District

TOTAL AREA: 14.42 Acres per recorded survey

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 954' along Greer Circle and 530' along Roadhaven Drive

Utilities: All utilities available

Drainage: Adequate

Topography: Level to gently rolling



**COMPARABLE NO. 3
INDUSTRIAL LAND SALE**

GRANTOR: Ricoh Americas Corporation

GRANTEE: Atlanta Mountain Industrial Real Estate, Inc.

RECORDED: **BOOK:** 25308 **PAGE:** 26 **COUNTY:** Dekalb

DATE OF TRANSACTION: 12/15/2015

CONSIDERATION: \$730,695 **PRICE PER ACRE:** \$104,985

LOCATION: 2460 Mountain Industrial Boulevard, Tucker, GA

PARCEL ID: 18 224 03 003

ZONING: M - Light Industrial District

TOTAL AREA: 6.96 Acres Per Warranty Deed

DESCRIPTION OF PROPERTY

Access: Good Access

Frontage: 706' along Mountain Industrial Boulevard
and 473' along Tuckerstone Parkway

Utilities: All utilities available

Drainage: Adequate

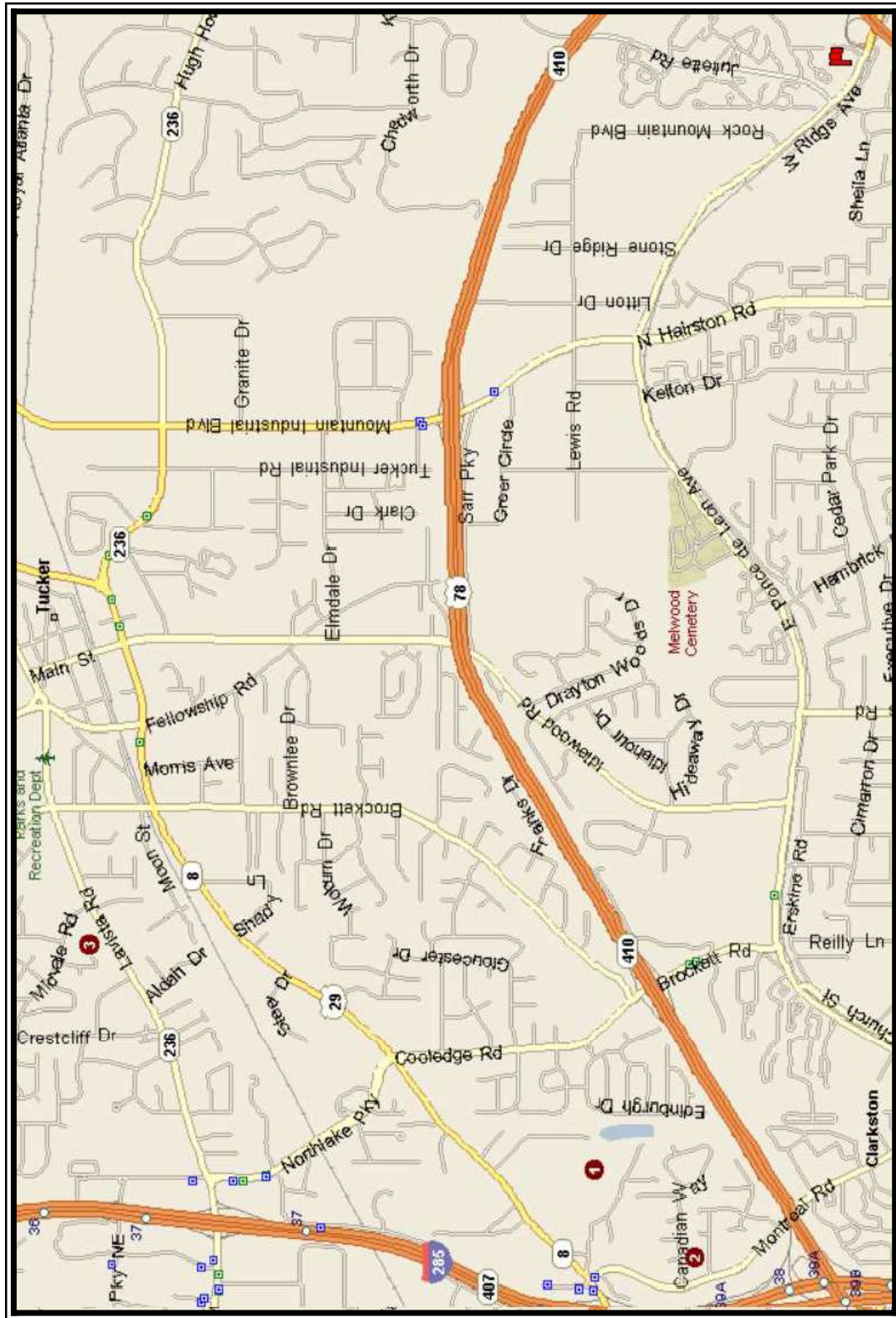
Topography: Level to gently rolling



APPENDIX C: MULTI-FAMILY LAND SALES

Multi-Family Land Sales Map **Multi-Family Land Sales**

COMPARABLE MULTI-FAMILY LAND SALES LOCATION MAP



COMPARABLE NO. 1 MULTI-FAMILY LAND SALE

GRANTOR: Rehoboth Baptist Church, Inc.

GRANTEE: MH Settlement, LLC

RECORDED: **BOOK:** 27558 **PAGE:** 244 **COUNTY:** Dekalb

DATE OF TRANSACTION: 5/17/2019

CONSIDERATION: \$2,579,800 **PRICE PER UNIT:** \$34,397

LOCATION: Behind Rehoboth Baptist Church at 2997 Lawrenceville Hwy.

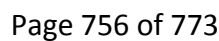
PARCEL ID: 18 144 03 233

ZONING: RSM; Small Lot Residential Mix

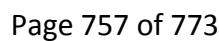
TOTAL AREA: 12.187 acres per survey

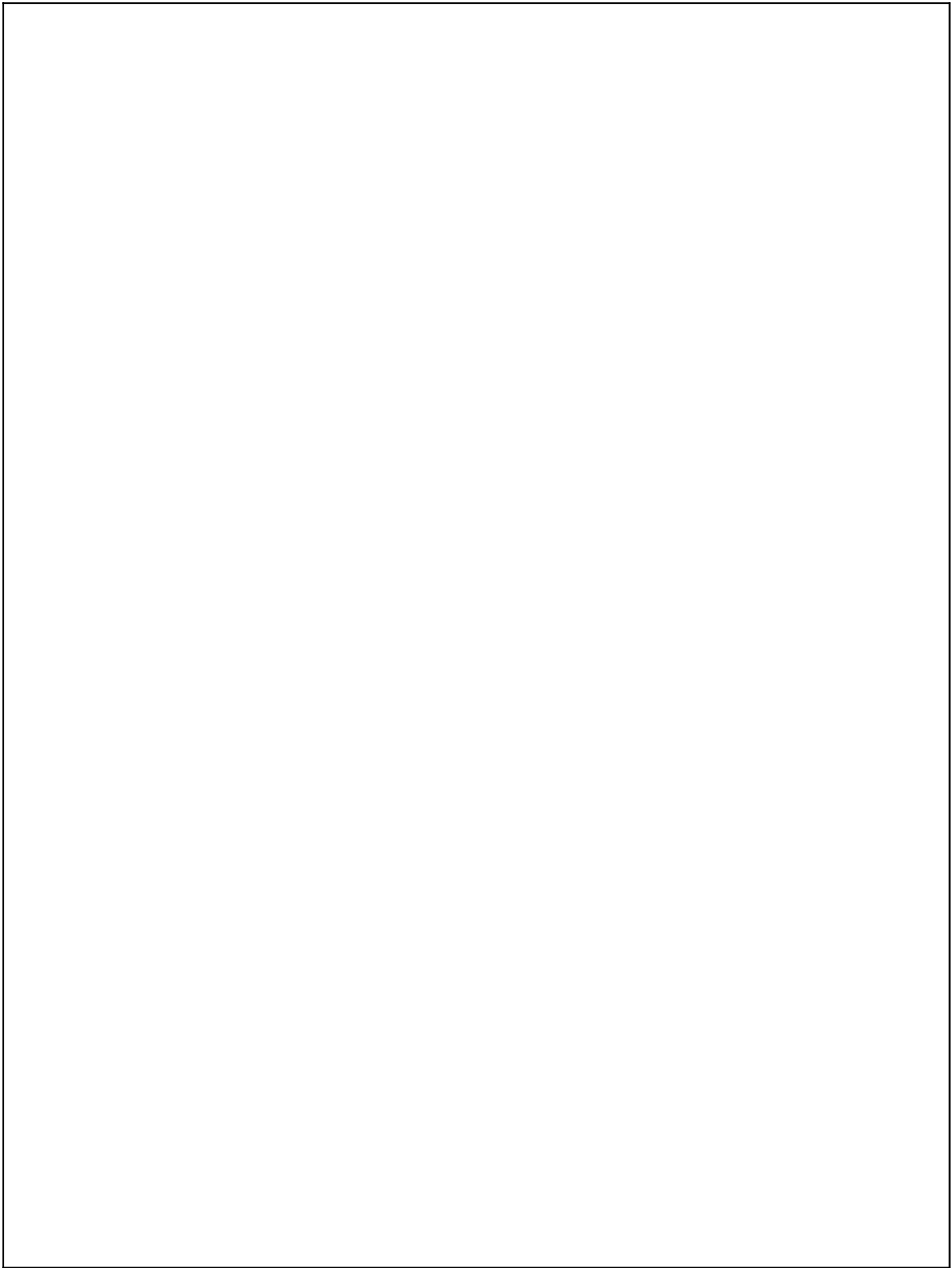


GRANTOR:	Ashbrooke Towns, LLC
GRANTEE:	Ashbrooke Home Builders, Inc.
RECORDED:	BOOK: 27725 PAGE: 52 COUNTY: Dekalb
DATE OF TRANSACTION:	2/11/2019
CONSIDERATION:	\$2,895,755 PRICE PER UNIT: \$36,168
LOCATION:	1409 Ashbrooke Trace
PARCEL ID:	18 140 01 226
ZONING:	MR-1 Medium Density Residential; This tract was modified for townhome development.
TOTAL AREA:	22.49 acres per survey



GRANTOR:	Charles A Orth, Trustee, etal.
GRANTEE:	JWC Lavista, LLC
RECORDED:	BOOK: 28788 PAGE: 210 COUNTY: Dekalb
DATE OF TRANSACTION:	10/30/2020
CONSIDERATION:	\$4,261,705 PRICE PER UNIT: \$67,650
LOCATION:	Intersection of Midvale Road at Lavista Road
PARCEL ID:	18 212-01-002, 006, 018, 019, 042
ZONING:	MZ Multiple Zoning.
TOTAL AREA:	22.49 acres per survey





DIVISION 31. - M (LIGHT INDUSTRIAL) DISTRICT

Sec. 46-896. - Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

- (1) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- (2) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- (3) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (4) To provide an area within the city for recycling and green businesses to locate;
- (5) To generate employment opportunities and economic development;
- (6) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- (7) To allow for the conversion of industrial buildings which are 50 years of age or older to multifamily dwellings so as to promote living and working space as well as historic preservation;
- (8) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.31.1), 7-11-2016)

Sec. 46-897. - Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply and must be complied with.

(Ord. No. 2016-06-07, att. (2.31.2), 7-11-2016)

Sec. 46-898. - Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.31.3), 7-11-2016)

Sec. 46-899. - Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.31.4), 7-11-2016)

Sec. 46-900. - Multifamily use provisions for industrial conversion.

The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

- (1) Whether the building is located on the interior or periphery of an established industrial park or area;
- (2) Whether the building or area should no longer be used for industrial uses;
- (3) Adequate parking is provided in accordance with article VI of this chapter, for multifamily or live-work.

(Ord. No. 2016-06-07, att. (2.31.5), 7-11-2016)

Secs. 46-901—46-918. - Reserved.

Sec. 46-702. Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for nonresidential districts are provided in table 2.24, nonresidential zoning districts dimensional requirements. Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in article V of this chapter.

Table 2.24. Nonresidential Zoning Districts Dimensional Requirements

Element	OIT	OI	NS	C-1	C-2	OD	M	M-2
Overall Site Requirements (minimum unless specified)								
Dimensional Requirements								
Lot Area (min. sq. ft.)	7,500	20,000	20,000	20,000	30,000	30,000	30,000	2 acres for heavy ind. and uses req'g. SLUP; 1 acre for all other uses
Single-Family Attached Lot Area (Avg. per dwelling unit sq. ft.)	4,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Lot Width, Street Frontage (feet)	75	100	100	100	100	100	100	150
Lot Coverage (max. %)	80	80	80	80	80	80	80	80
Open Space Requirements								
Sites with 5,000—39,999 sq. ft. gross floor area (min. %)	15	15	15	10	10	15	15	15
Sites with 40,000 gross floor area or more (min. %)	20	20	20	20	20	20	20	20
Transitional Buffer (ft.)	See division 4, article V of this chapter							
Building Setback Requirements (min., unless specified)								

Front— Thoroughfares and Arterials (ft.)	40	60*	30	60	60	75	60	60
Front—all other streets (ft.)	30	50*	20	50	50	75	60	60
Side—interior lot (ft.)	20	20*	20	20	20	20	20	20
Side—corner lot on public street (ft.)	40	50*	15	50	50	50	60	60
Rear (ft.)	30	30*	20	30	30	30	30	30
Unit Size (Residential: Heated Living Area)								
Floor Area of Attached Dwelling Unit of Multifamily (min. sq. ft.)	1,000	1,000	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1,000	Not Permitted
Floor Area of Live/Work Dwelling Unit (residential portion only— min. sq. ft.)	650	650	650	650	Not Permitted	Not Permitted	650	Not Permitted
Floor area per individual building (max. sq. ft.) (non- res.)	N/A	N/A	50,000	No Max.	No Max.	No Max.	No Max.	No Max. Height (max. without a Special Land Use Permit (SLUP))**
Height (ft.)	2 story/35 ft.	5 story/70 ft.***	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	2 story/35 ft.	**	**
Transitional Height Plane (see article V of this chapter)	No	Yes	No	No	No	Yes	Yes	Yes

*If located next to single-family residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50 percent.

**Fire department and rescue services must approve over three stories to ensure adequacy of fire protection facilities.

***Five story/70 feet if in an activity node, two story/35 feet outside an activity node, unless obtaining a special land use permit for up to five story/70 feet.

(Ord. No. 2016-06-07, att. (2.24.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-1338. Transitional buffers.

- (a) *Intent.* Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.
- (b) *General requirements.* Natural or planted transitional buffers required by this division shall be established and permanently maintained by the property owner as follows:
 - (1) The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
 - (2) Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.
 - (3) Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.
 - (4) Notwithstanding subsection (b)(3) of this section, if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than 20 percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.
 - (5) Any approved utility crossings shall be perpendicular to the transitional buffer.
 - (6) A pedestrian walkway, a maximum width of five feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.
 - (7) If existing vegetation in a buffer area does not meet the transitional buffer standards, a five foot high, landscaped berm may be installed subject to the approval of the city arborist. Grading to construct the berm shall not remove significant plants designated by the city arborist as part of the approval of the landscaped berm.
- (c) *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:
 - (1) *Planting height.* Proposed planting as part of an enhanced transitional buffer shall have a height of at least six feet at the time of planting and planted in a minimum of two rows, with staggered on center spacing such that a continuous opaque screen is created within two years of planting.
 - (2) *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.
 - (3) *Plant functions.* Plants shall be approved from a list made available from the planning and zoning department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

- (4) *Fences.* Fences are required with transitional buffers and shall meet the requirements of section 46-1340.
- (5) *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.
- (d) *Buffer dimensions and specifications.* Table 5.2(a) identifies the transitional buffer class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each transitional buffer class (A-E).

Table 5.2(a). Transitional Buffer Class by District

<i>Districts</i>	<i>Adjacent District</i>											
Residential Districts	R*	MHP	RNC	RSM	MR-1	MR-2	HR-1-3	MU-1	MU-2	MU-3	MU-4	MU-5
MHP	C	-	-	-	-	-	-	-	-	-	-	-
RNC	B	-	-	-	-	-	-	-	-	-	-	-
Mixed Residential Districts												
RSM**	A	C	A	-	-	-	-	-	-	-	-	-
MR-1**	B	C	B	B	-	-	-	-	-	-	-	-
MR-2**	C	C	C	C	C	-	-	-	-	-	-	-
HR-1-3**	C	C	C	C	B	B	-	-	-	-	-	-
Mixed-Use Districts												
MU-1	B	B	B	B	-	-	-	-	-	-	-	-
MU-2	C	B	B	B	B	-	-	-	-	-	-	-
MU-3	C	C	C	B	A	B	B	B	B	-	-	-
MU-4	C	C	C	B	A	B	B	B	B	-	-	-
MU-5	C	C	C	B	A	B	B	B	B	-	-	-
Nonresidential Districts												
OI	C	C	C	C	C	C	C	B	B	B	-	-
OIT	C	C	C	C	C	C	C	B	B	B	-	-
NS	C	C	C	C	C	C	C	A	A	A	-	-
C-1	C	C	C	C	C	C	C	B	B	B	-	-
OD	D	D	D	D	D	D	D	D	D	D	D	D
C-2	C	C	C	C	C	C	C	B	B	B	B	B
M	D	D	D	D	D	D	D	D	D	D	D	D
M-2	E	E	E	E	E	E	E	E	E	E	E	E

*R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached).

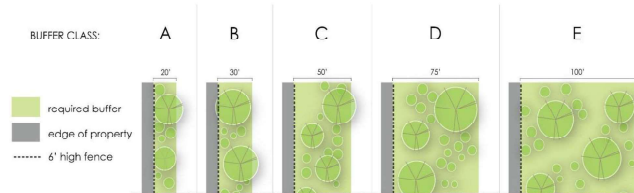
**Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Table 5.2(b). Transitional Buffer Minimum by Buffer Class

<i>Buffer Class</i>	<i>Width</i>
A	20'
B	30'

C	50'
D	75'
E	100' with fence

Transitional Buffers Figure



(Ord. No. 2016-06-07, att. (5.4.5), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX) DISTRICT

Sec. 46-359. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

- (1) To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;
- (2) To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;
- (3) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.12.1), 7-11-2016)

Sec. 46-360. Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.12.2), 7-11-2016)

Sec. 46-361. Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.12.3), 7-11-2016)

Sec. 46-362. Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in article V of this chapter.

(Ord. No. 2016-06-07, att. (2.12.4), 7-11-2016)

Secs. 46-363—46-388. Reserved.

Sec. 46-334. Medium and high density.

The medium and high density residential zoning districts allow cottage housing, attached, multifamily and mixed residential developments at the densities illustrated in table 2.3:

Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Small Lot Residential Mix RSM	4-6	Suburban, Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-1 MR-1	8	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
Medium Density Residential-2 MR-2	12	Downtown, Medical area, Regional activity center, Commercial redevelopment corridor
High Density Residential-1 HR-1	24	Downtown, Medical area, Regional activity center
High Density Residential-2 HR-2	40	Downtown, Regional activity center
High Density Residential-3 HR-3	60	Regional activity center

(Ord. No. 2016-06-07, att. (2.11.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.1), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

DeKalb County Police - Juliette Rd. Corridor Crime Report



11/01/2020 Through 11/01/2021

Part 1 Crime Summary for 11/01/20 to 11/01/21

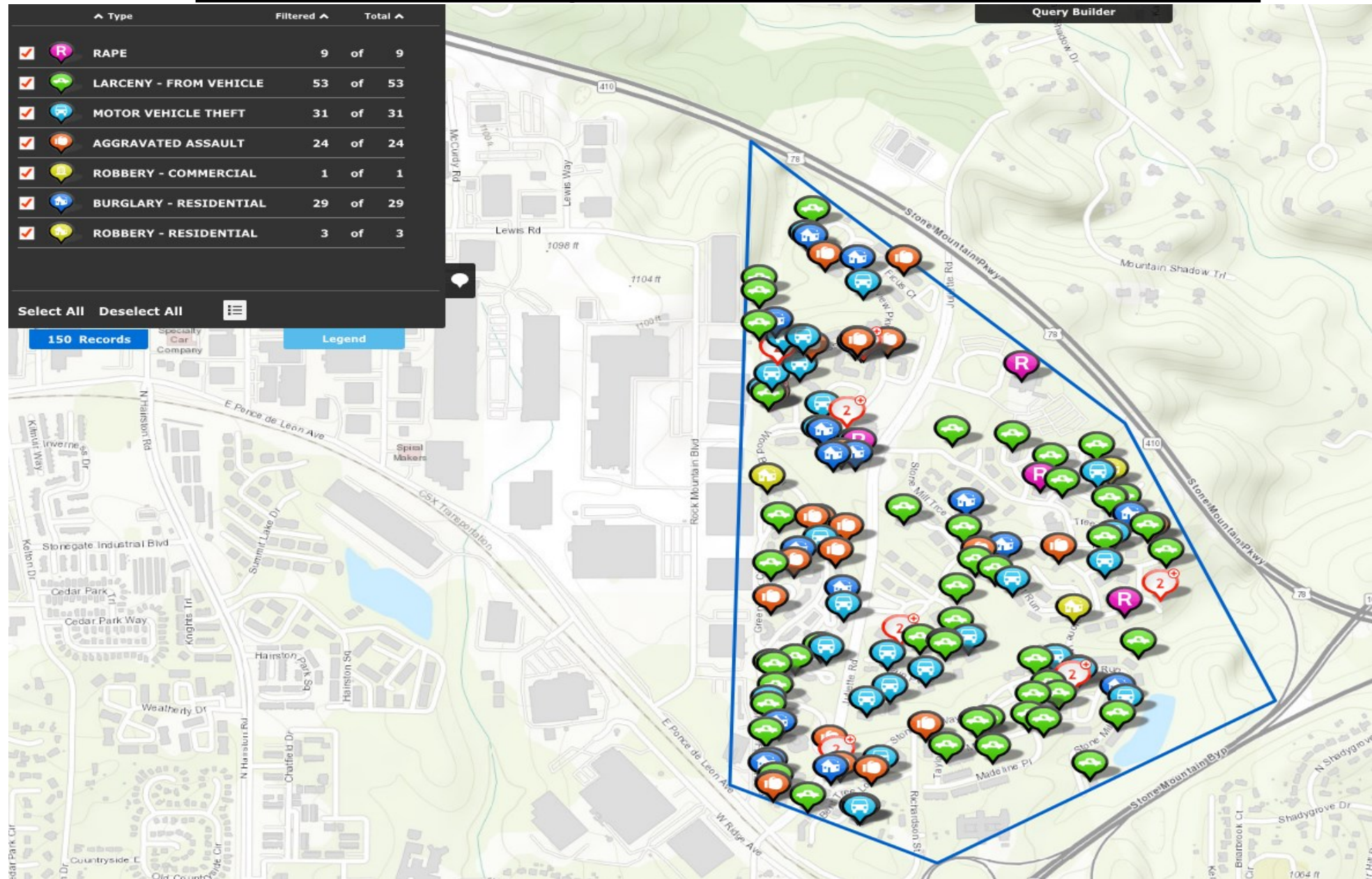
Selected Crimes	10-03 to 10-16			
Homicide	0			
Aggravated Assault	24			
Robbery – Pedestrian	0			
Robbery – Business	1			
Robbery – Residential	3			
Rape or Attempt	9			
Burglary Residential	29			
Burglary – Business	0			
Auto Theft	31			
Entering Autos	53			

Part 1 Crimes Map for 11/01/2020 to 11/01/2021

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150 Records Legend



Part 1 City Crime Summary Year 2019 to 2020 & 2020 to 2021

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Selected Crimes	11/2019 - 11/2020	11/2020 - 11/2021	Difference	% Change	
Homicide	1	0	-1	-100%	
Aggravated Assault	11	24	13	118%	
Robbery – Pedestrian	1	0	-1	-100%	
Robbery – Business	0	1	1	100%	
Robbery – Residential	2	3	1	50%	
Rape or Attempt	4	9	5	125%	
Burglary Residential	16	29	13	81%	
Burglary – Business	0	0	0	0%	
Auto Theft	20	31	11	55%	
Entering Autos	19	53	34	179%	
Violent Crime:	95%	Property Crime:	105%		